

1. His employer has initiated a disability application, on the member's behalf; and
2. His employer has certified that the member is permanently and totally disabled for the continued performance of duty; and, if appropriate;
3. His employer has certified that the member should be retired as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties;
4. He has a period of 30 days to contest his involuntary retirement before the Board acts on his employer's application;
5. He will be required to appear for an examination before a physician designated to conduct such an examination for the Fund; and
6. In the event the Board finds that he is totally and permanently incapacitated for the performance of duty, he shall be granted the maximum retirement allowance (without option) payable under the statute, if he (the member) does not file a completed "Application for Disability Retirement Allowance" setting forth the type of allowance he desires, before his retirement goes into effect; and
7. In the event the Board finds that he is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

17:3-6.11 Early retirement benefit

(a) The statutory reduction of $\frac{1}{4}$ of one per cent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55, if his 55th birthday occurs on or after the 15th day of the month.

(b) Retirement on the first of the month in which a member attains age 55 shall be classed as "early" retirement, although a reduction is not applied if his 55th birthday occurs before the middle of such month.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

Case Notes

Good cause was shown by school teacher who converted his ordinary disability retirement plan to early service retirement. *Steinmann v. State, Dept. of Treasury, Div. of Pensions, Teachers' Pension and Annuity Fund*, 116 N.J. 564, 562 A.2d 791 (1989).

17:3-6.12 Service retirement eligibility

A member becomes eligible for "Service" retirement on the first of the month following his 60th birthday.

17:3-6.13 Disability retirant; annual medical examinations

(a) All disability retirants may be required to undergo a medical examination each year for at least five years or for good cause thereafter by a physician designated by the Fund as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board. Good cause means the receipt by the Board of creditable information that a member who is receiving a disability retirement allowance is no longer disabled.

(b) Failure on the part of a retirant to submit to the required medical examination shall result in the automatic suspension of his retirement allowance until he submits to a medical examination.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1980 d.103, effective March 5, 1980.
See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).
Amended by R.1998 d.324, effective July 6, 1998.
See: 30 N.J.R. 1027(a), 30 N.J.R. 2515(a).

In (a), deleted ", under the normal retirement age," following "retirants" and substituted "at least five years or for good cause thereafter" for "a maximum period of five years" in the first sentence, and added a second sentence.

17:3-6.14 Disability retirant; annual report (employment, earnings, test and adjustment)

(a) All disability retirants shall be required to file a report with the Fund which shall include copies of the retirants' IRS 1040 forms and W-2 forms as well as any other proofs of employment requested of a specific retirant indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year.

1. Such report shall be filed with the Fund before the following April 30.

2. Failure on the part of the retirant to file a completed report with the Fund before April 30 shall result in the presentation of the retirant's case to the TPAF Board of Trustees who may impose penalties or suspend the retirant's entire retirement allowance for the period the report is in default.

(b) If a retirant reports employment and earnings, then the following tests shall be made by the Fund to ascertain:

1. Eligibility for reenrollment: If the retirant is engaged in a position subject to coverage by the Fund, the retirement allowance shall be canceled and the retirant shall be reenrolled in the Fund pursuant to N.J.S.A. 18A:66-40c, effective as of the date of the retirant's appointment to such contract. Any disability retirement

benefits received after this date of appointment shall be refunded to the System.

2. Adjustment of allowance:

i. If the retirant is engaged in employment and the gross earned income for the preceding calendar year exceeds the difference between the pension and the salary the retirant would have been receiving had the retirant continued to work for the former employer (normal increment steps and salary guide revisions will be considered but no promotional assumptions will be made), an appropriate adjustment to the pension for the period will be made by such difference.

ii. If it is found, on or after April 30, that gross earned income for the calendar year exceeded the difference between the pension and the salary of the former position and if the retirant does not refund the excess pension to the Fund within 30 days of notification of the difference, the pension for the succeeding 12-month period will be reduced by the excess pension received in the preceding calendar year.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

As amended, R.1980 d.103, effective March 5, 1980.

See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

Amended by R.1998 d.325, effective July 6, 1998.

See: 30 N.J.R. 1028(a), 30 N.J.R. 2515(b).

Rewrote the section.

17:3-6.15 Disability retirements; filing after more than two years' discontinuance of service

(a) Following the filing of a disability retirement application, a vested member, who has not withdrawn his or her contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for disability retirement at the time service was discontinued, shall be approved to receive disability retirement benefits by the Board of Trustees, if:

1. The applicant demonstrates to the satisfaction of the Board of Trustees that he or she was physically or mentally incapacitated for the performance of duty at the time service was discontinued, and continues to be so incapacitated, with the same disability or disabilities, at the time of filing; and

2. The applicant factually demonstrates to the satisfaction of the Board of Trustees that service was discontinued because of the disability or disabilities.

(b) A disability retirement application that is filed under this rule may take effect, in accordance with the laws and rules applicable to effective dates for disability retirements, only on or after the date the application is filed.

(c) This rule shall be applicable to all vested members and former members whose retirements were effective prior to February 1, 1999, but disability retirements under this rule shall not be effective prior to February 1, 1999.

New Rule, R.1999 d.35, effective February 1, 1999.

See: 30 N.J.R. 3377(a), 31 N.J.R. 459(a).

17:3-6.16 (Reserved)

Repealed by R.1990 d.283, effective June 4, 1990.

See: 22 N.J.R. 329(a), 22 N.J.R. 1740(c).

Section was "Retirement of members age 71 (correction of age)".

17:3-6.17 Approved allowance

When a retirement allowance becomes effective, the type of allowance (maximum or option) elected shall stand as approved.

17:3-6.18 Option "I" benefit

The reserve established under the provisions of Option I shall be a form of reducing term insurance, as the reserve shall reduce in value by the amount of the retirant's monthly Option I allowance, whether received or not, for each month that he survives after the effective date of his retirement.

17:3-6.19 (Reserved)

Repealed by R.2000 d.100, effective March 20, 2000.

See: 31 N.J.R. 4234(a), 32 N.J.R. 1047(a).

Section was "Maximum allowance prescribed".

17:3-6.20 Final compensation; 10 and 12-month members

(a) In order to determine the final compensation (three-year average) for benefits on a:

1. Member reported on a monthly basis under a ten-month contract, use the creditable salaries upon which contributions were made to the Fund for his final 30 months of service.

2. Member reported on a monthly basis under a 12-month contract, use the creditable salaries upon which contributions were made to the Fund for his last 36 months of service.

(b) If a member was reported on any combination of ten and 12-month contract years in such three-year period, the final average compensation shall be determined on a proportional basis.

(c) The months for which no contributions were made shall be counted as zero.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

As amended, R.1974 d.24, effective January 31, 1974.

See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).

Case Notes

Applying before retiree's sixtieth birthday precludes special veterans benefits. *Sulzman v. Teacher's Pension and Annuity Fund*, 97 N.J.A.R.2d (TYP) 19.

Teacher's retirement benefits corrected to reflect calculation on proportional basis where teacher worked both 10 and 12-month contract years. *Anderson v. Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 132.

17:3-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)

For a member reported on a monthly basis under a 10-month contract, use the member's final 10 months of creditable salaries upon which contributions were made for the period immediately preceding retirement; on a 12-month contract basis, his or her final 12 months of service; combination of 10- and 12-month contracts, on a proportional basis.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1974, d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
Amended by R.1985 d.547, effective November 4, 1985.
See: 17 N.J.R. 2239(a), 17 N.J.R. 2674(a).
Substantially amended.

17:3-6.22 Waiver

If for any reason a retirement allowance or portion thereof has been waived by a retired member or beneficiary, the benefit waived shall remain in the Retirement Reserve Fund. Such person may cancel the waiver effective as of the first day of any month subsequent to the receipt of the notice of cancellation; however, he may not make a claim for payment of any benefits waived prior thereto.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-6.23 Teachers' Retirement Fund benefits

All Teachers' Retirement Fund benefits payable under the provisions of N.J.S.A. 18A:69-49 shall be exempt from consideration where the term "pension" is employed when referring to the suspension of the pension portion of a member's retirement allowance.

17:3-6.24 Part-time members

The determination of benefits, service credit and final compensation for any person (part-time teacher) who qualified for membership under Section 2.3 (Full time) of this Chapter shall be done on the same basis as for regular full-time teachers, with the exception that the Board shall reserve the right to review any application where there has been an unusual change in the teacher's status which might result in the payment of an abnormal benefit.

17:3-6.25 Medical examinations; physicians

Where the statute prescribes that a physician be designated by the Fund to perform a medical examination, such physician shall be selected from the current membership directory of the Medical Society of New Jersey and the New Jersey Association of Osteopathic Physicians and Surgeons; however, in the cases of those members whose personal

physician has identified them as having a probable abbreviated life expectancy, such "imminent death" cases may be processed without the necessity of an examination by a physician designated by the Fund if corroborating medical evidence of the diagnosis can be obtained.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).
As amended, R.1975 d.140, effective May 27, 1975.
See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).
As amended, R.1977 d.96, effective March 21, 1977.
See: 9 N.J.R. 100(b), 9 N.J.R. 200(a).
As amended, R.1982 d.15, effective February 1, 1982.
See: 13 N.J.R. 749(a), 14 N.J.R. 161(d).

Deleted "in order . . . by the fund" and substituted "in the cases . . . can be obtained".

17:3-6.26 Final compensation; biweekly salary computation for State employees reported by centralized payroll

(a) In computing "final compensation" upon which pension contributions were based, in the case of a 12-month State employee reported on a biweekly basis, a total of 78 biweekly pays will be used, including any retroactive salary payments made within the prescribed period.

(b) In computing (a) above, the total salary will be adjusted by the factors supplied by the actuary to convert biweekly salaries to compensate for State biweekly payroll schedules. Application of the factors to the salaries reported for pension purposes will develop "final compensation."

(c) In computing (a) above, in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive a salary. The adjustment as specified in (b) above, shall not be made.

(d) If a member was reported on a biweekly basis on any combination of 10- and 12-month contract years, the final average compensation prior to retirement shall be determined on a proportional basis. The biweekly pay periods for which no contributions were made shall be counted as zero.

R.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
As amended, R.1978 d.104, effective March 21, 1978.
See: 10 N.J.R. 37(c), 10 N.J.R. 176(a).

17:3-6.27 Determination of last year's salary; State employee veterans reported by centralized payroll

(a) In computing the salary upon which pension contributions were based during a member's last year of service in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by factors supplied by the actuary to compensate for State biweekly payroll schedules.

(b) In computing (a) above, in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive salary. The adjustment as specified in (a) above, shall not be made.