

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

Defined Contribution Retirement Program

Readoption with Amendments: N.J.A.C. 17:6

Proposed: July 15, 2019, as 51 N.J.R. 1182(a).

Adopted: February 11, 2020, by John D. Megariotis, Acting Director, Division of Pensions and Benefits.

Filed: March 13, 2020, as R.2020 d.044, **without change**.

Authority: N.J.S.A. 43:15C-1.

Effective Dates: March 13, 2020, Readoption;
April 6, 2020, Amendments.

Expiration Date: March 13, 2027.

Summary of Public Comment and Agency Response:

Comments on the notice of proposal were received from Jean Public, a private citizen.

COMMENT: Commenter asserts that “none of the rules proposed are cost effective.” Additionally, the commenter asserts that the “entire pension system costs far more than the nj public can ever afford to pay” and that “the debt that has been rung up on this pension plan means the kids now will be payin g for this plan for the next 35 years.” Also, the commenter stresses that “there will be no tax dollars left for any old purpose than pensions.” The commenter asserts that pensions are based on a “corrupt system” built on nepotism and political gain.

RESPONSE: The commenter’s general assertions present issues that would need to be addressed legislatively. The regulatory process is present to provide for the effective administration of existing statutes or newly passed laws. Rules that directly oppose current law cannot be adopted.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:6.

Full text of the adopted amendments follows:

SUBCHAPTER 2. DEFINITIONS

17:6-2.1 Definitions

Whenever used in the Program or with respect to an applicable Plan, each of the following terms has the meaning stated below. To the extent that any term is not defined in this subchapter or otherwise by this chapter, such term has the meaning given by N.J.S.A. 43:15C-1 et seq., or by the Internal Revenue Code.

... “Distribution” means, as appropriate in the context, any kind of payment (withdrawal or retirement) including a rollover provided by the Retirement Plan.

... “Effective date” means July 1, 2007 for eligible employees as of the Retirement Plan implementation date and as effective with respect to payroll periods starting on and after that date.

... “Retired” means when a vested Defined Contribution Retirement Program member separates from covered employment and elects to receive a distribution of funds (of any amount) containing both employer and employee contributions plus interest. This action renders the former participant “retired” and, therefore, as a retiree, ineligible to reenroll in the DCRP or enroll in any other New Jersey State-administered retirement system, pursuant to N.J.S.A. 43:15C-2.b(3).

... “Vested” means eligible to receive employer and employee contributions. All members of the Public Employees Retirement System (PERS), Teachers’ Pension and Annuity Fund (TPAF), Police and Firemen’s Retirement System (PFRS), Alternate Benefits Program (ABP), or State Police Retirement System (SPRS), and all DCRP members hired at the age 65 or older, are immediately vested; members of DCRP hired before their 65th birthday vest after one year of contributions.

... “Withdrawal” occurs when a non-vested DCRP member separates from covered employment and submits a request to the vendor for a withdrawal of contributions. Only the member’s contributions are available for withdrawal; employer contributions are forfeited, pursuant to N.J.S.A. 43:15C-3.c. A withdrawal differs from a distribution in that after a withdrawal, the individual remains eligible for reenrollment in the DCRP or enrollment in another State-administered retirement system upon a return to covered employment.

SUBCHAPTER 4. PARTICIPATION IN THE RETIREMENT PLAN

17:6-4.1 Eligibility

(a) The following persons shall be eligible for, and shall participate in, the Defined Contribution Retirement Program, provided they are eligible employees of an employer on or after the date the Retirement Plan was established, July 1, 2007, under the provisions of N.J.S.A. 43:15C-1:

1.-5. (No change.)

6. A person in eligible employment, office, or position for which the annual salary is at least \$5,000 or remuneration is less, or the hours of work per week are fewer, than that which is required to become a member of the Teachers’ Pension and Annuity Fund or the Public Employees’ Retirement System, or to make contributions to those systems as a member on the basis of any such employment, office, or position, after November 1, 2008. N.J.S.A. 43:15C-2 clearly defines eligible employment to exclude: an employee with a base salary of less than \$5,000 per year; an employee who is eligible for membership in another State-administered retirement plan; an employee who is receiving a benefit from a State or locally administered plan; and persons excluded by N.J.S.A. 43:15A-7.2 (professional service contracts).

(b) (No change.)

17:6-4.3 Waiver of participation

(a) A Public Employees Retirement System (PERS), Teachers’ Pension and Annuity Fund (TPAF), Police and Firemen’s Retirement System (PFRS), or State Police Retirement System (SPRS) member who is also eligible for the DCRP, due to the maximum compensation limit defined at N.J.S.A. 43:15C-2.a(5), may voluntarily waive participation in the DCRP by submitting a DCRP Waiver Form to the Division of Pensions and Benefits. The completed DCRP Waiver Form waives all rights and benefits that would otherwise be provided by the Retirement Plan. To the extent permitted by the Internal Revenue Code, such a person may thereafter make a one-time irrevocable election to participate in the Retirement Plan by filing, on an applicable form required by the Plan Administrator, a written election to participate in the Retirement Plan, and participation in the Retirement Plan pursuant to such election shall commence on the January 1 next following the filing of the election to participate.

(b)-(c) (No change.)

SUBCHAPTER 5. CONTRIBUTIONS TO THE RETIREMENT PLAN

17:6-5.1 Enrollment

(a) Employer and employee contributions with respect to the Retirement Plan shall be made with respect to eligible employees on and after the Retirement Plan implementation date who have enrolled as participants in the Retirement Plan.

1. An eligible employee shall be enrolled as a participant in the Retirement Plan, with respect to employee mandatory contributions, as of his or her date of hire as an eligible employee (except as otherwise provided by N.J.A.C. 17:6-4.3). Pursuant to such required enrollment, each eligible employee shall make employee mandatory contributions (within the parameters permitted by N.J.S.A. 43:15C-3.a, as well as catch-up employee mandatory contributions as described in N.J.A.C. 17:6-5.2).

2. (No change.)

SUBCHAPTER 14. ADMINISTRATION OF DISTRIBUTIONS

17:6-14.1 Claim for distribution

(a) (No change.)

(b) Such form shall require the member’s acknowledgement that any distribution of a vested account renders the member “retired” as defined in N.J.S.A. 43:15C-2.b(3) and, therefore, makes the member permanently ineligible to reenroll in the DCRP or enroll in any other State-administered retirement system.

SUBCHAPTER 17. DEFINED CONTRIBUTION RETIREMENT PROGRAM GROUP LIFE INSURANCE PLAN

17:6-17.2 Beneficiary designation

At any time before his or her death, a participant may designate a beneficiary or beneficiaries. This designation shall include: the beneficiary’s full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth. The terms of the group life policy shall govern the disposition of the participant’s benefit in the event that the participant fails to designate a valid beneficiary for all, or any part of, such life insurance benefit.

SUBCHAPTER 18. DEFINED CONTRIBUTION RETIREMENT PROGRAM GROUP DISABILITY BENEFIT PLAN

17:6-18.1 Benefit

(a) The Group Disability Benefit Plan shall provide disability benefit coverage under a group policy or policies issued by one or more insurance

company providers as shall be selected from time to time by the Treasurer. The benefit shall provide a monthly income if the participant becomes totally disabled (within the meaning of N.J.A.C. 17:6-18.3) from occupational or non-occupational causes for a period of at least six consecutive months following the effective date of the coverage. The monthly disability benefit may be paid by the insurance company so long as the participant remains disabled up to the participant’s 70th birthday. The benefit shall terminate when the participant is no longer considered totally disabled or begins to receive his or her benefit under the Retirement Plan.

(b) (No change.)

(c) Disability benefit insurance provisions of the group policy or policies shall not cover disability resulting from or contributed to by pregnancy, act of war, intentionally self-inflicted injury, or attempted suicide whether or not sane. For purposes of such disability benefit coverage, the participant shall not be considered to be disabled while the participant is imprisoned or while outside the United States and its territories or possessions.

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