

shall be notified at the next regularly scheduled meeting of the Board. The Division may be granted a six-month grace period to reduce the level of participation below the maximum levels, provided that:

1. The reduction shall be achieved solely by the reduction of investments made directly by the eligible fund and shall not be applied to the eligible fund's proportionate interest in investments made through a common pension fund; and

2. The grace period may be extended for additional four-month periods with the approval of the Board.

(c) For investments in funds-of-funds, the limitations under (a) above shall apply to the underlying investments, and not to the funds-of-funds themselves.

(a)

DIVISION OF PENSIONS AND BENEFITS Defined Contribution Retirement Program Proposed Readoption with Amendments: N.J.A.C. 17:6

Authorized by: Defined Contribution Retirement Program, John D. Megariotis, Acting Director.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2019-105.

Submit comments by September 13, 2019, to:

Susanne Culliton
Assistant Director
Division of Pensions and Benefits
PO Box 295
Trenton, NJ 08625-0295
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The agency proposal follows:

Summary

The Board of Trustees (Board) of the Defined Contribution Retirement Program ("DCRP" or "System") is responsible for maintaining the administrative rules at N.J.A.C. 17:6. The rules are periodically reviewed by the Division of Pensions and Benefits (Division) and the Board's staff to determine whether the existing rules are necessary, are cost-efficient, reflect the current policies and procedures of the Division, and maintain qualified-plan status in compliance with Federal IRS regulations. When clarification or revision is required, the affected rules are amended accordingly. Finally, when the rules at N.J.A.C. 17:6 are about to expire, they must be reviewed, amended as needed, and repromulgated.

The Board proposes to readopt with amendments the rules at N.J.A.C. 17:6, which were scheduled to expire on June 8, 2019. As the Board filed this notice of readoption prior to the expiration date, that date is extended 180 days to December 5, 2019, pursuant to N.J.S.A. 52:14B-5.1.c(2). The rules proposed for readoption with amendments affect the administration, enrollment, contributions, withdrawals, insurance and death benefits, membership, eligible service, service-credit purchases, retirements, and transfers within the DCRP. A summary of the rules proposed for readoption with amendments follows.

Subchapter 1. Establishment of Program

N.J.A.C. 17:6-1.1, Program established, remains unchanged.

N.J.A.C. 17:6-1.2, Program consists of three plans, remains unchanged.

N.J.A.C. 17:6-1.3, ERISA does not apply, remains unchanged.

N.J.A.C. 17:6-1.4, Governmental plan rules, remains unchanged.

N.J.A.C. 17:6-1.5, Exclusive benefit, remains unchanged.

N.J.A.C. 17:6-1.6, No third-party beneficiary, remains unchanged.

Subchapter 2. Definitions

At N.J.A.C. 17:6-2.1, Definitions, the Board proposes to expand the definition of "distribution," so that it accurately conveys that any kind of

payment, whether it be a withdrawal, retirement, or rollover, is to be considered a distribution. The definition of "effective date" is proposed for amendment to exclude the second sentence regarding the effective date of the chapter, which had been improperly placed in Subchapter 2.

Also, the Board proposes to add the following terms: "retired," "vested," and "withdrawal." "Retired" was added to mean 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, 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). For purposes of determining whether a person working in a position otherwise eligible for participation in one of the State's retirement plans is "retired" from the DCRP, it does not matter whether the person withdrew a small lump sum many years ago or the person is currently receiving a retirement allowance; that person is considered retired and not eligible to enroll in any State pension system. That person could choose to accept employment in the position, but no pension benefit is associated with that employment. "Vested" was added to mean a member's eligibility to receive both 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), and State Police Retirement System (SPRS) are immediately vested, as are newly hired members of DCRP aged 65 or older; DCRP members who commence DCRP employment while under the age of 65 vest after one year of contributions. "Withdrawal" was added to mean 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. After a withdrawal, the individual is not considered "retired," and, therefore, is eligible for reenrollment in the DCRP or enrollment in another New Jersey State-administered retirement system upon a return to covered employment.

Subchapter 3. Defined Contribution Retirement Program Board

N.J.A.C. 17:6-3.1, Composition, remains unchanged.

N.J.A.C. 17:6-3.2, Powers, remains unchanged.

Subchapter 4. Participation in the Retirement System

In Subchapter 4, the Board proposes to amend N.J.A.C. 17:6-4.1(a) to clarify when the retirement system was established. The addition of the date is necessary so that potential members will know that the eligibility requirements for membership must be met as of the enactment of the DCRP. N.J.A.C. 17:6-4.1(a)6 is proposed for amendment to specify what counts as eligible employment. 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).

N.J.A.C. 17:6-4.2, Ineligibility, remains unchanged.

N.J.A.C. 17:6-4.3, Waiver of participation, is proposed for amendment to include the use of a waiver form that notifies members of a one-time opportunity to become a member of the DCRP after the waiver was submitted. Pursuant to N.J.S.A. 43:15C-2.c, a person eligible and required to participate in the retirement program may elect to waive participation, when first eligible, on a form required by the Division. Employees enrolled in PERS or TPAF on or after July 1, 2007, or enrolled in PFRS or SPRS after May 21, 2010, are subject to a maximum compensation limit for pension contributions. The maximum compensation limit is based on the annual maximum wage for Social Security and is subject to change at the start of each calendar year. Thus, for PERS and TPAF members enrolled in the DCRP on or after July 1, 2007, or PFRS or SPRS members enrolled in the DCRP after May 21, 2010, the employee's eligible DCRP compensation is the amount of salary that exceeds the annual maximum wage for pension contributions. For example, the maximum compensation limit for 2019 is \$132,900. Thus, a PERS

employee earning \$160,000 per year would be eligible to enroll in the DCRP. The creditable compensation for PERS would be \$132,900 and \$27,100 would be invested in the DCRP, should the employee choose to enroll.

N.J.A.C. 17:6-4.4, Service credit not recognized to determine eligibility for employer-paid retiree health care benefits, remains unchanged.

Subchapter 5. Contributions to the Retirement Plan

N.J.A.C. 17:6-5.1 pertains to enrollment. The Board proposes to amend N.J.A.C. 17:6-5.1(a)1 by removing the word “automatic.” This was removed because the removal process is not an automated process done with little or no direct control. The Division’s staff manually enrolls members once all the requirements for membership have been satisfied. In addition, the language regarding enrollment after the plan implementation date was removed because it is outdated.

N.J.A.C. 17:6-5.2, Employee contributions, remains unchanged.

N.J.A.C. 17:6-5.3, Employer contributions, remains unchanged.

N.J.A.C. 17:6-5.4, Employee contribution pick-up, remains unchanged.

N.J.A.C. 17:6-5.5, Contributions transmitted to DSP, remains unchanged.

N.J.A.C. 17:6-5.6, Allocation of contributions to participant’s account, remains unchanged.

N.J.A.C. 17:6-5.7, Contributions limited by IRC § 401(a)(17), remains unchanged.

N.J.A.C. 17:6-5.8, Plan to satisfy limit on annual additions, remains unchanged.

Subchapter 6. Investments and Investment Direction

N.J.A.C. 17:6-6.1, Duty of investment direction, remains unchanged.

N.J.A.C. 17:6-6.2, Procedure for giving investment direction, remains unchanged.

N.J.A.C. 17:6-6.3, Limits on frequency of investment directions, remains unchanged.

N.J.A.C. 17:6-6.4, Who directs investment, remains unchanged.

N.J.A.C. 17:6-6.5, Duty to accept investment direction, remains unchanged.

N.J.A.C. 17:6-6.6, Plan Administrator not responsible, remains unchanged.

N.J.A.C. 17:6-6.7, Failure to give investment direction, remains unchanged.

Subchapter 7. Vesting and Forfeiture

N.J.A.C. 17:6-7.1, Vesting schedules, remains unchanged.

N.J.A.C. 17:6-7.2, Forfeitures, remains unchanged.

N.J.A.C. 17:6-7.3, Forfeitures of employer contributions for dishonorable service, remains unchanged.

N.J.A.C. 17:6-7.4, Vesting rules, remains unchanged.

Subchapter 8. Beneficiary

N.J.A.C. 17:6-8.1, Beneficiary designation, remains unchanged.

N.J.A.C. 17:6-8.2, Construction of beneficiary designation, remains unchanged.

N.J.A.C. 17:6-8.3, Beneficiary must be alive when the distribution becomes payable, remains unchanged.

N.J.A.C. 17:6-8.4, Marriage or status has no effect, remains unchanged.

N.J.A.C. 17:6-8.5, Lack of beneficiary designation, remains unchanged.

N.J.A.C. 17:6-8.6, A slayer cannot be a beneficiary, remains unchanged.

Subchapter 9. Qualified Domestic Relations Order

N.J.A.C. 17:6-9.1, QDRO procedures, remains unchanged.

N.J.A.C. 17:6-9.2, Age of alternate payee, remains unchanged.

N.J.A.C. 17:6-9.3, Required findings for QDRO, remains unchanged.

N.J.A.C. 17:6-9.4, Investment direction during domestic relations matter, remains unchanged.

N.J.A.C. 17:6-9.5, Inability to locate alternate payee, remains unchanged.

Subchapter 10. No Loan or Early Distribution

N.J.A.C. 17:6-10.1, No loan, remains unchanged.

N.J.A.C. 17:6-10.2, No hardship or in-service distributions, remains unchanged.

Subchapter 11. Distributions and Minimum Distribution Requirements

N.J.A.C. 17:6-11.1, Distribution, remains unchanged.

N.J.A.C. 17:6-11.2, Minimum distribution, remains unchanged.

N.J.A.C. 17:6-11.3, Definitions, remains unchanged.

N.J.A.C. 17:6-11.4, Default retirement distribution, remains unchanged.

N.J.A.C. 17:6-11.5, Minimum distribution life expectancy, remains unchanged.

N.J.A.C. 17:6-11.6, Minimum distribution period, remains unchanged.

N.J.A.C. 17:6-11.7, distributions in cash, remains unchanged.

N.J.A.C. 17:6-11.8, Corrective distributions, remains unchanged.

N.J.A.C. 17:6-11.9, Required minimum distribution waiver of 2009, remains unchanged.

Subchapter 12. Accounts

N.J.A.C. 17:6-12.1, Account statement or confirmation, remains unchanged.

N.J.A.C. 17:6-12.2, Account balance, remains unchanged.

Subchapter 13. Rollovers

N.J.A.C. 17:6-13.1, Direct rollover of funds to other plans, remains unchanged.

N.J.A.C. 17:6-13.2, Definitions, remains unchanged.

N.J.A.C. 17:6-13.3, Rollover of funds from other plans, remains unchanged.

N.J.A.C. 17:6-13.4, Eligible rollover distribution payable without delay, remains unchanged.

Subchapter 14. Administration of Distributions

N.J.A.C. 17:6-14.1 pertains to distribution claims. The Board proposes new N.J.A.C. 17:6-14.1(b) to explain that a distribution of any kind will render the member “retired” pursuant to N.J.S.A. 43:15C-3.b and will thereby render him or her ineligible, as a retired person, to reenroll in the DCRP or any other State-administered retirement system. If a retired member returns to public employment in New Jersey, the member cannot participate in any New Jersey State-administered retirement system.

N.J.A.C. 17:6-14.2, Minimum advance notice, remains unchanged.

N.J.A.C. 17:6-14.3, Payor may rely on apparent entitlement, remains unchanged.

N.J.A.C. 17:6-14.4, Valuation of payments, remains unchanged.

N.J.A.C. 17:6-14.5, Delay of payment, remains unchanged.

N.J.A.C. 17:6-14.6, Dispute as to proper recipient, remains unchanged.

N.J.A.C. 17:6-14.7, Distribution to minor beneficiary, remains unchanged.

N.J.A.C. 17:6-14.8, Distribution to incompetent participant, beneficiary, or alternate payee, remains unchanged.

N.J.A.C. 17:6-14.9, Payment to personal representative, remains unchanged.

N.J.A.C. 17:6-14.10, Disclaimer by beneficiary, remains unchanged.

Subchapter 15. Plan Administration

N.J.A.C. 17:6-15.1, Plan Administrator has full authority, remains unchanged.

N.J.A.C. 17:6-15.2, DSP responsibilities, remains unchanged.

N.J.A.C. 17:6-15.3, Determinations to be uniformly made, remains unchanged.

N.J.A.C. 17:6-15.4, Plan Administrator responsibilities, remains unchanged.

N.J.A.C. 17:6-15.5, Information from employer, remains unchanged.

N.J.A.C. 17:6-15.6, Plan Administrator may delegate or contract, remains unchanged.

N.J.A.C. 17:6-15.7, Plan Sponsor’s right to terminate the Program, remains unchanged.

N.J.A.C. 17:6-15.8, Final allocation, remains unchanged.

Subchapter 16. General Provisions

N.J.A.C. 17:6-16.1, Anti-alienation, remains unchanged.
 N.J.A.C. 17:6-16.2, Levy or judgment, remains unchanged.
 N.J.A.C. 17:6-16.3, Audit, remains unchanged.
 N.J.A.C. 17:6-16.4, Claims procedure, remains unchanged.
 N.J.A.C. 17:6-16.5, Expenses, remains unchanged.
 N.J.A.C. 17:6-16.6, Fiduciary responsibility, remains unchanged.
 N.J.A.C. 17:6-16.7, Governing law, remains unchanged.
 N.J.A.C. 17:6-16.8, Internal Revenue Service approval, remains unchanged.
 N.J.A.C. 17:6-16.9, Mistaken contribution, remains unchanged.
 N.J.A.C. 17:6-16.10, Necessary information, remains unchanged.
 N.J.A.C. 17:6-16.11, No contract of employment, remains unchanged.
 N.J.A.C. 17:6-16.12, No rights other than those provided by the Program, remains unchanged.
 N.J.A.C. 17:6-16.13, Taxes, remains unchanged.
 N.J.A.C. 17:6-16.14, Notices, remains unchanged.
 N.J.A.C. 17:6-16.15, Program is binding, remains unchanged.
 N.J.A.C. 17:6-16.16, Power-of-attorney, remains unchanged.
 N.J.A.C. 17:6-16.17, Disclosure of information, remains unchanged.
 N.J.A.C. 17:6-16.18, Release, remains unchanged.
 N.J.A.C. 17:6-16.19, Severability, remains unchanged.
 N.J.A.C. 17:6-16.20, Statute of limitations, remains unchanged.
 N.J.A.C. 17:6-16.21, Uniformity, remains unchanged.
 N.J.A.C. 17:6-16.22, Venue, remains unchanged.
 N.J.A.C. 17:6-16.23, Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), remains unchanged.

Subchapter 17. Defined Contribution Retirement Program Life Insurance Plan

N.J.A.C. 17:6-17.1, Benefit, remains unchanged.
 N.J.A.C. 17:6-17.2, Beneficiary designation, is proposed for amendment to specify the required information needed for beneficiary designations. The requirements of having a full name, Social Security number, tax identification number (for estates or trusts), address, and date of birth assist the Division with locating beneficiaries in an efficient manner. In turn, this assists the Division with processing claims in a timely fashion and reflects similar verbiage used in the State Police Retirement System (SPRS) rules at N.J.A.C. 17:5-2.4(a)3. Additionally, a general reference to “the terms of the group life policy applicable to the participant under the Group Life Insurance plan” is deleted in favor of the more descriptive information needed for beneficiary designations.
 N.J.A.C. 17:6-17.3, Life Insurance Premium Fund, remains unchanged.

Subchapter 18. Defined Contribution Retirement Program Group Disability Benefit Plan

N.J.A.C. 17:6-18.1(a) is proposed for amendment to remove the condition that the disability commenced prior to the participant’s 60th birthday. This wording was removed because it is inconsistent with the governing statute. N.J.A.C. 17:6-18.1(c) is proposed for amendment to remove the mention of Canada, as listing Canada is unnecessary because it is not a part of the United States.
 N.J.A.C. 17:6-18.2, Amount of benefit, remains unchanged.
 N.J.A.C. 17:6-18.3, Definition of total disability, remains unchanged.
 N.J.A.C. 17:6-18.4, Disability Premium Fund, remains unchanged.

Subchapter 19. Amendment

N.J.A.C. 17:6-19.1, Program amendment, remains unchanged.
 N.J.A.C. 17:6-19.2, Amendment cannot change exclusive benefit, remains unchanged.

Subchapter 20. Construction

N.J.A.C. 17:6-20.1, Construction and interpretation of Program, remains unchanged.
 N.J.A.C. 17:6-20.2, Construction of Retirement Plan as a qualified plan, remains unchanged.
 N.J.A.C. 17:6-20.3, Conformance with Federal statutes, remains unchanged.
 N.J.A.C. 17:6-20.4, Conformance with enabling statute, remains unchanged.

N.J.A.C. 17:6-20.5, Reference to statutes and regulations, remains unchanged.

N.J.A.C. 17:6-20.6, Consistent with investment law, remains unchanged.

N.J.A.C. 17:6-20.7, Construction of words and phrases, remains unchanged.

N.J.A.C. 17:6-20.8, Conformance with United States of America Constitution and New Jersey Constitution, remains unchanged.

N.J.A.C. 17:6-20.9, Resolution of claims, remains unchanged.

The Board has provided a 60-day comment period for this notice of proposal; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Social Impact

The rules proposed for readoption with amendments benefit DCRP members, retirees, and survivors of members and retirees. Members, retirees, and survivors of members and retirees rely on the efficient operation of the DCRP to provide them with a monthly distribution in retirement, proper crediting of contributions and earnings, death benefits, and information regarding their individual accounts.

Economic Impact

The rules proposed for readoption with amendments promote the effective and efficient administration of enrollments, retirements, transfers, purchases, withdrawals, and other areas of membership in the System. They will not impose any adverse economic effects on the public; in fact, they will have a positive economic impact by helping to prevent pension fraud and abuse, by ensuring people know the rules of engagement when they enter and exit the plans. This will protect the pension system and monies that are contributed to the pension system by New Jersey taxpayers. While the proposed amendments may impose additional recordkeeping requirements, they will serve to preserve and improve the efficient administration and operation of the DCRP by helping to prevent members who are ineligible for specific retirement benefits from collecting such benefits. The proposed amendments will also promote operational efficiency by upholding the maximum compensation limits established by recent pension laws. Overall, the rules proposed for readoption with amendments will help to put recent pension-reform laws into practice, while also helping to prevent pension fraud and promoting more effective and efficient operations in most areas of membership in the System. The rules will enable the Division to continue to provide benefits in a manner that meets both statutory and contractual requirements.

Federal Standards Statement

The rules proposed for readoption with amendments meet the applicable Federal standards, that is, 26 U.S.C. § 403(b). There are no other Federal standards applicable to the subject matter of these rules.

Jobs Impact

The operation of the rules proposed for readoption with amendments will not result in the generation or loss of jobs. The Division invites any interested parties to submit any data or studies concerning the jobs impact of the rules proposed for readoption with amendments and new rules with their written comments.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

The rules of the DCRP affect members and retirees and survivors of DCRP members and retirees. Thus, the rules proposed for readoption with amendments do not impose any reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on the affordability of housing in New Jersey, nor will they evoke a change in the average costs associated with housing, because the rules

pertain to administration of the DCRP for members, retirees, and survivors of members and retirees.

Smart Growth Development Impact Analysis

The rules proposed for reoption with amendments will not have any impact on the achievement of smart growth, nor will they evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules pertain to administration of the DCRP for members, retirees, and survivors of members and retirees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of the Treasury has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for reoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:6.

Full text of the proposed amendments follow (additions indicated in boldface thus; deletions indicated in brackets [thus]):

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 [distribution or the particular kind of distribution] **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. [The effective date of this chapter is January 25, 2011. See N.J.A.C. 17:6-5.2 and 5.3 with respect to the making of catch-up employee mandatory contributions and associated employer contributions.]

...
 “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 [Retirement Plan implementation] 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 [person eligible and required to participate in the Retirement Plan pursuant to N.J.A.C. 17:6-4.1(a)5 may elect to] **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 [with regard to that employment, office, or position by filing, when first eligible, on an applicable form required by the Plan Administrator, a written waiver with the Plan Administrator that] **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 [and related guidance], such a person may thereafter [elect] **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 [automatically] 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) [or, if later, the first payroll period following the Retirement Plan implementation date]. Pursuant to such [automatic] **required** enrollment, each eligible employee shall make employee mandatory contributions (within the parameters permitted by N.J.S.A. 43:15C-[3(a)]**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[, subject to the terms of the group life policy applicable to the participant under the Group Life Insurance Plan]. **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[, provided the disability commenced prior to the participant’s 60th 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[, or Canada].

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

OTHER AGENCIES

(a)

PUBLIC EMPLOYMENT RELATIONS COMMISSION
Notice of Proposed Substantial Changes Upon
Adoption to Proposed Amendment and Proposed
New Rules
Representation Procedures
Negotiations and Impasse Procedures; Mediation,
Fact-Finding, Super Conciliation, Grievance
Arbitration, Special Disciplinary Arbitration,
Mediation, and Binding Arbitration to Resolve
Impasses Over Employee Organization Access to
Employees

Proposed Changes: N.J.A.C. 19:11-1.5 and 19:12-7.2 and 7.3

Proposed: September 17, 2018, at 50 N.J.R. 1988(a).

Authorized By: Public Employment Relations Commission, Joel M. Weisblatt, Chair.

Authority:

As to N.J.A.C. 19:11: N.J.S.A. 34:13A-5.4e, 34:13A-6d, 34:13A-11, and 34:13A-5.15d; and P.L. 2018, c. 15.

As to N.J.A.C. 19:12: N.J.S.A. 34:13A-5.4.c, 34:13A-6.b, 34:13A-11, and 34:13A-5.13h; and P.L. 2018, c. 15.

Proposal Number: PRN 2018-085.

Submit comments by September 13, 2019, to:

Joel M. Weisblatt, Chair
 Public Employment Relations Commission
 PO Box 429
 Trenton, New Jersey 08625-0429
 Comments may also be submitted via facsimile to 609-777-0089 or to rulecomments@perc.state.nj.us via e-mail.

Take notice that the Public Employment Relations Commission (Commission) proposed amendments at N.J.A.C. 19:11-1.5 and new rules at N.J.A.C. 19:12-7 on September 17, 2018, at 50 N.J.R. 1988(a), to implement the provisions of the Workplace Democracy Enhancement Act (WDEA), P.L. 2018, c. 15, § 1 through 5, effective May 18, 2018. The WDEA added N.J.S.A. 34:13A-5.11 through 5.15 to the New Jersey Employer-Employee Relations Act. The public comments received have prompted the Commission to propose several substantial changes to the amendment and new rules contained in the original notice of proposal. A summary of the public comments and the agency’s responses thereto are provided below. This notice of proposed substantial changes is published pursuant to N.J.S.A. 52:14B-4.10.

Office of Administrative Law Note: Please note that due to a formatting error merging similar comments, but not individually identifying the commenters (as is indicated below), the notice published on July 1, 2019, at 51 N.J.R. 1109(a) is replaced by this notice of substantial changes upon adoption. The changes proposed by the Commission have not changed, nor has the substance of the comments and the responses, but the formatting has been adjusted.

Summary of Public Comments and Agency Responses:

Comments were received from the following interested persons and parties:

1. Craig S. Gumpel, Esq., for New Jersey State Firefighters Mutual Benevolent Association (FMBA);
2. Mark Lesniak of the Rahway Library;
3. Aileen O’Driscoll, Esq., Managing Attorney, New Jersey Education Association (NJEA);
4. Susan Pigula, Esq., Director, Division of Legislative, Administrative and Regulatory Actions, New Jersey Department of Transportation (NJDOT);
5. Steven P. Weissman, Esq., and Ira W. Mintz, Esq., of the firm of Weissman & Mintz on behalf of the following labor organizations (collectively “Union Commenters”): New Jersey State AFL-CIO; Communications Workers of America, AFL-CIO; American Federation of Teachers-NJ, AFL-CIO; the Health Professionals and Allied Employees, AFT; the American Association of University Professors, Biomedical Health Sciences New Jersey; the Committee of Interns and Residents, SEIU; the American Association of University Professors-AFT (Rutgers); and Union of Rutgers Administrators-AFT;
6. Paul A. Kleinbaum, Esq., of Zazzali, Fagella, Nowak, Kleinbaum & Friedman on behalf of the American Federation of State, County and Municipal Employees, Council 63 (AFSCME);
7. Debra L. Davis, Staff Representative, on behalf of Council of New Jersey State College Locals, AFT/AFL-CIO (CNJSCL);
8. David A. Cohen, Associate Vice President and Deputy General Counsel, Rutgers, the State University of New Jersey (Rutgers); and
9. Joseph M. Hannon, Esq. of Genova, Burns on behalf of the New Jersey State League of Municipalities (NJSLOM).