

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:42 were scheduled to expire on May 18, 2023. The rules establish standards for the licensure and regulation of psychologists. Subchapter 1 sets forth rules concerning the scope of psychological practice, the requirements for licensure, and exemptions to licensure requirements. Subchapter 2 sets forth application procedures, qualifications to sit for the licensing examination, and requirements for applicants who have degrees in fields allied to psychology. Subchapter 3 outlines requirements for the issuance of one-year unsupervised and three-year supervised temporary permits. The rules in this subchapter govern the limitation, suspension, or revocation of temporary permits, the extension of temporary permits, and the return of temporary permits to the Board of Psychological Examiners (Board) upon expiration. Subchapter 4 requires an applicant for licensure to have at least two years of supervised experience in the practice of psychology. The rules specify the standards for supervisors, the supervision requirements for individuals who are exempt from licensure, and permissible financial arrangements between supervisors and supervisees. Subchapter 5 outlines the requirements for the written and jurisprudence examinations, examination review procedures, admitting out-of-State psychologists to the jurisprudence examination, licensure without examination, and retaking the written examination. Subchapter 6 outlines the charges for examinations, licensure, and other services provided by the Board. Subchapter 7 specifies the acceptable forms of professional practice. Subchapter 8 addresses the preparation and maintenance of client records, the use of computers to prepare client records, access to client records, and the confidentiality of information obtained from a client. Subchapter 9 deals with advertising. Subchapter 10 sets forth the professional practice requirements for licensees. Subchapter 11 outlines the procedures by which a client may authorize a licensee to disclose confidential information upon the request of an insurer or other third-party payor. Subchapter 12 establishes the requirements for licensees who seek to perform custody/parenting time evaluations and practice standards for licensees who perform such evaluations. Subchapter 13 authorizes licensees to provide psychological services through telemedicine and telehealth.

The Board has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 5:8-6, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without change and shall continue in effect for a seven-year period.

## TREASURY—GENERAL

### (a)

#### DIVISION OF PENSIONS AND BENEFITS

#### Teachers' Pension and Annuity Fund

#### Readoption with Amendments: N.J.A.C. 17:3

#### Adopted New Rules: N.J.A.C. 17:3-4.7, 6.15, and 6.23

Proposed: October 17, 2022, at 54 N.J.R. 1956(a).

Adopted: April 3, 2023, by the Teachers' Pension and Annuity Fund Board of Trustees, Saretta Dudley, Secretary.

Filed: April 3, 2023, as R.2023 d.054, with **non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) **and with proposed N.J.A.C. 17:3-4.1(a)1xx, (a)1xxi, and (a)1xxii and 6.6 not adopted, but still pending.**

Authority: N.J.S.A. 18A:66-56 et seq.

Effective Dates: April 3, 2023, Readoption;  
May 1, 2023, Amendments and New Rules.  
New Expiration Date: April 3, 2030.

#### Summary of Public Comments and Agency Responses:

The official comment period ended December 16, 2022. The following is a summary of the comments received from Aileen O'Driscoll, Esq., Director of Legal Services/Member Rights, New Jersey Educators

Association (NJEA) and the Teachers' Pension and Annuity Fund Board of Trustees' (Board) responses.

COMMENT: The commenter objects to proposed subparagraph N.J.A.C. 17:3-4.1(a)1xx, which would exclude from pension credit "compensation for performing temporary or extra-curricular duties beyond the regular work day or shift." The commenter alleges that proposed new subparagraph (a)1xx, is an attempt to narrow the scope of a "regular school day" to a lesser period of time indicated by the use of the words "work day or shift" and is not supported by, and is contrary to, the governing statute.

RESPONSE: The Board thanks the commenter for the recommendations, but the Board is not adopting N.J.A.C. 17:3-4.1(a)1xx at this point in time, while it determines how to proceed.

COMMENT: The commenter objects to N.J.A.C. 17:3-4.1(a)1xxi, which excludes "compensation for performing temporary duties during the regular work day or shift while covering for an employee on a leave of absence." The commenter alleges that proposed new subparagraph (a)1xxi, is intended to provide legal support for employees of the Division of Pension and Benefits (Division) to deem additional compensation paid to teachers who are assigned to teach additional classes while colleagues are approved leave of absences not creditable for pension purposes. The commenter further notes that teachers who perform additional duties while covering for another employee are not merely "covering" for an employee who is missing an occasional class but performing all the duties attendant to teaching an additional class (that is, lesson plans, instruction, grading, etc.) and claims that these duties are neither temporary or extracurricular.

RESPONSE: The Board thanks the commenter for the recommendations, but the Board is not adopting N.J.A.C. 17:3-4.1(a)1xxi at this point in time, while it determines how to proceed.

COMMENT: The commenter objects to proposed new N.J.A.C. 17:3-4.1(a)1xxii, which excludes "increments or stipends added to base salary for additional duties outside the contracted position." The commenter claims the proposed language is a restriction that is not established by the statute and is contradictory to the provision set forth at N.J.A.C. 17:3-4.1(j). N.J.A.C. 17:3-4.1(j) provides that a stipend can be considered as creditable compensation if it is included in the member's regular payroll check and is payment for performing "duties not addressed in base compensation that are integral to the effective functioning of the member's contracted position."

RESPONSE: The Board thanks the commenter for the recommendations, but the Board is not adopting N.J.A.C. 17:3-4.1(a)1xxii at this point in time, while it determines how to proceed.

COMMENT: The commenter objects to N.J.A.C. 17:3-6.6(b), which gives the Division the authority to cancel a retirement application if any outstanding arrears or shortages due to delinquent enrollment, back deductions, purchases of service credit, and audits is not paid within 90 days of the Division's notification to the applicant. NJEA notes that the proposed regulation is silent with respect to the health insurance benefits and alleges that the Division lacks the authority to implement the regulation. The NJEA proposes that the Division simply deduct such outstanding amounts from the member's retirement benefit check(s).

RESPONSE: The Board thanks the commenter for the recommendations, but the Board is not adopting N.J.A.C. 17:3-6.6 at this point in time, while it determines how to proceed.

COMMENT: The commenter objects to N.J.A.C. 17:3-6.23(a), pertaining to disability retirement application and termination of service. The commenter alleges that proposed new subsection (a), which states that the applicant must be incapacitated from their duties "at the time the member left employment," implies that the member must sever their employment relationship in order to be approved for disability retirement. The commenter claims this aspect of the proposed regulation is contrary to the law and would result in a members' disqualification for retirement benefits. The commenter further claims that the Division seems to make a distinction between a resignation and an irrevocable resignation, when this is not a distinction made for purposes of a board of education. The commenter explains that once a board of education accepts a resignation, it is irrevocable, even if the employee is tenured. The commenter also claims that subsection (b) is not clear with respect to reasons that would preclude a member from applying for disability retirement. The

commenter suggests that proposed paragraph (b)3 should include an exception for having lost licensure and/or certification as a result of the disability for which the member seeks a retirement benefit.

RESPONSE: The Board finds that the proposed reference at N.J.A.C. 17:3-6.23 to disability “at the time the member left employment” does not add a requirement that a member submit a resignation, revocable or not, at the time of application. The member must, however, request retirement at a date certain, which by definition would occur at least one day after the member terminates employment. Accordingly, the member must advise the Division of their intended last day of employment, and the Division must advise the employer so that a certification of final salary can be completed. The reference to leaving employment is identical to the reference at existing N.J.A.C. 17:1-6.4, which was approved in *In re Adoption of N.J.A.C. 17:1-6.4, 17:1-7.5 & 17:1-7.10, 454 N.J. Super. 386* (App. Div. 2018). The new regulation replaces N.J.A.C. 17:1-6.4. Both versions of the regulation seek to clarify that disability must be present at the time the member ceases employment and must be the reason the member ceases employment. The regulation does not require a resignation, only a retirement date.

With regard to subsection (b), the Board disagrees with the commenter and finds that the language as proposed is clear regarding what would deem an applicant ineligible to apply for a disability retirement. Subsection (c) requires the Division to review the individual merits of each matter and determine whether the application complies with subsection (a).

COMMENT: The commenter objects to proposed subsections (a) and (c) at N.J.A.C. 17:3-6.25, Disability retirement applications; medical examination, physicians. The commenter claims the proposed regulation which requires that an applicant “submit with their applications all the medical information they can supply relative to their disability, including: reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information ...” would require burdensome disclosure of medical information and significantly expand the member’s required submissions. In addition, the commenter objects to the proposed certification amendment at subsection (c), which requires a member to sign a sworn certification that no underlying condition existed related to the disability for which the member is seeking a benefit and that all available medical reports related to the disability have been disclosed to the independent medical examiner prior to the examination.

RESPONSE: The concerns raised by the commenter were addressed by the Superior Court of New Jersey, Appellate Division in *In re Adoption of N.J.A.C. 17:1-6.4, 17:1-7.5 & 17:1-7.10, 454 N.J. Super. 386, 396* (App. Div. 2018). The court upheld N.J.A.C. 17:1-7.10(a)1, which was part of the documentation amendment, and 7.10(e), the certification amendment.

**Summary of Agency-Initiated Change:**

As the Board is not adopting proposed new N.J.A.C. 17:3-4.1(a)1xx, (a)1xxi, and (a)1xxii and 6.6 at this this time, but they remain pending, the Board is making administrative changes at N.J.A.C. 17:3-4.1 to correct the punctuation of the existing adopted text and note that N.J.A.C. 17:3-6.6 is “Reserved” as a placeholder for this section.

**Federal Standards Statement**

The rules readopted with amendments and new rules meet the applicable Federal standards, that is, 26 U.S.C. § 403(b). To maintain qualified plan status, adherence to Federal law and the Internal Revenue Service regulations is required. Thus, the adopted amendments pertaining to accommodations under Title 1 of the Americans with Disability Act and I.R.C. § 72 (p)(2)(C), which govern the repayment of pension loans, meet Federal standards.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:3.

**Full text** of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

SUBCHAPTER 1. ADMINISTRATION

17:3-1.1 Board meetings

(a)-(c) (No change.)

(d) Persons audio- or video-recording a Board meeting shall inform the Secretary of the Board and provide their names and addresses. The location of cameras and recording devices shall not obstruct or interfere with the conduct of business by the Board, and the Secretary shall assist in identifying an appropriate location for such devices.

17:3-1.6 Records

(a) (No change.)

(b) The mailing address, telephone number, or email address of any active or retired member is considered to be a part of the members’ confidential files and shall not be released for any purpose.

(c) The beneficiary designations of an active or retired member are considered to be a part of the member’s confidential files and shall only be released after the member’s death.

(d)-(e) (No change.)

SUBCHAPTER 1A. DEFINITIONS

17:3-1A.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...  
 “Bona fide severance from employment” means a complete termination of the employee’s employment relationship with the employer for a period of at least 180 days. The 180-day count begins September 1 for July 1 retirees who were 10-month employees. The following does not constitute a complete termination of the employee’s relationship with the employer: employment or reemployment in a part-time or volunteer position; employment or reemployment in a position that is not covered by the Defined Benefit Plan; a change in title; employment or reemployment as a contract or subcontract employee, a leased employee, or an independent contractor; or termination of employment with a pre-arranged agreement for reemployment.

...  
 “Employers Pensions and Benefits Information Connection” or “EPIC” is a set of internet-based applications that allow registered employers who have obtained authorization by the certifying officer of the location, access to manage their employees’ pensions and, if applicable, health benefits account information. The specific group of application buttons that are visible will depend on the type of employer and the level of access authorized by the certifying officer of the location.

...  
 “Independent medical examiner” or “IME” means the physician or group of physicians contracted by the Division to perform an independent medical evaluation on disability retirement applicants.

“Medical Review Board” consists of three physicians, each responsible for reviewing all medical documentation submitted in relation to any applications submitted for ordinary or accidental disability retirement.

“Member Benefits Online System” or “MBOS” is a set of internet-based applications that allow registered members access to manage their pension and, if applicable, health benefits account information.

...  
 “Treating physician” is defined as someone who provides the member, or has provided the member, with medical treatment on an ongoing basis.

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:3-3.2 Computation of insurance benefits

(a)-(e) (No change.)

(f) Where post-death audits establish that the insurance benefits were underpaid, an additional check shall be sent to the beneficiary for the value of the underpayment. Should any change or error in the records result in any member receiving from the pension fund more than he or she would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error, as best as practicable, and shall adjust the payments payable to the member’s designated beneficiary or estate, pursuant to N.J.A.C. 17:1-2.10.

(g)-(k) (No change.)

17:3-3.14 Acceptable designations of beneficiaries

(a) The beneficiary designation on a duly executed retirement application that is filed with and accepted by the Division supersedes any older designation of beneficiary on file. Such designation shall include: full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth. The designation is effective upon acceptance by the Division, even if the retirement date on the application is in the future, or the member cancels the retirement application.

1.-2. (No change.)

(b) (No change.)

SUBCHAPTER 4. MEMBERSHIP

17:3-4.1 Creditable compensation

(a) The compensation of a member subject to pension and group life insurance contributions and creditable for retirement and death benefits in the Fund shall mean the contractual salary, for services as a teacher defined at N.J.S.A. 18A:66-2.d(1)(2), which is in accordance with established salary policies of the member's employer for all employees in the same position and shall not include extra compensation.

1. Forms of compensation that have been identified as extra compensation include, but are not limited to:

i.-xvii. (No change.)

xviii. Compensation paid for serving as a bedside instructor or for leading extracurricular activities; **\*and\***

xix. Compensation paid for additional services performed during a normal duty assignment, which are not included in base salary\*[:]\*\*.\*

(b)-(k) (No change.)

17:3-4.7 Loans

(a) All pension loans must be repaid within a period not to exceed five years. If the member has an outstanding loan balance and applies for a new loan, the entire balance must be repaid within five years of the date of the first loan. Furthermore, the new loan amount, when added to the highest balance due (without interest) during the prior 12-month period for all loans from all retirement plans cannot exceed \$50,000. The \$50,000 maximum limit includes all retirement plans the member has an interest in due to his or her employment relationship with the State and/or any other governmental plans sponsored or administered by a public sector employer in New Jersey. Loan amounts above the \$50,000 aggregate limit shall be declared a deemed distribution, which is subject to additional tax.

(b) If a member's loan is treated as a distribution, the member is still required to repay the loan, unless the member terminates his or her account by withdrawing his or her contributions. If the member withdraws from the retirement system, the settlement will be the net amount of the member's contributions minus the outstanding loan. If the member returns to work and the member's account is reactivated or the member retires, the member must repay the full amount of the outstanding loan with additional interest computed from the date the member stopped making loan payments.

(c) Pursuant to I.R.C. § 72(p)(2)(C), members must make regular periodic payments to repay their outstanding loans. If a member takes out a loan and fails to make required loan repayments for three consecutive months, the Division will send a letter to the member requesting payment within 30 days. If the payment is not made, the Division will treat the outstanding loan as a deemed pension distribution. A deemed distribution cannot be cancelled by resuming loan payments or repaying the loan in full. Unlike a normal pension distribution, a loan treated as a distribution cannot be rolled over to an Individual Retirement Account (IRA) or another qualified retirement plan.

17:3-4.11 Termination; withdrawal

(a)-(b) (No change.)

(c) No application shall be approved, if:

1.-4. (No change.)

5. The member has a claim pending for worker's compensation benefits unless the member signs a waiver indicating that the member still wishes to withdraw; or

6. The member has a pending retirement application, unless the member agrees to rescind such application.

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:3-5.1 Eligibility for purchase

(a) Only active members of the Fund who are currently contributing, or who have contributed within the last two years to the Fund, except as provided at N.J.S.A. 18A:66-8, shall be eligible to make application for purchase of credit. Active members who are not currently contributing to the Fund must purchase their requested service in a lump sum. The purchase request must represent active service in a State-administered retirement system for which the member received a salary and was eligible for enrollment, but the information must be verified by the employer as to salary information, service, and title.

(b)-(e) (No change.)

SUBCHAPTER 6. RETIREMENT

17:3-6.1 Applications

(a)-(e) (No change.)

(f) A member must request a reasonable accommodation, as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213, prior to filing for a disability retirement. Upon completion of the Certification of Service and Final Salary, the employer's designated certifying officer will certify that a reasonable accommodation was requested and if such accommodation could be provided.

(g) In addition to the requirements at (a) through (f) above, the following shall apply when an application for disability retirement is filed:

1. An application for a physical disability retirement must be supported by at least two reports. One must be provided by the member's personal or treating physician on a form prescribed by the Division. The other may be either hospital records supporting the claim of disability or a report from a second physician on a form prescribed by the Division. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. The required documentation must be received within six months of the date the member filed the disability retirement application on MBOS, thus, receiving confirmation of the filing. If the required documentation is not received in its entirety, the retirement will be cancelled, and the member must complete a new disability retirement application for a future retirement date. Further, in the case of a member filing for an accidental disability retirement, only those disabilities associated with the purportedly disabling event shall be considered. If the member is denied an accidental disability retirement application but qualifies for an ordinary disability retirement based on the original accidental-disability application, no additional application need be filed, pursuant to (i) below.

2. An application for a mental health medical disability retirement must be supported by at least two medical reports. One must be provided by the member's personal or treating psychiatrist or psychologist on a form prescribed by the Division. The other "medical report" may be in the form of either hospital records supporting the claim of disability, a report from a second psychiatrist or psychologist on a form prescribed by the Division, or from the member's personal or treating physician or licensed clinical social worker. The medical condition described on the member's retirement application must correspond to the medical reports submitted in support of the member's disability retirement application. The Division must receive the required documentation within six months of the date of filing the disability retirement application. If the Division does not receive the required documentation, the retirement will be cancelled and the member must complete a new disability retirement application for a future retirement date.

3.-4. (No change.)

5. A disability retirement application that is filed pursuant to this subsection 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.

i. An application for a disability retirement will be forwarded to the Board for consideration only when all documentation is received. The Division will schedule an independent medical examination for the purpose of providing additional information to the Medical Review Board to make a determination about a disability retirement application. The

independent medical examination scheduled by the Division will be provided at no cost to the applicant.

(h) (No change in text.)

(i) If a disability retirement application is denied by the Board and the applicant qualifies for any other retirement benefit, the applicant will be required to submit a written statement accepting the alternate retirement benefit. If the applicant submits the written statement within 30 days of the Board's decision, the applicant may retain the retirement date designated on the disability retirement application. If a member is denied an accidental disability retirement, but qualifies for an ordinary disability retirement based on the accidental disability application, the ordinary disability retirement will be granted, and no additional application will be required.

(j) (No change in text.)

**\*17:3-6.6 (Reserved)\***

17:3-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of its employees enrolled in the Fund before May 21, 2010, the member will be promptly notified by letter that:

1. The member's employer has properly initiated a disability retirement application online through the Employer Pensions and Benefits Information Connection (EPIC) authorized by the certifying officer or other designated officer, on the member's behalf;

2. The member's employer has submitted an electronic statement as to the grounds for the employer's request for the member's involuntary disability retirement and all pertinent medical documentation;

3. The member has a period of 30 days to contest the involuntary disability retirement by submitting a written statement before the Board acts on the employer's application;

4.-6. (No change.)

17:3-6.15 Return to employment; certified school nurse

Pursuant to N.J.S.A. 18A:66-53.2, a retired certified school nurse may return to employment with a board of education as a certified school nurse, on a contractual basis for a term of not more than one year, without being reenrolled in TPAF, provided that the certified school nurse has been retired for 180 days. The provisions at N.J.A.C. 17:1-17.14 apply and prearrangement of reemployment is prohibited. The contract for reemployment may be renewed for an additional year, provided that the total period of reemployment with any individual board of education does not exceed a two-year period, unless approved by the Commissioner of Education as being in the best interests of the school district and provided the retiree does not have an option about whether or not to be reenrolled in TPAF.

17:3-6.23 Disability retirement application and termination of service

(a) Each disability retirement applicant must prove that his or her retirement is due to a total and permanent disability that renders the applicant physically or mentally incapacitated from performing normal or assigned job duties at the time the member left employment, and the member must prove the disability is the reason for leaving employment.

(b) Members who have involuntarily or voluntarily terminated service for any of the reasons listed in this subsection will not be permitted to apply for a disability retirement:

1. Removal for cause or total forfeiture of public service;

2. Settlement agreements reached due to pending administrative or criminal charges, unless the underlying charges relate to the disability;

3. Loss of licensure or certification required for the performance of the member's specific job duties;

4. Voluntary separation from service for reasons other than a disability; and

5. Irrevocable resignations.

(c) The Division will review all disability retirement applications submitted after a member has terminated service to determine whether the member's application is eligible for processing pursuant to (a) above.

17:3-6.25 Disability retirement applications; medical examination; physicians

(a) In addition to the reports required with the application pursuant to N.J.A.C. 17:3-6.1(f)1 and 2, applicants for a disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including: reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information that would assist the independent medical examiner, Medical Review Board, and the Board in determining eligibility of the applicants for a disability retirement. The Division shall forward the applications and the accompanying medical information to the Medical Review Board.

1. The applicant must submit all required documentation within six months of submitting the disability retirement application, or the application will be cancelled. The member will then be required to complete a new application for a future retirement date.

(b) N.J.S.A. 18A:66-39 and 40 require the Fund or the Board to designate physicians to perform medical examinations. A designated physician shall not be a member's personal physician, except in the case of a member whose personal physician has identified the member as having a probable abbreviated life expectancy (referred to as an "imminent death" case), if corroborating medical evidence of the diagnosis can be obtained.

(c) The Division reserves the right to require a member to sign a sworn certification that the member knows of no underlying condition that exists related to the disability for which the member is seeking a benefit and that all available medical reports related to the disability have been disclosed to the IME prior to the examination.

(d) A member filing for any type of disability retirement shall not file a separate application for any other type of retirement while an ordinary or accidental disability retirement application is pending before the Board.

(e) If a disability retirement application is denied by the Board and the applicant qualifies for any other retirement benefit, the applicant will be required to submit a written statement to receive that benefit. If the applicant submits the written statement within 30 days of the Board's decision, the applicant may retain the retirement date designated on the disability retirement application, collect the alternate retirement benefit, and appeal the denial of disability retirement.

(f) The member's disability retirement application will be processed on the basis of the medical conditions described on the submitted application. If the disability retirement application is denied, the member may file an appeal within 45 days, based on the medical conditions described on the submitted application. An applicant who files an appeal of a denial of disability retirement may qualify for a deferred retirement during the pendency of the appeal. Such applicant who wishes to accept the deferred retirement must include a written statement accepting deferred retirement at the time of the appeal.

(g) If a disability retirement application is denied by the Board and the applicant wishes to reapply for a disability retirement based on a new incident date or different or additional medical condition, the applicant will be required to submit a new application with a new retirement date. The applicant must also continue to meet the requirements at N.J.A.C. 17:1-6.4(a). All supporting documentation required must be submitted in support of the new incident or medical conditions listed on the application.

SUBCHAPTER 7. TRANSFERS

17:3-7.1 Honorable service; interfund transfers; State-administered retirement systems

(a) (No change.)

(b) Except as noted at (a) above, a member is eligible to transfer membership from another State-administered defined benefit retirement system, provided the membership has not expired or has not been withdrawn and provided that all service eligible for participation has ceased.

1. A member desiring to transfer service credit and contributions from one State-administered defined benefit retirement system to another, must file an "Application for Interfund Transfer." This application will void all possible benefits claims in the former system when approved, and the membership is commenced in the new system.

2.-6. (No change.)  
(c)-(e) (No change.)

## (a)

**DIVISION OF PENSIONS AND BENEFITS****Notice of Readoption****General Administration****Readoption: N.J.A.C. 17:1**

Authority: N.J.S.A. 52:14-15.1.a (P.L. 1996, c. 8) and 52:18A-96 et seq.

Authorized By: Division of Pensions and Benefits, John D. Megariotis, Acting Director.

Effective Date: April 5, 2023.

New Expiration Date: April 5, 2030.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the General Administration rules at N.J.A.C. 17:1 are readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on May 17, 2023. N.J.A.C. 17:1 establishes the general administration rules for the State-administered retirement and health benefits programs. The rules cover general administrative practices, accounting, enrollment, membership, transfers, withdrawals, purchases and eligible service, insurance and death benefits, honorable service, retirements, pension adjustment program, Unemployment Insurance, Social Security, Volunteer Emergency Workers Survivors Pension, Central Pension Fund, New Jersey State Employees Tax Savings Program (TAX\$AVE), the New Jersey State Employees Commuter Tax Savings Program (COMMUTER TAX\$AVE PROGRAM), the New Jersey Employees' Health Benefits Program, and compliance with the Internal Revenue Code. The Division of Pensions and Benefits has reviewed these rules and determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

**OTHER AGENCIES**

## (b)

**NEW JERSEY ECONOMIC DEVELOPMENT  
AUTHORITY****Authority Assistance Programs  
Evergreen****Adopted Concurrent New Rules: N.J.A.C. 19:31-25**

Proposed: June 20, 2022, at 54 N.J.R. 1185(a).

Adopted: March 23, 2023, by the New Jersey Economic

Development Authority, Tim Sullivan, Chief Executive Officer.

Filed: March 24, 2023, as R.2023 d.052, **with non-substantial changes** not requiring additional notice or public comment (see N.J.A.C. 1:30-6.3).

Authority: P.L. 2020, c. 156, and P.L. 2021, c. 160.

Effective Date: May 1, 2023.

Expiration Date: April 2, 2028.

**Take notice** that the New Jersey Economic Development Authority ("NJEDA" or "Authority") proposed rules implementing the Innovation Evergreen Act, pursuant to sections 20 through 34 of P.L. 2020, c. 156, as amended by P.L. 2021, c. 160. The public comment period ended August 20, 2022.

**Summary of Public Comment and Agency Response:**

**No public comments were received.**

**Summary of Agency-Initiated Changes:**

The previous rulemaking requires the following corrections and clarifications:

1. N.J.A.C. 19:31-25.4, Sale of tax credits, has been clarified to set forth that an individual with authority to execute and bind the tax credit purchaser to the tax credit purchaser contract may certify on behalf of a tax credit purchaser that the potential tax credit purchaser is in substantial good standing or, if a compliance issue exists, has entered into an agreement with the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury, as appropriate, in accordance with N.J.A.C. 19:31-25.7(e) and the officer has reviewed the tax credit bid application information submitted and the information contained in the application is true and accurate under penalty of perjury.

2. The erroneous term "incentive award agreement" has been replaced with the correct term of "tax credit purchaser contract" at N.J.A.C. 19:31-25.10(b).

3. N.J.A.C. 19:31-25.10(j) has been corrected to revise the erroneous term "incentive award" with the correct term "qualified business side."

4. The erroneous cross-reference to N.J.A.C. 19:30-3.2 at N.J.A.C. 19:31-25.11 has been corrected to N.J.A.C. 19:30-4.

5. The heading at N.J.A.C. 19:31-25.12 "Fees" has been revised to the clearer "Program fees."

**Federal Standards Statement**

A Federal standards analysis is not required because the adopted new rules are not subject to any Federal requirements or standards.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

## SUBCHAPTER 25. EVERGREEN

## 19:31-25.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority to implement the provisions of the New Jersey Economic Recovery Act of 2020 establishing the New Jersey Innovation Evergreen Act (Act), sections 20 through 34 of P.L. 2020, c. 156, as amended. Under the Act, the Authority shall administer a program to invest in innovation as a catalyst for economic growth and to advance the competitiveness of the State's businesses in the global economy. The Authority shall auction corporate business tax credits and will deposit the amounts received in a dedicated fund to be known as the New Jersey Innovation Evergreen Fund (Fund). The Authority shall use the money in the Fund to carry out the purposes enumerated in this subchapter.

## 19:31-25.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the New Jersey Innovation Evergreen Act, sections 20 through 34 of P.L. 2020, c. 156, as amended (N.J.S.A. 34:1B-288 through 34:1B-302).

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by, another entity. Control exists in all cases in which the entities are members of a controlled group of corporations, as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. § 1563), or the entities are an organization in a group of organizations under common control, as defined pursuant to subsection (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. § 414).

"Authority" means the New Jersey Economic Development Authority established by section 4 at P.L. 1974, c. 80 (N.J.S.A. 34:1B-4).

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Evergreen special purpose vehicle" means an entity controlled by or under common control with a qualified venture firm that is formed solely by the qualified venture firm for the purpose of the fund investing in a qualified business alongside the investment from the qualified venture firm active fund.

"Evergreen special purpose vehicle manager" means the managing member or general partner of an Evergreen special purpose vehicle.