

2. Temporary employees who are appointed for one school year, one semester or a lesser period of time. Any such full-time employee reappointed for a third consecutive semester may enroll within the Alternate Benefit Program;

3. Any employee receiving a retirement benefit from any pension system of the State of New Jersey, including an individual collecting an annuity or cash distribution from the Alternate Benefit Program; or

4. Individuals employed in a clerical or other non-professional position.

(e) The Director of the Division of Pensions and Benefits shall have responsibility to determine eligibility for participation in the Alternate Benefit Program in accordance with the law and rules governing the retirement system.

1. If the Division of Pensions and Benefits declares a particular job title to be eligible, all personnel currently employed in that title at that institution will then become eligible for participation in the Alternate Benefit Program and must, if otherwise eligible, elect within 90 days to participate in either the Alternate Benefit Program or the Public Employees' Retirement System.

2. If an individual does not file an "Election of Retirement Coverage" form during this 90-day period, the individual must remain in, or, if a member of the Teachers' Pension and Annuity Fund, transfer to the Public Employees' Retirement System.

Repeal and New Rule, R.1995 d.215, effective May 1, 1995.
See: 27 N.J.R. 469(b), 27 N.J.R. 1811(a).
Formerly "Eligibility; new faculty position".

17:7-2.2 Retention of contributions; compulsory enrollment; incomplete enrollment application

(a) No employee or employer contributions shall be authorized by the Division of Pensions and Benefits for payment to any annuity provider until completed enrollment applications have been filed.

(b) Employees of the participating institutions who satisfy the eligibility requirements of N.J.A.C. 17:7-2.1 shall be required to enroll as members of the Alternate Benefit Program as a condition of employment. The compulsory enrollment date shall be fixed as the first of the month for an employee whose regular appointment date falls between the first through the 16th of the month. An employee whose regular appointment date falls between the 17th and the end of the month shall be fixed as of the first of the following month.

(c) If there is a delay in enrolling the participant into the Alternate Benefit Program, the employer shall be responsible for collecting contributions from the participant's eligible enrollment date.

(d) If the employee fails to file an application for enrollment, even though the eligible employee and the employer have been advised of the compulsory nature of enrollment, the certifying officer shall be obligated to complete Part I and Part II of the enrollment application no later than 30 days after the employee's eligibility determination date. The employee's estate shall be the employee's beneficiary for the employee's account until such time as proper designation forms are received by the Division of Pensions and Benefits.

(e) If the employee fails to designate an annuity provider, the certifying officer shall be obligated to complete the appropriate application to enroll the employee with the annuity provider selected as the default annuity provider for the current plan year. In these situations, the employer shall be required to submit both the employee's and employer's contributions to the default annuity provider designated for that plan year no later than 45 days after the commencement of payroll deductions.

R.1973 d.171, effective June 28, 1973.
See: 5 N.J.R. 203(b), 5 N.J.R. 294(a).

17:7-2.3 Part-time faculty members

Alternate Benefit Program participants who concurrently work in a part-time position which is covered by another State administered pension plan shall be ineligible to make Alternate Benefit Program contributions from their concurrent part-time salary.

SUBCHAPTER 3. MEMBERSHIP

17:7-3.1 Base or contractual salary

(a) N.J.S.A. 18A:66-169c provides that only base or contractual salary is subject to pension contributions. Payments related to guaranteed faculty practice moneys shall be included in such base salary up to the extent provided by N.J.S.A. 43:3C-9.1 et seq. The participant's mandatory contributions shall be computed on earned base salary and the employer's contributions shall be computed on the participant's contractual salary.

(b) If the participant elects to have voluntary additional contributions (elective 403(b)) made by entering into a salary reduction agreement with the employer, the contribution percentage is applied against the participant's actual salary after taking into account deductions for mandatory contributions and Section 125 (26 U.S.C. § 125) contributions.

As amended, R.1976 d.36, effective February 5, 1976.
See: 7 N.J.R. 578(a), 8 N.J.R. 140(d).

17:7-3.2 Delayed vested contribution

(a) Mandatory contributions during a participant's first year of employment, including earnings credited thereto, shall be held in delayed vested status with the designated annuity provider specified by the participant.

(b) A participant who is in delayed vested status shall be ineligible to engage in the following transactions:

1. Loans;
2. Transfers of account accumulations between Alternate Benefit Program annuity providers; and
3. Investments of mandatory contributions with more than one annuity provider.

(c) The delayed-vested portion of a terminated participant's account attributable to employer contributions shall be forfeited at the time of termination. Such forfeitures shall be applied to the current or next succeeding employer contribution to the annuity provider underwriting the terminated participant's annuity contract. Repurchase account forfeitures, plus or minus any gains or losses from investment by the vendor, should be reported to the Division of Pensions and Benefits in the ABP Employer Contribution Report. The reimbursement of a subsequent ABP Employer Contribution Report shall be reduced by the reported forfeiture amount.

(d) The participating institutions shall be required to notify the designated annuity providers when a participant enters delayed vesting and has completed one year of service and is no longer in delayed vested status.

17:7-3.3 Leave without pay or change in status

While any participant in the Alternate Benefit Program may make personal contributions at any time directly to the insurer of the individual retirement annuities, no employer obligations will be paid when the participant is on a leave of absence without pay or when the participant no longer meets the definition of a full-time regularly appointed teaching or administrative staff member in an applicable academic position.

17:7-3.4 Termination; withdrawal of delayed vested contributions

(a) A participant may withdraw the participant's delayed vested contributions held by the annuity provider if the participant terminates all employment subject to coverage by the Alternate Benefit Program.

(b) No application for withdrawal of contributions while in delayed vested status shall be approved if:

1. The participant is on official leave of absence;
2. The participant or employer certifies that the employment contract has not expired, or that the participant has executed another contract to work in a position subject to coverage by the Alternate Benefit Program; or

3. The participant has been dismissed or suspended from employment. In this event, such a participant will be eligible to withdraw if the participant has formally resigned from the position or there is no legal action contemplated or pending and this dismissal has been adjudged final.

As amended, R.1977 d.32, effective February 8, 1977.
See: 9 N.J.R. 43(b), 9 N.J.R. 147(c).

17:7-3.5 Leave of absence with pay

(a) The mandatory pension contribution for a participant granted a leave of absence with pay shall be calculated on the actual base salary paid, if the participant earns 50 percent or more of full base salary during a pay period. On the monthly Employer Contribution Report, the full contractual base salary should be included in the Total Base Salary section, and the employer contribution shall be paid on this salary. If a participant earns less than 50 percent of full base salary during a pay period, no deductions should be made, and the member's ABP status shall be the same as that of a member on leave of absence without pay.

(b) Voluntary tax-deferred contributions (403(b) contributions) for a participant granted a leave of absence with pay shall be calculated on the actual base salary paid less the mandatory pension contribution, if the participant earns 50 percent or more of full base salary during a pay period. If a participant earns less than 50 percent of full base salary during a pay period, no payroll deductions shall be made for elective 403(b) voluntary additional contributions.

(c) Voluntary after-tax contributions elected by a participant granted a leave of absence with pay shall be calculated on the full base salary if the participant earns 50 percent or more of full base salary during a pay period. If the participant earns less than 50 percent of the full base salary during a pay period, no deductions shall be made for elective after-tax deductions.

(d) In order to give effect to the limitations of Section 415(c)(3) of the Internal Revenue Code (26 U.S.C. § 415(c)(3)), an employer may be required to limit a participant's voluntary salary reduction contribution into the participant's 403(b) plan.

(e) When the employer, at the participant's request, approves an extension of the initial leave of absence, and the percentage of base salary to be paid is changed retroactive to the beginning of the initial leave effective date, (a), (b), (c) and (d) above are applicable from the effective date of the initial leave of absence to the end date of the leave of absence, which must be in accordance with N.J.S.A. 18A:66-169h.

17:7-3.6 Military leave, withdrawal

No participant shall be entitled to withdraw amounts contributed by the employer for the period of a military leave of absence without pay unless the participant has resumed active employment and made contributions to an Alternate Benefit Program annuity provider for the period of the military leave per N.J.A.C. 17:1-4.36.