

# ◀ Click Here First

## Summary Plan Description (SPD)

### for Tier 3 Members

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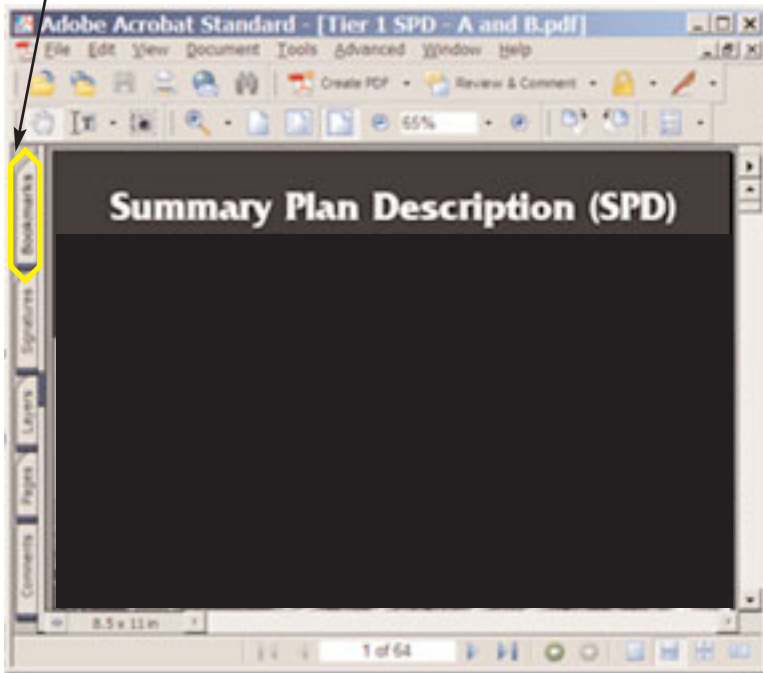
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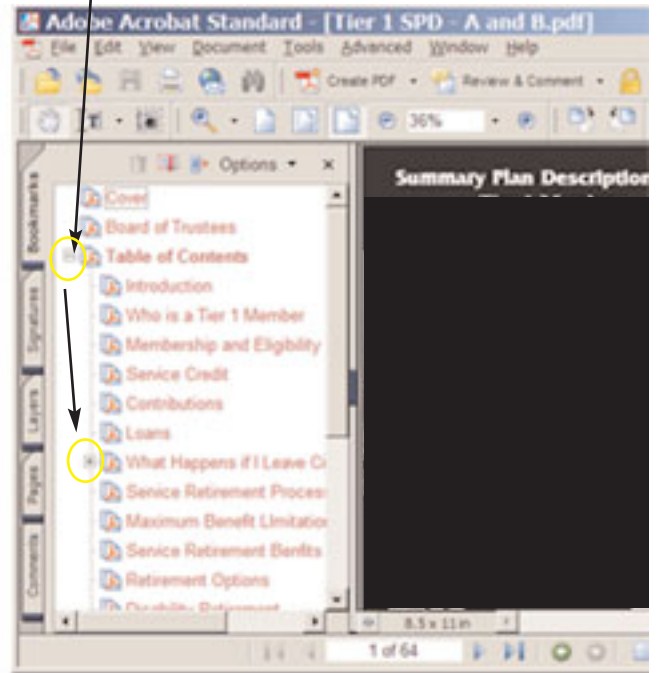
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## INTRODUCTION

This booklet is called a Tier 3 Summary Plan Description or SPD for short. It is published by the New York City Employees' Retirement System (NYCERS), and is intended to summarize all of the provisions relating to retirement plans, programs and other benefits offered to members who are employed in the Uniformed-Force of the New York City Department of Correction, who became members on or after July 27, 1976. Laws affecting your pension tier or plan can be enacted in any given year, which may result in possible inaccuracies within this SPD. In the event of a conflict between the contents of this booklet and any applicable law and/or rules, including, but not limited to, the Administrative Code of the City of New York, the New York State Retirement and Social Security Law, and the Rules of NYCERS, the applicable Law or Rule will govern.

Membership in NYCERS is available to all New York City employees who are not eligible to participate in the New York City Teachers' Retirement System, the New York City Police Pension Fund, the New York City Fire Department Pension Fund or the New York City Board of Education Retirement System.

All persons holding a permanent civil service position in the competitive or labor class are required to become members of NYCERS six months after their date of appointment, but may voluntarily elect to join the system prior to their mandated membership date. All other eligible employees have the option of joining the system upon appointment or at anytime thereafter.

NYCERS was established by an act of the New York State Legislature in 1920. The system is responsible for the retirement benefits for most employees of the City of New York. The head of the retirement system is the Board of Trustees. The Comptroller of the City of New York is Custodian of the funds of the System, and by delegation of the Board of Trustees, has the power to invest those funds.

The Executive Director, appointed by the Board of Trustees, is the chief administrative officer of the agency. The Chief Actuary, also appointed by the Board of Trustees, provides actuarial services to the system. The Office of Corporation Counsel provides legal services to the system.

An independent Medical Board reporting to the Board of Trustees conducts examinations of members who file for disability retirement and makes determinations regarding their ability to perform the duties of their job title.

NYCERS is a defined benefit plan, meaning that a specific benefit is provided at retirement in amounts that are paid either on a fixed-dollar basis or as a percentage of compensation. The retirement system manages the system's invested assets and pays out benefits according to formulas set forth in the New York State and New York City law. This plan consists of both employer and employee contributions.

NYCERS is a cost-sharing, multiple employer public employee retirement system. In addition to the various departments of the City of New York, members are also employed by *Participating Employers* (see the **Glossary** for a complete listing).

## INTRODUCTION

In general, Tier 3 members are governed by ARTICLE 14 of the New York State Retirement and Social Security Law (RSSL), the Administrative Code of the City of New York, the Rules of NYCERS and certain other applicable laws.

If you have any questions, we want to answer them for you.  
Our mailing address is:

**NYCERS**  
**335 Adams Street, Suite 2300,**  
**Brooklyn, NY 11201-3754**

All in person services are handled at our Customer Service Center located at:

**340 Jay Street,**  
**(Mezzanine level)**  
**Brooklyn, NY 11201**

or

Visit our website at:

**[www.nycers.org](http://www.nycers.org)**

or

Contact NYCERS Call Center at:  
(347) 643-3000- if you are calling from a NYC area code  
1-877-699-2377 (1-877-6NYCERS)- if you are calling from outside NYC  
(347) 643-3501- TTY (hearing impaired)

## WHO IS A TIER 3 MEMBER?

If you became a NYCERS Uniformed Correction Force member after July 26, 1976, you are a Tier 3 member.

### THE VARIOUS TIER 3 RETIREMENT PLANS AND PROGRAMS

This SPD contains sections specific to each of the Tier 3 Correction Officer Plans; The Basic Tier 3 Plan (CO-25 Early or Normal Retirement); the 20-Year Retirement Program for Correction Officers below the rank of Captain (CO-20); and the 20-Year Retirement Program for Correction Officers of the rank of Captain and above.(CC-20). Information in the following sections apply to all Uniformed Correction Force plans:

- ✓ Membership and Eligibility
- ✓ Service Credit
- ✓ Contributions
- ✓ Loans
- ✓ What Happens If I Leave City Service?
- ✓ Service Retirement Process
- ✓ Maximum Benefit Limitations
- ✓ Retirement Options
- ✓ Variable Supplements Fund
- ✓ Disability Retirement
- ✓ Survivor Benefits
- ✓ Retiree Health Benefits
- ✓ Taxation of Payments Received from NYCERS
- ✓ Cost of Living Adjustments (COLA)
- ✓ Domestic Relations Orders
- ✓ Re-Employment After Retirement

Any provision unique to a Plan or Program will be found within that specific section of the SPD, along with a brief description of each. For example, Service Retirement Benefit calculations for CO-20 plan can be found on page 56.

Words that are italicized throughout this booklet have special meaning, and are further explained in the **GLOSSARY**.

## MEMBERSHIP AND ELIGIBILITY

### **MANDATORY MEMBERSHIP**

Tier 3 membership is mandatory for all employees who are appointed and have completed six months of service in a permanent position in the competitive or labor class. Permanent employees may voluntarily join NYCERS at any time during the first six months of covered employment.

### **VOLUNTARY MEMBERSHIP**

All people employed by the City or a *Participating Employer* who ARE NOT appointed from an open-competitive list and ARE NOT employed in a labor class position are free to join NYCERS. However, they ARE NOT mandated into membership after six months of service. Such people can file for membership at any time after they start employment with New York City or any NYCERS' *Participating Employer*. They must, however, be on the payroll (either in paid status or leave without pay) of their employer when they file their membership application with NYCERS.

A voluntary membership in NYCERS begins only when a properly completed membership application is filed with NYCERS, not with a *Participating Employer*.

### **SOCIAL SECURITY PARTICIPATION**

#### **MEMBERSHIP IN NYCERS FORCES PARTICIPATION IN THE SOCIAL SECURITY PROGRAM.**

Once an employee joins NYCERS, either through a mandatory or voluntary membership, the employee must pay the 6.20% FICA tax on covered *Wages* (in calendar year 2003, the maximum salary subject to FICA was \$87,000 times 6.20% equals \$5,394.00).

However, the Medicare program deduction of 1.45% of all earnings (no maximum amount set each year like for FICA deductions) is mandatory for all employees since 1986.

### **DEFERRED COMPENSATION PLAN (DCP)**

Another Citywide retirement plan is the 457 DCP, which is administered by the NYC Office of Labor Relations. It is a defined contribution plan, meaning that a retirement benefit is based on the cumulative value of employee contributions. Members of the DCP select how to invest their contributions from among offered choices, and benefits are paid out according to assets available in the individual member's account.

All New York City employees may concurrently join NYCERS and DCP. Those who are not mandated into membership in NYCERS may join the DCP and not NYCERS. Such employees who contribute 7.50% or more of their *Wages* to the DCP are not required to pay the 6.20% FICA tax. Keep in mind, however, that Social Security disability, survivor and retirement benefits are determined according to the amount and duration of your FICA contributions.

If you subsequently join NYCERS, you will be required to pay Social Security contributions, even if you continue to contribute at least 7.50% of *Wages* to the DCP.

If you do not join the DCP, you will be required, after one month of employment, to pay all required FICA contributions, whether or not you are a member of NYCERS.

## SERVICE CREDIT

Each Tier 3 Plan or Program has a minimum service requirement provision. In order to retire under your specific Tier 3 Plan or Program, you need to have the required years of either *Credited* or *Allowable Service*. The specifics for retirement can be found under the **SERVICE RETIREMENT** section. The following provides a brief glimpse of the service and age requirements and the various ways that members can accumulate *Credited Service*. In order for the **CO-20** and **CC-20** members to fully understand how service credit is applied, they need to read this section plus the service credit information within their specific program section.

### **TYPES OF SERVICE**

Benefits are based in part on how much service credit a member has earned by the time the benefit is payable. The types of service a member may secure credit for are:

1. *Allowable Correction Service*
2. Membership Service
3. Transferred Service
4. Purchased Service
5. Membership Reinstatement Service
6. Military Service
7. Union Leave Service

All of these types of services are lumped together and referred to as *Credited Service*.

### **WARNING**

**If you are a *Participant* in the CO-20 or CC-20 plans for Tier 3 Uniformed Correction Force members, you should check with NYCERS before purchasing or transferring service to NYCERS, as it may not be considered *Allowable Correction Service* in your Program, and therefore be of no benefit to you.**

### **Allowable Correction Service**

*Allowable Correction Service* is defined as:

- ▶ Service rendered in the Uniformed Force of the Department of Correction, provided the member applies to receive credit for such service, and such service is pre-membership service
- ▶ Service rendered in the Uniformed Force of the Transit or Housing Police Departments or in the Uniformed Force of the Department of Sanitation immediately prior to the member's appointment to the Uniformed Force of the Department of Correction, provided he/she applied to receive credit for such service
- ▶ Credit for service rendered in the Uniformed Forces of the New York City Police or Fire Departments immediately preceding service in the Uniformed Force of the Department of Correction, provided the member applies for such service and such service credit was transferred to NYCERS

## SERVICE CREDIT

### **Membership Service**

Membership Service is defined as paid full-time or part-time service performed after you last joined NYCERS, including all service while you are on the payroll of a *Participating Employer* and certain military service. Transferred Service also counts as Membership Service for purposes of establishing eligibility and calculating benefits.

### **Transferred Service**

Transferred Service is service which was credited to you while you were a member of another public employee retirement system in the City or State of New York which you transfer to NYCERS.

### **Purchased Service**

Purchased Service allows members to purchase retirement service credit for full or part-time public service performed before becoming a member of the pension system. Even though all purchased service will be used in calculating future benefits, the purchase of such service does not change your membership date in NYCERS.

- ▶ You may file a request to purchase *Previous Service* as long as your NYCERS membership is still active. Requests must be filed before your effective retirement date. It is important to note that legislation enacted in October 2000 eliminated the “continuous service” requirements for buying back time, and allows certain members of NYCERS to purchase retirement service credit for public service performed before becoming a member. If you were a member of another New York State public employee retirement system where creditable service was rendered, you may be eligible to obtain such service credit once you become a member of NYCERS.

Upon receipt of your application to purchase *Previous Service*, NYCERS calculates the cost and gives you the option of making the required payment in a lump-sum or through payroll deductions. You may cancel your request at any time. However, no refunds can be made for portions already purchased.

If you are currently paying for *Previous Service* through payroll deductions and wish to now pay the balance in a lump-sum, you must notify NYCERS of your intent prior to your retirement date.

In order for any purchased *Previous Service* to be credited to him or her, the member must have credit for at least two years of Membership Service.

The cost to purchase *Previous Service* is equal to 3% of *Wages* earned during the period(s) claimed, plus interest from the dates of such service up to the date that full payment is made to NYCERS, at the rate of 5% per annum, compounded annually.

## SERVICE CREDIT

Effective January 1, 2002, NYCERS members interested in purchasing service, may do so by making a direct transfer of funds from their 457 Deferred Compensation Plan or 403(b) Plan. Examples of such a purchase include, but are not limited to: pre-member service; military service; and membership reinstatement (prior membership portion only). You may not use funds from your 457 to make deficit-related payments.

The member must submit a copy of the cost letter to the NYC Deferred Compensation Plan, 40 Rector Street, 3rd Floor, New York, NY, within 15 days of receipt of the letter. He/she will be required to complete an "In-Service Distribution Form" at DCP. The funds will then be transferred directly to NYCERS as payment of the purchase. Members requiring more information should direct inquiries to DCP Client Services at (212) 306-7760.

It should be noted that NYCERS members cannot use their 401(k) plan to purchase service credit. Payments for *Previous Service* are not eligible for Federal income tax deferral [IRC Section 414(h)] treatment.

### **Purchased Service Does Not Change Your NYCERS Membership Date**

Even though all purchased service will be used in calculating future benefits, the purchase of such service does not change your membership date in NYCERS.

**Note: Uniformed Correction Force Basic Tier 3 Plan members can not use Purchased Service for years of service beyond 25 years of service for Retirement computations.**

### **Membership Reinstatement**

Legislation enacted in 1999 allows former members of a public retirement system in New York State who left public employment and later returned to public service to possibly restore their original membership date and tier status. This is not that same as purchasing service credit. Membership Reinstatement requires that you must have been a member of that former public retirement system. You need to file Form # 181 (Membership/Tier Reinstatement) in order to obtain a statement of any costs associated with reinstatement. A change in membership date or tier status may result in significant changes in your retirement benefits, contribution rates, death benefits, or outstanding loans. However, in most cases the benefits of an earlier membership will outweigh any associated cost. To make an informed decision about your situation, visit our Customer Service Center and speak to a retirement counselor.

## SERVICE CREDIT

### Military Service

There are various laws that allow members to purchase service credit for time spent on active duty in the U.S. military. They are sections 242, 243 and 244 of the **New York State** Military Law, the **Federal** Veterans Reemployment Rights Act (VRRRA) and Article 20 of the Retirement & Social Security Law (RSSL). The eligibility and cost may vary for the different provisions granting military service credit. A member is entitled to receive credit for military service under whatever law provides him or her with the greatest benefit. Under all provisions, military service must have been satisfactorily completed and an honorable discharge received. Some of the program specifics are outlined in this section, but for complete details, please obtain and read a copy of NYCERS brochure # 902, Purchasing Credit for Military Service.

#### **WHILE A MEMBER/EMPLOYEE (State or Federal)**

In order to receive retirement service credit for time spent on active duty military service under the NY State and Federal laws, a member must have: been employed by the City of New York or a *Participating Employer* or some other municipality within New York State; be granted a leave of absence for the purpose of serving in active duty; have actually served in active duty and apply to be returned to their City (or other municipal) position; and, thereafter generally pay the contributions that would have been made during the period of his or her military leave of absence.

**Note:** Ask NYCERS for contribution details if you served in active duty during Desert Storm.

Under the provisions of State Law, the person must have been a member of the retirement system at the time he or she entered military service. Under the VRRRA, he or she did not need to be a member, but he or she did have to be employed by a municipal employer within New York State.

#### **WHILE NOT A MEMBER/EMPLOYEE (RSSL)**

Under Article 20 if the member was honorably discharged, he or she can purchase up to three years of military service time even if it was rendered prior to his or her City employment or membership in a retirement system, and even if he or she was not a resident of New York State. Active duty military service must have been during specified times of war, military conflicts, or rendered in certain combat theatres (see below). To get credit for military service under Article 20, the member must have five or more years of NYCERS' Membership Service.

#### **TO BE PURCHASABLE, THE MILITARY SERVICE MUST HAVE BEEN RENDERED DURING ONE OF THE FOLLOWING PERIODS OF WAR:**

- World War II                      December 7, 1941 - December 31, 1946
- Korean War                        June 27, 1950 - January 31, 1955
- Vietnam Era                        February 28, 1961 - May 7, 1975

## SERVICE CREDIT

Or during one of the following military conflicts:

- Lebanon\*                      June 1, 1983 - December 1, 1987
- Grenada\*                      October 23, 1983 - November 21, 1983
- Panama\*                      December 20, 1989 - January 31, 1990

\* As established by receipt of the Armed Forces, Navy or Marine Corps expeditionary medal.

Or in the case of a member who served in the theater of operations during one of the hostilities listed below:

- Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, United Arab Emirates, Oman, Gulf of Aden, Gulf of Oman, Persian Gulf, Red Sea and the airspace above these locations - from August 2, 1990 to the end of such hostilities.

If you were ever on active duty military service, and you wish to purchase credit for that service, you should discuss this matter with one of our Customer Service representatives to determine which section of law would provide you with the best benefit.

### **Union Leave Service**

A member may be granted *Credited Service* for an authorized leave of absence without pay to conduct labor relations activity on behalf of a public employee union, if the employer adopts a resolution and files an election with NYCERS to offer this credit and NYCERS receives an annual certification that the member is indeed performing union leave activities. This service may be either on a part-time or full-time basis.

As of December 1997, New York City employees, employees of the New York City Health and Hospitals Corporation, the New York City Housing Authority and the New York City Transit Authority are eligible for service credit for union activity.

**NOTE:** The member must pay his or her basic contributions of 3% of *Wages*, and if he or she is a *Participant* in one of NYCERS' Special Programs, he or she must also pay all *Additional Member Contributions* required of that Program.

### **Dual Employment Service**

Dual Employment refers to concurrent employment in two or more NYCERS eligible positions in City service. Such positions may be either full-time or part-time.

Members in Dual Employment are required to make member contributions based on *Wages* from all concurrently held positions in City service. In return, members who meet certain eligibility requirements may receive retirement benefits based on such Dual Employment.

## SERVICE CREDIT

**FOR EXAMPLE:** A member may earn service credit from two or more concurrently held part-time positions. However, a member may not earn a greater amount of service credit in any period of time than he or she could have earned during that same period from one full-time position. Similarly, the earnings from two or more dual employment part-time positions may be combined for the purpose of calculating the compensation base to be used in computing benefits. This combined compensation cannot exceed what was earned from that portion of the service that was actually credited during the relevant time period (the amount of service credit that could have been earned from one full-time position during that period).

**For members who joined NYCERS after July 1992, and concurrently held two or more positions (part-time or full-time) in City service for at least ten years, the earnings from the same number of concurrently held positions may be combined for the purpose of computing benefits.**

Under certain circumstances, a retiree may receive a post-retirement refund of member contributions attributable to a dual employment position, where the retiree did not receive service credit for that position, and the earnings from that position did not figure into the computation of his or her retirement benefit.

**NOTE:** No member shall receive credit for more than one year of service in any calendar year. This rule applies without respect to number of positions held, or number of hours worked during the calendar year.

### **Part-Time Service**

Part-time service is service performed while employed in a City job or with a *Participating Employer* in which the employee is regularly scheduled to work fewer than 1,827 hours in a calendar year. NYCERS will prorate credit for past or present part-time service on the basis of one year of service credit for 1,827 hours worked in a calendar year.

The maximum number of hours that will be credited is 35 hours in any weekly pay period and 70 hours in any bi-weekly pay period.

**NOTE:** No member shall receive credit for more than one year of service in any calendar year. This rule applies without respect to number of positions held, or number of hours worked during the calendar year.

### **Unpaid Leave**

Generally, you do not receive *Credited Service* for an unpaid leave of absence.

**Note:** Be sure to ask NYCERS about compensation base and service credit prior to your retirement.

## CONTRIBUTIONS

**A deficit in any of your contribution accounts, or outstanding loans at retirement, may result in a reduction in your retirement benefit.**

All Tier 3 members, are required to make basic contributions of 3% of *Wages*, including overtime and any other pensionable earnings paid to you by the City or a *Participating Employer*.

Tier 3 member's basic contributions of 3% of *Wages* will cease on the earlier of:

- the member's 10<sup>th</sup> anniversary of membership in NYCERS, or
- the date the member accumulates 10 years of *Credited Service*, (which can include any purchased and/or transferred service credit), but
- not before October 1, 2000.

NYCERS refers to the account in which the basic member contributions are deposited, and the interest earned on those deposits, as the *Members' Contribution Accumulation Fund (MCAF)*. Since January 1, 1977, the interest rate has been fixed by law at 5% per-annum, compounded annually.

**In addition**, Tier 3 members in one of the *Special Programs (CO-20 or CC-20)* may be required to make *Additional Member Contributions (AMCs)*.

## ADDITIONAL MEMBER CONTRIBUTIONS (AMCS)

No *AMCs* are required for members in the Uniformed Correction Force Basic Tier 3 Plan.

In addition to your basic Tier 3 contributions of 3% of *Wages*, members who are *Participants* in the 20-Year Retirement Program for Correction Officers below the rank of Captain and the 20-Year Retirement Program for Correction Officers of the rank of Captain and above are required to make *Additional Member Contributions* as described below.

### FOR CORRECTION OFFICERS BELOW THE RANK OF CAPTAIN (CO-20)

Became a Correction Officer	<i>Additional Member Contributions</i>
Prior to July 1, 1988	5.11%
After June 30, 1988 (for the first time)	3.61%

### FOR CORRECTION MEMBERS OF THE RANK OF CAPTAIN OR ABOVE (CC-20)

Became a Correction Captain	<i>Additional Member Contributions</i>
Prior to November 1, 1992	5.59%
After October 31, 1992 (for the first time)	7.46%

#### **AMC's are MANDATORY**

*AMC's* are maintained in the Retirement Reserve Fund, which is an account maintained separately from the *Members' Contribution Accumulation Fund (MCAF)*. The *MCAF* contains only the member's Tier 3 basic contributions of 3% of *Wages*. Both funds earn interest of 5% per-annum, compounded annually.

*Additional Member Contributions* must be paid for all of your service as a Uniformed Correction member to the date you retire, or until you have 20 years of *Credited Service*, whichever is earlier.

## ADDITIONAL MEMBER CONTRIBUTIONS (AMCS)

### **Refund of AMCs**

A *Participant* in his/her **CO-20** or **CC-20** Program, who has rendered less than 15 years of *Credited Service*, may withdraw their accumulated *AMCs* (plus interest) for any of the following circumstances:

- ✓ Resignation
- ✓ Retirement for Disability
- ✓ Promotion
- ✓ Transfer
- ✓ Death\*
- ✓ Dismissal

\***Note:** For *Participants* in the **CC-20** Program, accumulated *AMCs* (plus interest) shall be paid, upon their death, to their designated beneficiary even if members had more than 15 years of *Credited Service*.

Refer also to the **REFUNDS** section of this booklet.

## LOANS

### **Eligibility:**

A member in active service and in pay status with at least one year of membership service credit may borrow from NYCERS by filing a properly completed and notarized application.

**Note:** NYCERS must have a birth date on file before processing a loan.

An outstanding loan cannot exceed 75% of the contributions, with interest, last posted to the members' *MCAF* account.

The minimum amount of a cash loan is \$1,000.

Once a loan has been properly issued by NYCERS, it may not be cancelled.

Only one loan may be issued in any 12-month period. There is no provision in the law to allow for any exceptions.

The member's account remains intact and continues to accrue interest on the full balance. The amount borrowed is from retirement system funds.

### **Electronic Funds Transfer (EFT)**

You may elect to have your loan deposited into your checking account by electronic fund transfer (EFT). EFT is the safest, fastest and easiest way to get your loan check. Instructions and further information are contained on NYCERS Form 302 (Tier 3/Tier 4 Loan Application).

### **TERMS**

#### **Fees:**

By law, there is a service fee of \$15.00 for processing each loan. This fee is automatically deducted from the loan check.

**EXAMPLE:** If you apply for a \$1,000 loan, the net amount of your check will be \$985.00.

There is a \$15.00 service fee when filing Form #309 for a Change of Repayment. (See payment section for further information.)

Those who are no longer on payroll may switch to direct payment; however, there is a \$5.00 per-payment fee for each direct payment.

There is a \$20.00 service fee for personal checks that are returned uncollected.

#### **Payment:**

A member in pay status may only make payments by payroll deductions, except if he or she has transferred from one agency to another and loan payments have not been deducted through payroll. Once set, the repayment schedule remains the same for each payroll period until the loan is paid in full or a new loan is negotiated.

Repayments must be at a rate not less than 2% of your gross salary per pay period. Because all loans (including interest and insurance premiums) **MUST** be paid within five years, it may be necessary for NYCERS to adjust your repayment to an amount higher than requested.

When applying for a loan, the amount of your new cash loan becomes consolidated with any previous loan(s). Your repayment schedule will be based on the total of your new consolidated loan.

## LOANS

A member may request, in writing, to repay the outstanding loan in a lump sum. The member will then be provided with a statement specifying the amount due on a certain date.

A member may change the loan repayment amount only once in any 12-month period by filing Form #309 for a Change of Repayment.

If the member is no longer receiving a paycheck from which loan payments are being deducted, it is important to contact NYCERS to arrange direct payments. This is especially true for vested members. (See Consequences section for further information.)

### **Interest:**

The member must pay the current 7% interest rate. Whenever there is a change in the interest rate, it shall be applicable to loans applied for or renegotiated after the date of such change.

### **Consequences of Non-Payment:**

If a member leaves City service with an outstanding loan balance, and discontinues payments, interest will accrue on the outstanding loan up to the date of retirement. This outstanding balance may increase to such a large amount as to significantly decrease the retirement benefit otherwise payable.

A loan for which no payments have been made for over 90 days is termed a Non-Performing Loan and may have adverse tax consequences. (See Taxability.)

If a member has a Non-Performing Loan, he or she forfeits all future entitlement to borrow until the outstanding balance is fully paid.

Insurance coverage is DISCONTINUED on a Non-Performing Loan. (See Insurance below.)

### **Insurance:**

Loan insurance is MANDATORY and members may not elect to waive the insurance premium of .3%. All loans are fully insured AFTER 30 days of issuance. For the first 30 days of a renegotiated loan, the insurance coverage will continue on the outstanding balance of the previous loan. The amount of the new loan will be uninsured for the first 30 days.

Insurance coverage is discontinued on a Non-Performing Loan. Once a member begins to make regular payments, the loan will be considered insured but, for all other purposes, will remain a Non-Performing Loan.

It is required that the loan insurance premium rate be reviewed by NYCERS at least once a year. Premiums may change over the life of the loan. The terms or conditions of coverage may be modified, or the insurance coverage itself may be discontinued.

Insurance coverage applies only upon the death of a member.

## LOANS

### **Taxability:**

Internal Revenue Service regulations require that when the total outstanding loan balance is greater than \$10,000, and exceeds one-half of the present value of your Accrued Vested Benefit (AVB), NYCERS must report the excess amount of your loan as a taxable distribution. Your AVB is the current value of the reserves needed today to fund your future retirement benefit. This amount is based on your retirement plan, age, years of credited service and salary history.

**NOTE: NYCERS automatically calculates your Accrued Vested Benefit whenever you apply for a loan that, when added to the outstanding balance of your existing loan, will total more than \$10,000**

Members who apply for a loan that totals more than \$10,000 may have Federal income tax consequences. When borrowing results in a consolidated loan over \$50,000, at least the excess over \$50,000 will be taxable (**even if the amount is less than one-half of your Accrued Vested Benefit**). The member will be informed of those consequences prior to distribution of a taxable loan. If you file for a loan that has no adverse tax consequences, NYCERS will issue a check for the amount requested. If there are tax consequences associated with the loan requested, NYCERS will send the member a letter, which will state one of the following:

- a) Part of the loan is taxable, and
- b) A loan has been processed for the portion of the loan that is not taxable, detail the specific tax consequences of taking the balance of the loan requested, and give the member the opportunity to receive a supplemental loan, or
- c) The loan requested is fully taxable, due to the prior outstanding loans and if a loan is issued, the prior loan balance will also be subject to taxation on the Federal level.

### **Examples:**

**Assume that one-half of your Accrued Vested Benefit equals \$45,000.**

#### **EXAMPLE # 1**

You apply for a new loan in the amount of \$20,000. That amount, when added to your current outstanding loan, makes your total new outstanding loan \$40,000. Your new outstanding loan balance will not be subject to Federal income tax.

#### **EXAMPLE # 2**

You apply for a new loan in the amount of \$20,000. That amount, when added to your current outstanding loan, makes your total new outstanding loan \$60,000. \$15,000 of your new outstanding loan balance (the amount in excess of \$45,000 - one-half of your Accrued Vested Benefit) will be subject to Federal income taxation

If the loan is not repaid within five years, then the outstanding balance at the end of the five-year period may be considered a taxable distribution. In addition, if loan payments are not made for a 90-day period, the IRS considers the loan to be a Non-Performing Loan and part or all of the outstanding loan is deemed taxable. Subsequent loan payments will not negate the fact that a taxable distribution has been reported. Members who are under the age of 59½ and have a taxable distribution, will incur an additional 10% IRS penalty tax on such distribution.

## WHAT HAPPENS IF I LEAVE CITY SERVICE

### TERMINATING MEMBERSHIP

#### **Terminating Basic Tier 3 Membership**

A NYCERS membership can be terminated in one the following ways:

- 1) A member with less than ten years of *Credited Service* may request a refund of their member contributions after separating from City service
- 2) A member with less than five years of *Credited Service* is out of service for a five-year period will receive a refund - with or without having formally requested a refund
- 3) The member retires
- 4) The member transfers his or her membership to another NYS public retirement system
- 5) The member dies

### REFUNDS

#### **Refunds of the Basic Tier 3 Contributions**

There are various regulations regarding how and when members' contributions may be withdrawn or refunded. All Tier 3 members are required to contribute 3% of their Wages. These basic Tier 3 contributions are held in a *Member's Contribution Accumulation Fund (MCAF)* account. Any Tier 3 member resigning or separating from City service with fewer than 10 years of *Credited Service* can request a refund of the amount in their *MCAF* account. However, if a member has at least five but less than 10 years of *Credited Service*, he or she must submit a form to NYCERS waiving their right to a Vested Retirement Benefit before a refund can be processed. This is necessary because any Tier 3 member, who leaves City service with at least five years of *Credited Service*, has the right to a Vested Retirement Benefit under the Uniformed Correction Force Basic Tier 3 Plan, or either of the *Special Programs*.

#### **Refunds of Additional Member Contributions**

*Participants* in either the 20-Year Retirement Program for Correction Officers Below the Rank of Captain (**CO-20**), or 20-Year Retirement Program for Correction Members of the Rank of Captain or Above (**CC-20**), who have rendered fewer than 15 years of *Allowable Correction Service*, and cease to hold a position qualifying them for participation in one of those Programs for any reason whatsoever, may withdraw their accumulated *AMC's*, together with interest earned on those contributions while on deposit with NYCERS.

#### **PLEASE NOTE:**

Upon the death of a *Participant* in the **CC-20** Program, the designated beneficiary(ies) shall be eligible for a refund of the member's *AMCs* (plus interest) even if that member had more than 15 years of service. In all other instances, once a *Participant* has 15 or more years of *Allowable Correction Service*, no withdrawal of *AMC's* is permitted. Refer also to the **AMC** section of this booklet.

## WHAT HAPPENS IF I LEAVE CITY SERVICE?

### TRANSFERS - POLICE OFFICERS AND FIREFIGHTERS

If you wish to transfer your NYCERS' membership to the NYC Police Pension Fund or the NYC Fire Department Pension Fund, you must apply to NYCERS for a transfer within one year from the date of your appointment as a City uniformed police officer or firefighter.

### VESTING

Vesting refers to your right to receive plan benefits, even if you terminate employment before you are eligible for payment of a Service Retirement Benefit. If you are **CO-20** or **CC-20** Program member, refer to pages 56/57 and 60/61, respectively, for your Vested Retirement Benefit.

#### VESTED RETIREMENT BENEFIT

##### Eligibility

Tier 3 members who do not meet the service requirements for the Plan or Program they are enrolled in may be eligible for a Vested Retirement Benefit under the "basic" Tier 3 plan provisions, which provide a Vested Retirement Benefit as long as the member has five or more years of *Credited Service*.

The Vested Retirement Benefit is payable at age 62, on an unreduced basis, or as a reduced benefit as early as age 55. (See the Early Service Reduction Chart (APPENDIX B) at the end of this booklet.)

##### Filing Requirements

If you file a Notice of Intent to Vest (Form # 254) with NYCERS when you terminate employment, NYCERS will send you a notice of the approaching payability of your Vested Retirement Benefit and an application (Form #264) approximately 90 days before your payability date. **You must file an application before you will begin receiving payment of your Vested Retirement Benefit.** You may file the application any time within 90 days before your payability date.

##### Death Benefits For Vested Members

Tier 3 vested members with 10 or more years of *Credited Service* who die on or after January 1, 1997 are entitled to a death benefit equal to 50% of the benefit that would have been payable if the member had died on his or her last day of Active Service. Vested members generally are not eligible for a Post-Retirement Death Benefit.

##### Vested Retirement Benefit

City employees whose employment ends after qualifying for a Vested Retirement Benefit will not be covered by City-paid health insurance until they begin receiving retirement benefit checks.

## WHAT HAPPENS IF I LEAVE CITY SERVICE?

### VESTING

#### **Benefit Calculation**

The Vested Retirement Benefit is:

#### **For members with less than 20 years of Credited Service**

- 1.67% *times FAS* times years of *Credited Service*

#### **For members with 20 or more years of Credited Service**

2% *times FAS* times years of *Credited Service*

This benefit is not reduced by the Primary Social Security Benefit.

TO ENSURE THAT YOU RECEIVE YOUR CHECKS  
AND OTHER IMPORTANT NOTICES  
MAKE SURE TO NOTIFY NYCERS WHEN YOU CHANGE YOUR ADDRESS

## WHAT HAPPENS IF I LEAVE CITY SERVICE?

### TRANSFERS

#### **To Another NYS Public Retirement System**

If you accept another position with the City or State of New York (or any of its political sub-divisions) that entitles you to membership in another City or State retirement system, you may be eligible to transfer your NYCERS membership to that system. If you wish to transfer, you must do so before you withdraw your *Accumulated Member Contributions*, or your membership is terminated by operation of law (see page 17). In order to transfer your *Accumulated Member Contributions* and your *Credited Service* to another system, you must file a form (Form # 321) with NYCERS within five years of the date you terminate covered employment. Check with NYCERS regarding transfer rules, applicable to members who are vested and/or last, joined NYCERS prior to July 16, 1989.

#### **From Another NYS Public Retirement System**

If prior to becoming a member of NYCERS, you were a member of any other retirement system in New York City or New York State, and that membership has not been terminated, you may be eligible to transfer that membership to NYCERS. You should discuss this matter with a NYCERS' Customer Service Representative and a representative from your prior retirement system to determine your eligibility. If you are eligible to transfer a prior membership to NYCERS, you will have to start the process with your prior retirement system.

#### **Transferred Contributors**

If you resign from all positions that entitle you to membership in NYCERS, and you accept another position in NYC service that entitles you to a membership in a different City retirement system, but not NYCERS, you may elect to remain a member of NYCERS as a Transferred Contributor in lieu of a transfer, provided you:

- Accept the other position within 60 days of resigning from your current job AND
- Do not withdraw your accumulated contributions AND
- Do not become a member of the other retirement system AND
- File an affidavit with NYCERS, and inform the other retirement system of your decision

Your Transferred Contributor status becomes effective as soon as you submit the proper forms to NYCERS, including a completed, irrevocable Transferred Contributor Waiver. As a Transferred Contributor, you continue to contribute a percentage of your pay and accrue benefits with NYCERS.

Please Note: Before making a decision, you should discuss your situation with representatives of both retirement systems. This is important since your rights and benefits with the new system may not be the same as those you have with NYCERS.

## WHAT HAPPENS IF I LEAVE CITY SERVICE?

### TRANSFERS - POLICE OFFICERS AND FIREFIGHTERS

If you wish to transfer your NYCERS' membership to the NYC Police Pension Fund or the NYC Fire Department Pension Fund, you must apply to NYCERS for a transfer within one year from the date of your appointment as a City uniformed police officer or firefighter.

### VESTING

Vesting refers to your right to receive plan benefits, even if you terminate employment before you are eligible for payment of a Service Retirement Benefit. If you are **CO-20** or **CC-20** Program member, refer to pages 56/57 and 60/61, respectively, for your Vested Retirement Benefit.

#### VESTED RETIREMENT BENEFIT

##### **Eligibility**

Tier 3 members who do not meet the service requirements for the Plan or Program they are enrolled in may be eligible for a Vested Retirement Benefit under the "basic" Tier 3 plan provisions, which provide a Vested Retirement Benefit as long as the member has five or more years of *Credited Service*.

The Vested Retirement Benefit is payable at age 62, on an unreduced basis, or as a reduced benefit as early as age 55. (See the Early Service Reduction Chart (APPENDIX B) at the end of this booklet.)

##### **Filing Requirements**

If you file a Notice of Intent to Vest (Form # 254) with NYCERS when you terminate employment, NYCERS will send you a notice of the approaching payability of your Vested Retirement Benefit and an application (Form #264) approximately 90 days before your payability date. **You must file an application before you will begin receiving payment of your Vested Retirement Benefit.** You may file the application any time within 90 days before your payability date.

##### **Death Benefits For Vested Members**

Tier 3 vested members with 10 or more years of *Credited Service* who die on or after January 1, 1997 are entitled to a death benefit equal to 50% of the benefit that would have been payable if the member had died on his or her last day of Active Service. Vested members generally are not eligible for a Post-Retirement Death Benefit.

##### **Vested Retirement Benefit**

City employees whose employment ends after qualifying for a Vested Retirement Benefit will not be covered by City-paid health insurance until they begin receiving retirement benefit checks.

## SERVICE RETIREMENT

### The Service Retirement Process

#### **Effective Date of Retirement**

All Tier 3 members may file a service retirement application to be payable the day that the application is filed with NYCERS, or the application may be filed for up to 90 days before it becomes effective.

You cannot be paid a retirement benefit from NYCERS while you are still on the payroll of the City or a *Participating Employer*, even if the checks you receive represent payment for accumulated leave or terminal leave, except payment of accumulated leave paid in a lump-sum after your retirement date.

#### **What Happens After I Submit My Application For Service Retirement?**

We understand that after you file your retirement papers, you may become anxious as you wait for your first retirement payment. When will that payment arrive? What takes so long for the processing of my application and payment of my full pension?

We thought it might help you to know how each application is processed.

Please try to keep in mind that we can receive hundreds of retirement applications each month. Each one is important to us, and each takes time to process. Missing information, incomplete forms, and other unforeseen problems can lead to delays.

Here is a chronology of what happens to your retirement application:

1. Applications are time-stamped and processed. If you are eligible for a service retirement, your case is processed for an advance payment.
  - If you retire the 1st or 2nd day of any month, you will receive an advance payment at the end of the month in which you retire.
  - If you retire on the 3rd day of the month or later, you will receive an advance payment at the end of the following month.

#### **EXAMPLE:**

If your retirement date is January 1 or 2, your first advance payment will be made on January 31

If your retirement date is January 3 or later, your first advance payment will be made on February 28

2. Your file is checked for service and salary records; calculations are made and data is entered into the computer; missing information is requested from your agency and/or you when necessary.

**Note:** Calculations are made using the members *Earned Salary*.

## SERVICE RETIREMENT

### The Service Retirement Process

A computation of your benefits under various options available to you is done. You are sent a letter together with the appropriate option forms.

- ▶ You will have 60-days in which to choose a permanent option (you should have selected a temporary option when you first filed for retirement)
- ▶ If you do not choose an option in that 60-day period, your retirement benefit will be processed under the option you selected on your retirement application. If no option is selected by you on your retirement application and you do not file an option selection with NYCERS before the 60-day period after your option letter is mailed to you, you will be awarded the Maximum Retirement Allowance - the maximum benefit available to you with out optional modification, with all payments ceasing upon your death
- ▶ Your case will be processed on the basis of the last option filed by you with NYCERS
- ▶ After you have selected an option (or one has been awarded to you) your file is processed for final computation of your retirement benefit
- ▶ You are placed on the pension payroll for the full amount of the benefit payable to you under the option selected or awarded. This will include retroactive amounts from the retirement date
- ▶ A letter is sent stating the details of the Retirement Option chosen. Also included is information you will need for Federal income tax purposes

**NOTE:** Starting with your first advance payment, Federal income taxes will be withheld based on the election you made on your retirement application.

Before filing an application with NYCERS, you must check with your agency to determine if you are entitled to payment of any terminal leave or accumulated annual leave. If it is determined that you are entitled to be paid on the payroll for any leave time due you, the agency will advise you what your last day of pay will be. The effective date of retirement requested on your service retirement application should be the day after the last day you are paid by your agency.

Members who are currently working, meet all eligibility requirements, and wish to retire, must file an application for service retirement with NYCERS. Members who file a properly completed retirement application will elect to be temporarily covered by either Option 1 (100% Joint-and-Survivor), or Option 4 (10-Year Certain). This is a precautionary measure afforded to you should you die before selecting the option of your choice. All of the Retirement Options are described in detail in the Retirement Options section of this SPD.

To follow up on your retirement application, option selection, lost check, direct deposit, withholding tax and other transactions, call NYCERS at (347) 643-3000. Our Call Center Associates are available to answer your questions. For calls outside NYC area codes dial 1-877-699-2377 (1-877-6NYCERS). TTY (347) 643-3501.

## SERVICE RETIREMENT

### The Service Retirement Process

#### **Other Important Information You Should Know**

- › The sooner you file an option selection, the sooner NYCERS can process your full retirement benefit
- › You may not change an option once your first full payment has been sent to you
- › If you move, you must notify NYCERS of the change of address in writing
- › Taxes will automatically be withheld from all checks you receive from NYCERS based on the Federal tax table for a person who is married claiming three exemptions, unless you elect in writing to have taxes withheld on a different basis, or for no taxes to be withheld.
- › Pension checks are dated the last day of each month and are sent two business days before that date. If you do not receive your check by the 10th day of the month, notify NYCERS. A lost check affidavit will be sent to you

**NOTE:** NYCERS cannot take a report of non-receipt of a pension check until the 10th of the month. But if you receive your pension check and it is subsequently lost or stolen, advise us immediately and we will have a stop payment placed on the check.

- › You may elect to have your payments directly deposited into your bank account by Electronic Fund Transfer (EFT). You should contact NYCERS to obtain the proper form for that purpose
- › EFT ensures that your payment won't get lost or stolen, and that you won't have to make a special trip to the bank for deposits. Also, you won't have to wait for checks to clear. Funds are available in your bank account on the last day of each month. If the last day of the month is on a weekend or a holiday, the bank will normally credit your payment on the next business day
- › NYCERS does not administer health insurance benefits. If you have any problems with coverage or deductions from your pension, you should call:

Office of Labor Relations - Health Benefits Division

(212) 513-0470

#### **Withdrawing an Application for Service Retirement**

You may withdraw your application for service retirement by filing a written request with NYCERS **up to the day before your effective date of retirement.**

## SERVICE RETIREMENT

### MAXIMUM BENEFIT LIMITATIONS UNDER IRC Section 415

Internal Revenue Code (IRC) §415 requires that a qualified defined benefit pension plan (such as NYCERS) apply limits on annual employer-provided benefits paid or accrued on account of post October 14, 1987 plan amendments. Benefits provided under Early Retirement Incentives and Pension Enhancements are subject to these limitations.

The employer-provided benefit for a Tier 3 member is defined as the retirement allowance less the amount that would be provided by the member's non-IRC §414 (h) accumulated contributions, if any.

The limit on the annual employer-provided retirement benefit is \$160,000 (effective July 6, 2001) for benefits commencing on or after age 62 and is actuarially reduced for retirement benefits commencing prior to age 62 as shown in the table below. The limitations are adjusted annually by the IRS for cost-of-living increases.

A member's benefit computed without an incentive and without any benefit improvements effective after October 14, 1987 may be paid without applying any limitation imposed by §415.

Most members who retire under an incentive will not be adversely affected by §415 because the amount of their employer-provided benefits will not exceed the §415 limits.

A member's retirement allowance that is reduced because of the §415 limits may be increased when the §415 limits are adjusted upwards by the IRS due to Cost-of-Living indexation.

The §415 limits show in the following table is based on a retirement allowance that is paid as a maximum (i.e., the retirement allowance without optional modification). The §415 limits are adjusted actuarially for retirement benefit options other than the maximum.

<b>AGE</b>	<b>Maximum Employer-Provided Benefit</b>
55	\$95,576
56	\$102,447
57	\$109,950
58	\$118,159
59	\$127,161
60	\$137,055
61	\$147,957
62	\$160,000

## SERVICE RETIREMENT

### Service Retirement Benefits for Uniformed Correction Force Basic Tier 3 Plan

In this plan Correction Officers appointed after July 27, 1976 can retire after 25 years of *Credited Service* without regard to age, and without a benefit reduction due to retirement prior to age 62. If you are in the **CO-20** or **CC-20** plan, please refer to pages 54-61 for the provisions regarding service and age requirements, and retirement benefit calculations. The following applies only to the Uniformed Correction Force Basic Tier 3 Plan.

### Early Service Retirement (CO-25)

#### **ELIGIBILITY**

As a Tier 3 Uniformed Correction Force member, you will be eligible to receive an Early Service Retirement Benefit, also referred to as the CO-25, regardless of your age, when you have credit for 25 years of *Credited Service*.

#### **BENEFIT CALCULATION**

50% of your *Final Average Salary*

This benefit is not reduced by Primary Social Security.

**NOTE: If you elect to receive an Early Service Retirement Benefit, you will receive credit for only your first 25 years of *Credited Service*.**

A Tier 3 Uniformed Correction Force member who, if for some reason, does not meet the requirements for his or her Plan or Program, always has the underlying right to a Service Retirement Benefit under the Normal Service Retirement Benefit.

## SERVICE RETIREMENT

### Service Retirement Benefits for Uniformed Correction Force Basic Tier 3 Plan

#### **NORMAL SERVICE RETIREMENT BENEFIT (62/5)**

##### **Eligibility**

A member must be at least age 62 and have five or more years of *Credited Service*, of which two years are *Membership Service*, to be eligible to receive a Service Retirement Benefit.

##### **BENEFIT CALCULATION**

###### **FOR MEMBERS WITH LESS THAN 20 YEARS OF CREDITED SERVICE:**

- $1 \frac{2}{3}$  % times *FAS* times years of *Credited Service*

###### **FOR MEMBERS WITH 20 OR MORE YEARS OF CREDITED SERVICE:**

- 2% times *FAS* times years, up to a maximum of 30 years of such service,

This benefit is not reduced by Primary Social Security.

##### **ESCALATION OF BENEFITS**

###### **AT OR AFTER AGE 65**

If you retire on or after age 65 under the Normal Service Retirement Benefit, your Service Retirement Benefit will be automatically escalated (increased) up to a maximum of 3% each year, if the cost of living increases by 3% or more in that year. If the cost of living is less than 3%, your escalation will be a corresponding percentage. If the cost of living decreases in any year, a corresponding amount (but never more than 3%) will decrease your escalated Service Retirement Benefit. Your Service Retirement Benefit will never be reduced below the amount of your retirement benefit before you received escalations.

###### **BETWEEN THE AGES OF 62 AND 65**

If you retire under the Normal Service Retirement Benefit between the ages of 62 and 65, your Normal Service Retirement Benefit will be escalated as stated above. However, such escalation rate will be reduced by one-thirty-sixth ( $\frac{1}{36}$ ) for each month the paid benefit predates age 65.

## RETIREMENT OPTIONS

### The following Retirement Options apply to all Tier 3 Service Retirements, Vested Retirements or Disability Retirements

When you prepare for retirement, there are several questions you will want to answer:

- ✓ Do you want to provide continuing retirement income to your spouse, partner or survivor after your death?
- ✓ What is the cost of continuing your retirement income?
- ✓ What will be the effect on your retirement allowance?

If you choose, you can provide for continuing income to your designated beneficiary by selecting an option. Electing an option means you will receive a reduced lifetime retirement allowance in exchange for providing some type of continuing payments to your beneficiary. If you do not select an option either on your retirement application or by way of filing an option selection form with NYCERS in a timely manner, as explained above, you will be awarded the Maximum Retirement Allowance with all payments ceasing upon your death. For further details on options, request NYCERS brochure Options for Tier 3 Members (Form # 925).

#### Maximum Retirement Allowance (NO OPTION)

If you have no spouse, partner or children who are dependent upon you for financial support, or you need to maximize your retirement income, you may decide not to elect an option. The Maximum Retirement Allowance provides the greatest benefit, payable to you while you are retired, for as long as you live. However, after your death, no further payments will be made.

#### OPTION 1 (100% JOINT-AND-SURVIVOR)

This option is intended for those who wish to insure that after their death, a designated beneficiary will continue to receive a fixed annual lifetime benefit. Option 1 is a reduced benefit that is payable to you for your lifetime. It also guarantees that the same reduced benefit will continue to your surviving designated beneficiary for life. Payments cease upon the death of both you and your beneficiary.

Because Option 1 guarantees two specific people an income for life, the life expectancies of the retiree as well as the beneficiary are taken into consideration. Therefore, under Option 1, once you designate a beneficiary and the option is in force, you cannot change your beneficiary designation. Even if your designated beneficiary dies before you, you will continue to receive the reduced lifetime allowance.

#### OPTION 2 (10% - 90% Joint-and-Survivor)

Option 2 is a reduced benefit that is payable to you for your lifetime. It guarantees that a percentage of your retirement allowance will be payable to your designated beneficiary for his or her lifetime. Your beneficiary, if he or she survives you, will receive 90% or less (in 10% increments) of the allowance paid to you, depending on the percentage you choose at the time you elect this option. All payments cease after the death of both you and your designated beneficiary.

## RETIREMENT OPTIONS

Because Option 2 guarantees two specific people an income for life, the life expectancies of the retiree as well as the beneficiary are taken into consideration. Therefore, under Option 2, once you designate a beneficiary, and the option is in force, you cannot change your beneficiary designation. Even if your designated beneficiary dies before you, you may not designate another person. You will continue to receive the reduced lifetime allowance.

### **OPTION 3 (Five-Year Certain)**

This option provides the retiree a reduced lifetime benefit. If the retiree dies within five years of retirement, the reduced retirement benefit will continue to be paid to the surviving primary beneficiary for the unexpired balance of the five-year period. If the designated primary beneficiary predeceases the retiree, the balance of the payments due for the remainder of the five-year period is continued to the retiree's contingent beneficiary, if there is one. If none exists, it is paid in a lump-sum to the estate of the retiree. Should the designated primary beneficiary also die, after having started to receive payments, the balance will be paid in a lump-sum to the retiree's designated contingent beneficiary. If none exists, the lump-sum balance is paid to the estate of the primary beneficiary. Unlike Options 1 and 2, you may change your beneficiary with this Option.

### **OPTION 4 (Ten-Year Certain)**

This option provides the retiree a reduced lifetime benefit. If the retiree dies within ten years of retirement, the reduced retirement benefit will continue to be paid to the surviving primary beneficiary for the unexpired balance of the ten-year period. If the designated primary beneficiary predeceases the retiree, the balance of the payments due for the remainder of the ten-year period is continued to the retiree's contingent beneficiary, if there is one. If none exists, it is paid in a lump-sum to the estate of the retiree. Should the designated primary beneficiary also die, after having started to receive payments, the balance will be paid in a lump-sum to the retiree's designated contingent beneficiary. If none exists, the lump-sum balance is paid to the estate of the primary beneficiary. Just like Option 3, you may change your beneficiary with this Option.

### **OPTION 5 (Pop-Up Option 50% or 100%)**

This option is known as the "Pop-Up" option. You decide if you want your surviving designated beneficiary to receive the same lifetime allowance (100%) as you, or 50% of that allowance. However, should your designated beneficiary predecease you, your retirement allowance will "pop-up" to the Maximum Retirement Allowance, for the remainder of your life. All payments would then cease upon your death. Because this Option guarantees two specific people an income for life, the life expectancies of the retiree as well as the beneficiary are taken into consideration. Therefore, under this Option, once you designate a beneficiary and the option is in force, you cannot change your beneficiary.

## VARIABLE SUPPLEMENTS FUND FOR UNIFORMED CORRECTION FORCE MEMBERS

### **What is a VARIABLE SUPPLEMENTS FUND (VSF)?**

A VSF is a Fund from which payments (not considered a pension or retirement allowance) are made to eligible retirees as a “Supplement” to Service Retirement Benefits paid to them by NYCERS. The money held in the Fund consists of money transferred into it from NYCERS investments, and interest and/or investment income earned on those monies after being deposited into the Fund. The amount to be transferred into the Fund in any year is determined by the amount that the investment income of the total of NYCERS investments exceed an assumed rate of interest. The transferable earnings are based on a percentage determined by taking the total salaries of Uniformed Correction Force Members compared to the total salaries of all NYCERS’ members.

The VSF is administered by a Board of Trustees (see below) which establishes rules and regulations for the administration of the Fund and the control, investment and payment of the money in the Fund.

### **Who is ELIGIBLE TO RECEIVE VSF PAYMENTS?**

Any NYC Uniformed Correction Force member who:

- Retires for service on or after 7/1/99, and
- Receives a retirement allowance with immediate payability and
  - either**
    - has credit for 20 or more years of service as a *Participant* in a 20-Year Plan for Uniformed Correction Force members
  - or**
    - has 25 or more years of service,
  - and**
    - retires as a participant in some other Correction Officer plan

Will receive a VSF payment

### **VSF BOARD**

The Correction VSF is administered by a Board of Trustees composed of:

- A representative of the Mayor of the City of New York or a designee, who has one vote
- The Comptroller of the City of New York or a designee, who has one vote
- The Commissioner of the NYC Department of Finance or a designee, who has one vote
- A member of COBA (must be an officer) or designee, who has 1½ votes
- A member of the Correction Captains union or designee, who has ½ vote

## VARIABLE SUPPLEMENTS FUND FOR UNIFORMED CORRECTION FORCE MEMBERS

Any action taken by the Board must be by a resolution adopted by a vote of at least 3/5 of the whole number of votes cast by the Board. The members of the VSF Board have the same investment powers as the members of the Board for the retirement system. The Board is also required to file a plan with the New York State Superintendent of Insurance before making any payments from the VSF.

### The Dollar Amount of Annual VSF Payments

Each calendar year starting in the year 2000, but not counting the year of a retiree's death, a single annual payment will be paid to eligible retirees as follows:

<u>CALENDAR YEAR</u>	<u>SUPPLEMENT AMOUNT</u>
2000	\$ 8,500
2001	9,000
2002	9,500
2003	10,000
2004	10,500
2005	11,000
2006	11,500
2007 and thereafter	12,000

As members retire, they will join the schedule already in progress.

### VSF PAYMENTS AND COST OF LIVING ADJUSTMENTS (COLA)

Additionally, all VSF payments are reduced by the amount of any COLA received by the retiree. However, the reduction ceases on the later of the beneficiary attaining age sixty-two or in 2007.

### PAYMENTS FROM THE VSF

The Actuary of the City of New York will value the assets of the Fund each year beginning on October 31, 2000 and each succeeding October 31<sup>st</sup>. After the Actuary's valuation and certification that there are sufficient assets, the VSF payment is to be paid each year on or about December 15<sup>th</sup>.

**NOTE:** The payment of the VSF is guaranteed by the City dependent upon a two-part test.

1. Is there enough money in the Fund to make the payments?  
**and**
2. Is there or will there be enough money to make payments through 2007?

## VARIABLE SUPPLEMENTS FUND FOR UNIFORMED CORRECTION FORCE MEMBERS

### **VSF PAYMENT IN THE YEAR THE RETIREE DIES**

Upon the death of a retiree, the estate will receive an amount equal to 1/12 of the supplement for that year for each month that precedes the retiree's death.

### **VSF PAYMENT IN THE YEAR THE MEMBER RETIRES**

For the year of retirement, the retiree will receive a payment equal to 1/12 of the annual supplement for the number of months following the month of retirement, to the end of the year.

## DISABILITY RETIREMENT

As a Tier 3 Uniformed Correction Force member, you are eligible to apply under four separate disability retirement plans as follows:

1. Special Disability Retirement Benefit for Correction Officers only (Section 507-a)
2. Performance-of-Duty Disability Retirement Benefit (3/4 FAS, Section 507-c)
3. Ordinary Disability Retirement Benefit (Section 506)
4. Accident Disability Retirement Benefit (Section 507)

### **Filing a Disability Application**

Your application for a Disability Retirement Benefit must be filed:

- by you, **or**
- by a person with legal authority to act on your behalf, **or**
- by the head of the agency where you are employed

The application for Disability Retirement must be on a form furnished by NYCERS, and must be accompanied by proof to substantiate the application, including your Personal Report and a Physician's Report of your disability.

### **FORMS NEEDED TO FILE FOR A DISABILITY RETIREMENT BENEFIT**

- Form # 603 – Application for Disability Retirement for Tier 3 Uniformed Correction Force Only
- Form # 605 – Applicant's Report of Personal Disability
- Form # 606 – Physician's Report of Disability
- Form # 608 – General Authorization for Release of Medical Information
- Form # 609 – Questionnaire to be Completed by Applicant for Disability Retirement
- Form # 801 – Instructions for Members Applying for Disability Retirement

You should also request NYCERS' Brochure # 922 to assist you in filing for Disability Retirement.

### **1. SPECIAL DISABILITY RETIREMENT BENEFIT FOR CORRECTION OFFICERS ONLY (SECTION 507-a)**

#### **ELIGIBILITY**

You will be eligible to receive a Disability Retirement benefit from NYCERS regardless of your age, provided:

- You have 10 or more years of *Credited Service*, unless, as explained below, your disability is the result of an accidental injury received while a member in City service\*\*;
- You file an application for Disability Retirement with NYCERS as follows:

## DISABILITY RETIREMENT

- a. within 3 months from the last date you were paid on the payroll, or
  - b. within 12 months of the last date you were paid on the payroll provided you were on a leave of absence without pay for medical reasons during that 12-month period, provided you were disabled at the time that you ceased being paid by the Department of Correction; and
- NYCERS' Medical Board finds that you are physically or mentally incapacitated for the performance of the duties of your job title.

\*\*There is no minimum service requirement if NYCERS' Medical Board determines that your disability is the natural and proximate result of an accidental injury received while a member in the performance of your duty and while in City service and not caused by your own willful negligence.

### **Definition of Accident**

An accident disability is a disability as a result of an "accident" that occurs during the performance of duty.

The term *Accident* has been defined as:

A sudden, fortuitous mischance, unexpected, out of the ordinary and injurious in impact.

Not every line of duty injury results in the award of an Accident Disability Retirement Benefit. Injuries sustained while performing routine duties, not resulting from unexpected events, are not *Accidents*. Injuries sustained by sudden, unexpected events, which are not a risk of the work performed, are usually considered to be *Accidents*.

### **FOR EXAMPLE:**

- ✓ A disabling injury sustained by a member due to "incidents" which involve routine lifting or bending **would not** qualify as an *Accident*.
- ✓ A disabling injury sustained by a member, while in the performance of duty, due to a fall on a slippery substance, (such as oil or ice), generally would qualify as an *Accident*.

### **SPECIAL NOTICE REGARDING COMPLETING ACCIDENT REPORTS**

In order to avoid disputes and ensure timely disposition of your application for Accident Disability Retirement, you and your supervisor or manager should prepare written reports, **at the time of the event**, that accurately and completely describe all injuries, conditions and the events surrounding them.

If there was anything out of the ordinary that caused your injury, or any contributing factor(s), such as weather or a slippery surface (ice, grease, refuse, etc.), make sure to describe them clearly and thoroughly on your accident reports, even if it means attaching an addendum due to shortage of space on the form(s). If there were any witnesses to the incident, make sure to list them and have them prepare a written report about the incident.

As a minimum, accident reports should provide all details concerning the object, conditions and/or substance that directly caused the injury.

## DISABILITY RETIREMENT

### **FOR EXAMPLE:**

- ice which was slipped on,
  - the machine that struck you, etc.
- and**
- the particular job or task performed at the time of the injury.

**THE REPORT SHOULD NOTE ANY OTHER FACTOR THAT MAY HAVE CONTRIBUTED TO THE INJURY.**

**NYCERS' MEDICAL BOARD AND THE BOARD OF TRUSTEES MAKE DECISIONS ON DISABILITY APPLICATIONS. THEY ARE LIKELY TO BELIEVE THAT DISABILITY REPORTS FILED AS SOON AS POSSIBLE AFTER AN *ACCIDENT* OR OTHER EVENT HAVE GREATER CREDIBILITY THAN REPORTS FILED AFTER A DELAY.**

### **Effective Date of Retirement**

Your Special Disability Retirement will become effective on the day after the last day you are paid by the NYC Department of Correction, but in no event less than 30 days after the date your application is filed with NYCERS.

### **Benefit Calculation**

Your Special Disability Retirement Benefit will be computed as follows:

- the greater of:
    - 33 1/3% times your Final Average Salary
- OR**
- 1/60<sup>th</sup> times your Final Average Salary times the years of total *Credited Service*

If you are otherwise eligible for service retirement and that benefit would be larger than either of these two benefit calculations, then your Special Disability Retirement allowance will be equal to the service retirement allowance.

## DISABILITY RETIREMENT

### **EARNINGS LIMITATIONS WHILE RECEIVING DISABILITY RETIREMENT BENEFITS**

If you are employed while receiving a Special Disability Retirement Benefit for Correction Officers only (Section 507-a), your *Personal Service Income* is subject to a yearly cap called the *Income Limitation*. The *Income Limitation* changes each year based on increases or decreases in the Consumer Price Index. If your *Personal Service Income* exceeds the *Income Limitation* for any year, by any dollar amount regardless of how much or how little, your Disability Retirement Benefit will be suspended for 12 months.

### **PERSONAL SERVICE INCOME**

Once each year, you will be required to file a report with NYCERS disclosing any *Personal Service Income* you earned (not including any Disability Retirement Benefit received from NYCERS or Social Security benefits), during the preceding calendar year. In addition to the limitations on your *Personal Service Income*, other rules may apply to your employment while you are disabled. Before accepting employment, you should discuss your plans with NYCERS, in order to be informed of limitations that may apply to you.

### **INCOME LIMITATION**

The *Income Limitation* is a fixed dollar amount that limits your *Personal Service Income* in any calendar year while you are receiving a Special Disability Retirement Benefit for Correction Officers only (Section 507-a) from NYCERS. At the end of each year, the *Income Limitation* is established by adding, or subtracting, the Consumer Price Index percentage increase, or decrease, for that year to, or from, the *Income Limitation* for the prior year. The *Income Limitation* for past years has been:

YEAR	INCOME LIMITATION
1987	\$14,300
1988	14,900
1989	15,600
1990	16,600
1991	17,100
1992	17,600
1993	18,000
1994	18,500
1995	19,000
1996	19,600
1997	19,900
1998	20,200
1999	20,800
2000	21,400
2001	21,700
2002	22,200

## DISABILITY RETIREMENT

### 2. PERFORMANCE-OF-DUTY DISABILITY RETIREMENT BENEFIT (3/4 FAS, SECTION 507-c)

As a Tier 3 member employed in the Uniformed Force of the NYC Department of Correction, you will be eligible to apply for a Performance-of-Duty Disability Retirement Benefit:

- as a natural and proximate result of injuries sustained in the performance and discharge of your duties by, or as a result of, an act of an inmate or any person confined in a facility under the jurisdiction of the Department of Correction,
- or in the event that you contract:

#### HEPATITIS, AIDS OR TUBERCULOSIS (HAT)

1. Hepatitis,
2. AIDS, where there may have been exposure to a bodily fluid of an inmate or any person confined in a facility under the jurisdiction of the Departments of Correction that may have involved transmission of a specified disease\*; or
3. Tuberculosis.

\*If you are involved in a documented encounter (an accident or incident report was filed with the Department of Correction) with an inmate where there was a transmission of bodily fluids from that person, and you, thereafter, contract HIV, it is *presumed* that you contracted that disease in the performance and discharge of the duties of your title, unless there is competent evidence to the contrary.

- or in the event that:
- HEART BILL

As a paid member of the Uniformed Correction Force, if you become disabled by a disease of the heart, you are eligible to apply for a Line of Duty Disability Retirement under the “Heart Bill.”

It is presumed that your heart disease was incurred in the performance and discharge of the duties of your title, unless there is competent evidence to the contrary.

#### ELIGIBILITY

You will be eligible to receive a Performance-of-Duty Disability Retirement benefit from NYCERS regardless of your age, provided:

- You file an application for Disability Retirement with NYCERS as follows:
  - a. within 3 months from the last date you were paid on the payroll, or
  - b. within 12 months of the last date you were paid on the payroll provided you were on a leave of absence without pay for medical reasons during that 12-month period and, provided you were disabled at the time that you ceased being paid by the Department of Correction; and

## **DISABILITY RETIREMENT**

- NYCERS' Medical Board finds that you are physically or mentally incapacitated for the performance of the duties of your job title as a result of the above

### **Effective Date of Retirement**

Your Performance-of-Duty Disability Retirement Benefit will become effective on the day after the last day you are paid by the NYC Department of Correction, but in no event less than 30 days after the date your application is filed with NYCERS.

### **Benefit Calculation**

The Tier 3 Performance-of-Duty Disability Retirement Benefit is:

- $\frac{3}{4}$  (Three-Quarters) of your Final Average Salary  
less
- 100% of any Workers' Compensation payments.

### **WITHDRAWING AN APPLICATION FOR DISABILITY RETIREMENT**

Provided that NYCERS' Medical Board has not yet finalized its findings, you may withdraw your application for a Disability Retirement, upon written request to NYCERS.

### **APPEARING BEFORE NYCERS' MEDICAL BOARD FOR EXAMINATION**

You **MUST** appear before NYCERS' Medical Board when scheduled for an interview and examination before a determination can be made on your application for disability. Failure to appear when scheduled will result in the suspension or closure of your disability retirement application and depending on your employment status, you may not be eligible to re-apply for Disability Retirement.

### **RE-EXAMINATION**

In some cases, the Medical Board may approve a disability retirement application contingent on re-examination at a later date. Once a year, any person retired on a Disability Retirement may be required to be re-examined by NYCERS' Medical Board.

If upon re-examination, the Medical Board determines that you are no longer disabled, the Department of Citywide Administrative Services will place your name on a list of preferred eligible candidates for appointment to a position in a salary grade not exceeding that from which you were retired. Your Disability Retirement will be paid to you until such time as you are **offered** a position in public service. If you return to work, or if you fail to return to work when offered a position in public service, NYCERS will discontinue payment of your Disability Retirement Benefit.

Members retired by reason of disability for more than one year may request a re-examination by the NYCERS' Medical Board to establish their ability to return to work.

You must contact NYCERS immediately upon your return to work, so that you can be restored to active membership. Failure to do so may jeopardize your rights to future benefits from this system.

## DISABILITY RETIREMENT

### 3. Ordinary Disability Retirement (Section 506)

#### ELIGIBILITY

As a Uniformed Correction force member, you will be eligible to receive an Ordinary Disability Retirement benefit if you meet **all** of the following eligibility requirements:

- You have 5 or more years of *Credited Service* (for the purpose of meeting this service requirement, your service includes all continuous service immediately prior to your date of membership in NYCERS, as well as all *Credited Service*);
- You have been found to be disabled by the Social Security Administration and are awarded Primary Social Security Disability Benefits (if you are ineligible to receive Social Security, see special note on page 41);
- Your application for Ordinary Disability Retirement is filed with NYCERS while you are a member in “active” City service; and
- You sign a waiver agreeing to waive any other available benefits relating to the cause or eligibility of disability.

You will be considered to be in “active” City service for the purpose of filing an application for Disability Retirement benefits if:

- You are being paid on the payroll of the NYC Department of Correction,  
**OR**
- You are on an authorized leave of absence for medical reasons  
**and**
- Your leave has been in effect continuously since you were last paid on the payroll  
**and**
- Two years have not elapsed from the date you were being paid on the payroll

#### **Effective Date of Retirement**

Your Ordinary Disability Retirement will be effective on the same date as your Social Security award.

#### **Benefit Calculation**

- If your application for Ordinary Disability Retirement is approved, you will be entitled to receive the following:
  - the **greater of**:
    - a. 33 1/3% of your *Final Average Salary***OR**

## DISABILITY RETIREMENT

b. 2% times your *FAS* for each year of *Credited Service*, not in excess of 30 years of such service

**less**

- 50% of your Primary Social Security Disability Benefit\*, if any, and

**less**

- 100% of any Workers' Compensation benefit

\* Your Primary Social Security Benefit is calculated only on the basis of your covered earnings in covered employment for which you are receiving *Credited Service* in NYCERS.

#### **4. Accident Disability Retirement (Section 507)**

##### **ELIGIBILITY**

There is no minimum service requirement for an Accident Disability Retirement.

NYCERS' Medical Board must determine that your disability is the natural and proximate result of an accidental injury received in City service, and that your disability is not the result of your own willful negligence.

You will be eligible to receive an Accident Disability Retirement benefit if you meet **all** of the following eligibility requirements:

- You have been found to be disabled by the Social Security Administration and are awarded Primary Social Security Disability Benefits (if you are ineligible to receive Social Security, see special note below);
- You have been found to be disabled as the natural and proximate result of an accident sustained in active service and such accident was not the result of your own willful negligence;
- Your application for Disability Retirement is filed with NYCERS while you are a member in "active" City service; and
- You sign a waiver agreeing to waive any other available benefits relating to the cause or eligibility of disability.

You will be considered to be in "active" City service for the purpose of filing an application for Disability Retirement benefits if:

- You are being paid on the payroll of the NYC Department of Correction,

**OR**

- You are on an authorized leave of absence for medical reasons

**and**

- Your leave has been in effect continuously since you were last paid on the payroll

**and**

- Two years have not elapsed from the date you were being paid on the payroll

##### **Effective Date of Retirement**

Your Accident Disability Retirement will be effective on the same date as your Social Security award.

## DISABILITY RETIREMENT

### **Benefit Calculation**

Your Accident Disability Retirement benefit will be computed as follows:

- 60% of your Final Average Salary;  
less
- 50% of your Primary Social Security Disability Benefit\*; if any, and  
less
- 100% of any Workers' Compensation benefits.

\* Your Primary Social Security Benefit is calculated only on the basis of your covered earnings in covered employment for which you are receiving *Credited Service* in NYCERS.

### **PROVISIONS RELATING TO BOTH ORDINARY DISABILITY (Section 506) and ACCIDENT DISABILITY (Section 507)**

In order to qualify for either an Ordinary Disability Retirement Benefit (Section 506) or an Accident Disability Retirement Benefit (Section 507), based on an award of Primary Social Security Disability Benefits from the Social Security Administration, you will be required to submit proof to NYCERS within 60 days of filing your disability application that you have applied for Primary Social Security Disability Benefits.

### **DISABILITY DETERMINATION BY THE SOCIAL SECURITY ADMINISTRATION**

You must notify NYCERS within 60 days after you receive notice that the Social Security Administration has awarded you Primary Social Security Benefits. NYCERS will hold your application open for a maximum of 2 years pending a Social Security disability award (extended by any time necessary to complete any and all appeals). If you receive a primary Social Security disability award, you must notify NYCERS within the shorter of:

1. 60 days after the date of award;
- or**
2. the 2-year period described above, as extended by any appeals.

If you do not follow these procedures, you will not be eligible to receive an Ordinary or Accident Disability Benefit.

### **Escalation of Benefits**

Tier 3 Ordinary and Accident Disability Retirement benefits are automatically increased up to 3% each year based on the increases in the Consumer Price Index if the cost of living increases 3% or more each year. If the cost of living decreases in the preceding year, your increased Ordinary or Accident Disability Retirement Benefit will be reduced by a corresponding percentage, but never by more than 3% per year. In no event will your Ordinary or Accident Disability Retirement Benefit be reduced below the amount of your initial benefit at retirement. Escalation begins on the first day of the first full month after the effective date of your Ordinary or Accident Disability Retirement.

## DISABILITY RETIREMENT

### **IF YOU ARE LATER FOUND TO BE INELIGIBLE FOR PRIMARY SOCIAL SECURITY DISABILITY BENEFITS**

**YOU MAY STILL BE ENTITLED TO RECEIVE AN ORDINARY DISABILITY OR ACCIDENT DISABILITY RETIREMENT BENEFIT, EVEN THOUGH YOU ARE NOT ELIGIBLE FOR PRIMARY SOCIAL SECURITY DISABILITY BENEFITS IF:**

- NYCERS Medical Board determines that you are disabled, **and**
- You do not have enough quarters of coverage under Social Security to be eligible for a benefit, **or**
- You are 65 years of age or older

If you file an application for Accident Disability Retirement, NYCERS Medical Board must also determine that your disability is the natural and proximate result of an accidental injury received in the performance of duty while in City service, and that your disability was not caused by your own willful negligence.

### **LIMITATION ON CONTINUED RECEIPT OF DISABILITY RETIREMENT BENEFITS**

Should the Social Security Administration determine that you are no longer eligible to receive Primary Social Security Disability benefits before you attain age 65, or if you were not eligible for Primary Social Security Disability benefits and NYCERS' Medical Board and NYCERS determines that you are no longer disabled before attaining age 65, then your Disability Retirement Benefit will be discontinued.

If you are otherwise eligible, NYCERS will advise DCAS to place your name on a list of preferred eligibles for a position in a salary grade not exceeding that from which you were retired. Your Disability Retirement benefits from NYCERS will be continued until you are offered a position by the City. Your benefit will be discontinued at that time whether or not you accept the position offered to you.

## SURVIVOR BENEFITS

Your designated beneficiary is entitled to a survivor benefit if you die **before** retirement, whether death occurs on or off the job.

Benefits are paid as:

- An **ORDINARY DEATH BENEFIT** payable to a *Designated Beneficiary* **OR**
- An **ACCIDENTAL DEATH BENEFIT** payable to an *Eligible Beneficiary*

### **ORDINARY DEATH BENEFIT (NON-ACCIDENT)**

If you die before retirement, an Ordinary Death Benefit will be payable if:

- You were in City service for 90 days or more at the time of death  
**and**
- You were being paid on the payroll of the NYC Department of Correction (or a *Participating Employer*) at the time of your death,  
OR
- you were off the payroll, or were on an authorized leave without pay at the time of your death, **and**
- you were on the payroll, in service and paid within the last 12 months before death,  
**and**
- you were not gainfully employed since last paid on the payroll,  
**and**
- you had credit for one or more years of continuous service since you last entered the service of your employer.

If you die in *Active Service* after you have completed at least 90 days of service, and your death is not the result of an accidental injury on the job, or if your death is work related and the Ordinary Death Benefit is elected in lieu of the Accidental Death Benefit, your *Designated Beneficiary* will receive an Ordinary Death Benefit equal to:

Three times the member's salary, raised to the next higher multiple of \$1,000

**plus**

the amount in the *MCAF (Members' Contribution Accumulation Fund)*.

**Note:** If upon the death of a **CO-20** member they have rendered less than 15 years of service, their designated beneficiary(ies) is eligible for payment of their *AMCs* (plus interest). For members in the **CC-20** Program their designated beneficiary(ies) shall be paid *AMCs* (plus interest) even if the member had more than 15 years of *Credited Service*.

### **ACCIDENTAL DEATH BENEFIT**

If NYCERS determines that your death was the natural and proximate result of an *accident* not caused by your own willful negligence, sustained in the performance of your duties in *Active Service*, your *Eligible Beneficiary* will be entitled to an annual benefit equal to 50% of the *Wages* you earned during the last year of service, or your annual wage rate if you had less than one year of service.

## SURVIVOR BENEFITS

**Note:** Payment does not include the member's contributions

The Accidental Death Benefit will not be reduced by any Workers' Compensation that may have been collected in conjunction with this accident

An Accidental Death Benefit is paid to an *Eligible Beneficiary* in the following order of priority:

- your spouse, until remarriage, unless he or she has renounced survivorship rights
- to each of your children until he or she reaches age 25
- to your parents who depend on you for support
- to any person who qualified as a dependent on your final Federal income tax return, until age 21

**OR**

- anyone you name as your beneficiary for your Ordinary Death Benefit

**IMPORTANT NOTE:**

Should your death be the result of an on-the-job *accident*, and if no *Eligible Beneficiary* (as listed above) exists at the time of your death, then the Accidental Death Benefit may be paid, upon application, to the person designated as the beneficiary to receive payment of your Ordinary Death Benefit.

In the event a class of your *Eligible Beneficiaries* consists of more than one person, benefits will be divided equally among such persons.

Application for an Accidental Death Benefit must be filed by your beneficiary and received by NYCERS within 60 days after your death. The 60-day period may be waived provided an Ordinary Death Benefit has not been paid.

Based upon the recommendation of NYCERS' Medical Board, the Board of Trustees will make a determination as to whether the requirements for an Accidental Death Benefit have been met in each case.

**Naming Beneficiaries**

When you join NYCERS, you are asked to name a beneficiary or beneficiaries. Your current designation is shown in the Annual Disclosure Statement that you receive from NYCERS. You have the option of changing your designation of beneficiary at any time while a member. If you choose to make a change, you do so by filing the appropriate form with NYCERS.

**New York State Estate Powers and Trust Law (EPTL) provides that, if you are married and you change your beneficiary after 1992 to someone other than your spouse, your spouse retains a right to a portion of your death benefit.**

## SURVIVOR BENEFITS

### **TRIAL COMMITTEE REVIEW**

In the event that an application for an Accidental Death Benefit is denied by NYCERS' Medical Board, your *Eligible Beneficiary* may request a Trial Committee to review that determination.

### **How to File for Death Benefits**

Your beneficiary should notify NYCERS of your death.

Upon receipt of a death certificate, NYCERS will:

- calculate any benefits due, and
- mail claim forms and instructions to your beneficiary, and
- outline payment choices

### **Special Accidental Death Benefit for Line of Duty Widows and Widowers**

The special supplemental benefit shall be paid to the widow or widower of:

A deceased member of the Correction department of New York City who died as a result of injuries sustained in the line of duty before the effective date of retirement, did not cause the accident, which was the natural and proximate cause of death, by his own willful negligence and at the time of the accident was a member of a New York City Employees Retirement System.

- The benefit is a supplemental monthly payment in addition to the accidental death benefit pension. This benefit is state funded while the Accidental Death Benefit is financed by NYCERS. The effect of the benefit is to continue paying the equivalent of the deceased's last year's earnings, including earned overtime, night differential and holiday pay, increased annually by a percentage determined on the basis of the Consumer Price Index (CPI).
- The maximum potential benefit will be reduced by the basic amount of Social Security survivor's benefit and the Workers' Compensation award payable due to the death of the deceased member. The benefit is not reduced by any amounts payable to any children.
- The City laws authorizing the accidental death benefit pension, limit payment of the pension to a living widow / widower who has not remarried.

## RETIREE HEALTH BENEFITS

When you are retired, your health insurance payments will be deducted from your NYCERS pension payment. However, NYCERS does not administer your health insurance coverage or deductions.

If you have problems with your health insurance coverage or deductions, you should call or write to the following Health Benefits Programs:

FOR DEPARTMENT OF CORRECTION (AND MOST OTHER CITY AGENCIES) RETIREES:

The NYC Office of Labor Relations  
Health Benefits Program  
40 Rector Street, 3<sup>rd</sup> floor  
New York, NY 10006

Phone #: (212) 513-0470  
Fax #: (212) 306-7373

## SPECIAL PROGRAMS

This section contains information that is specific to the Tier 3 Special Programs participation, *AMCs*, Vested, and Service Retirement Benefits.

The Special Programs available for Tier 3 Uniformed Correction Force members are:

The 20-Year Retirement Program for Tier 3 Correction Officers Below the Rank of Captain (**CO-20**) **Plan**

**And**

The 20 Year Retirement Program for Tier 3 Correction Officers of the Rank of Captain and Above (**CC-20**) **Plan**

## SPECIAL PROGRAMS

### CO-20

The 20-Year Retirement Program for Correction Officers Below the Rank of Captain (CO-20)

#### **Membership Eligibility**

If you were a Tier 3 member of NYCERS and employed as a NYC Correction Officer Below the Rank of Captain on December 19, 1990, you were eligible to elect to become a *Participant* in the 20-Year Retirement (CO-20) Program if you filed a properly completed application with NYCERS by June 17, 1991. **THAT OPTION HAS EXPIRED.**

If you last became a Tier 3 member of NYCERS prior to December 19, 1990 and became employed as a NYC Correction Officer Below the Rank of Captain after that date, you may elect to become a *Participant* in the CO-20 Program by filing an application with NYCERS within 180 days after becoming a Correction Officer Below the Rank of Captain.

**If you become a NYC Correction Officer Below the Rank of Captain after December 19, 1990, and you became a Tier 3 member of NYCERS after that date, this program is MANDATORY.**

#### **AMCs**

In addition to “basic” member contributions (3% of *Wages*) that all Uniformed Correction Force members must contribute to NYCERS, members who elect to become a *Participant* in the 20-Year Retirement (CO-20) Program are required to make *Additional Member Contributions* as follows:

- 5.11% of *Wages* if you became a NYC Correction Officer below the rank of Captain prior to July 1, 1988
- 3.61% of *Wages* if you become a NYC Correction Officer below the rank of Captain for the first time on or after July 1, 1988

*Additional Member Contributions* must be contributed for all service as a Correction Officer of below the rank of Captain rendered on or after December 19, 1990 and until you have credit for 20 years of *Allowable Correction Service* or *Credited Service* as defined in the Retirement Eligibility section.

## SPECIAL PROGRAMS

### CO-20

#### Service Retirement Benefit

##### **Retirement Eligibility**

Members who were NYCERS members and Correction Officers on December 19, 1990, or last became Tier 3 NYCERS members before that date, with 20 years of *Credited Service* may retire under this Program.

Members who become Correction Officers and Tier 3 members after December 19, 1990, are required to have 20 years of *Allowable Correction Service* to be eligible to retire under this Program.

A member who is a *Participant* in this Program who is not entitled to benefit provided by this Program may still be eligible for:

- 5 Year Tier 3 Vested Benefit
- 25-Year Uniformed Correction Force Service Retirement Benefit
- Tier 3 Service Retirement Benefit

As a *Participant* in the **CO-20** Program, you will be eligible to receive a Service Retirement Benefit provided you have made all the “basic” required member contributions plus all *Additional Member Contributions* required by the Program. You will not be eligible for a Service Retirement benefit if you have any deficiency in your *AMCs*.

##### **BENEFIT CALCULATION**

Your Service Retirement Benefit will be computed as follows:

- 50% times your *Final Average Salary (FAS)*
- plus**
- 1.67% times your *FAS* for each year of Service\* rendered after completion of the first 20 years of such service

**NOTE:** The maximum retirement benefit computed without optional modification will be equal to the benefit payable upon completion of 30 years of service.

**NOTE:** There is no Escalation of Benefits associated with this Program

#### Vested Retirement Benefit

##### **Vesting Eligibility**

*Participants* in the **CO-20** Program are eligible for a Vested Retirement Benefit if they resign with at least five but less than 20 years of Service\*, at least two years of which are membership service, have paid all deficits, and do not withdraw their *AMCs*. You are not eligible for a Vested benefit if you have any deficiency in your *AMCs*.

\*Refer to the Retirement Eligibility section to determine which type of service is required (*Credited* or *Allowable Correction Service*).

## SPECIAL PROGRAMS

### CO-20

#### **Vested Filing Requirements**

If you file a Notice of Intent to Vest (Form # 254) with NYCERS when you terminate employment, NYCERS will send you a notice of the approaching payability of your Vested Retirement Benefit and an application (Form # 264) approximately 90 days before your payability date. **You must file an application before you will begin receiving payment of your Vested Retirement Benefit.** You may file the application any time within 90 days before your payability date.

#### **Death Benefits For Vested Members**

Tier 3 vested members with 10 or more years of *Credited Service* who die on or after January 1, 1997 are entitled to a death benefit equal to 50% of the benefit that would have been payable if the member had died on his or her last day of Active Service. Vested members generally are not eligible for a Post-Retirement Death Benefit.

#### **Vested Retirement Benefit**

City employees whose employment ends after qualifying for a Vested Retirement Benefit will not be covered by City-paid health insurance until they begin receiving retirement benefit checks.

The Vested Retirement Benefit becomes payable on the earliest date the member could have retired with 20 years of Service\*.

If the *Participant* has paid all the *Additional Member Contributions* required by their Program, they will receive a Vested Retirement Allowance of:

2½% times FAS times years of Service\*

\*Refer to the Retirement Eligibility section to determine which type of service is required (*Credited* or *Allowable Correction Service*).

## SPECIAL PROGRAMS

### CC-20

The 20-Year Retirement Program for Tier 3 Correction Officers of the Rank of Captain or Above (CC-20)

#### **Membership Eligibility**

If you were a Tier 3 member of NYCERS and employed as a NYC Correction Officer of the Rank of Captain or Above on August 4, 1993, you were eligible to elect to become a *Participant* in the 20-Year Retirement (CC-20) Program if you filed a properly completed application with NYCERS by November 3, 1993. **THAT OPTION HAS EXPIRED.**

If you last became a Tier 3 member of NYCERS prior to August 4, 1993 and became employed as a NYC Correction Officer of the Rank of Captain or Above after that date, you may elect to become a *Participant* in the CC-20 Program by filing an application with NYCERS within 180 days after becoming a Correction Officer of the Rank of Captain or Above.

If you become a Tier 3 member of NYCERS and a NYC Correction Officer of the Rank of Captain or Above after August 4, 1993, you will automatically be enrolled as *Participant* in the CC-20 Program.

#### **AMCs**

In addition to “basic” member contributions (3% of *Wages*) that all Uniformed Correction Force members must contribute to NYCERS, members who become a *Participant* in the 20-Year Retirement (CC-20) Program are required to make *Additional Member Contributions* as follows:

- 5.59% of *Wages* if became a NYC Correction Officer of the Rank of Captain or Above prior to November 1, 1992
- 7.46% of *Wages* if you become a NYC Correction Officer of the Rank of Captain or Above for the first time on or after November 1, 1992

*Additional Member Contributions* must be contributed for all service as a Correction Officer of the rank of Captain or above rendered on or after August 4, 1993 to the date you have credit for 20 years of Service.

Each *Participant* will be required to contribute *AMCs* at the above applicable rate for all service as a Correction member below the rank of Captain or at the rank of Captain or above rendered on or after December 19, 1990 and prior to becoming a *Participant* in this Program.

Any member who becomes a *Participant* in the CC-20 Program, (who has rendered less than 15 years of Service\* on the date he/she become a CC-20 *Participant*), may off set the amount of *AMCs* now owed for participating in the CC-20 Program by the amount of *AMCs* already paid during their participation in the CO-20 Program.

## SPECIAL PROGRAMS

### CC-20

Any member who becomes a *Participant* in the **CC-20** Program (who has rendered 15 or more years of Service\* on the date he/she become a **CC-20** Participant) must pay *AMCs* retroactive to the date when they first became a *Participant* in the **CO-20** Program, but no earlier than December 19, 1990 (the start of the **CO-20** Program)

\*Refer to the Retirement Eligibility section to determine which type of service is required (*Credited* or *Allowable Correction Service*)

#### Service Retirement Benefit

##### **Retirement Eligibility**

Members who were NYCERS members and Correction Captains on August 4, 1993, or last became a Tier 3 NYCERS member before that date, with 20 years of *Credited Service* may retire under this Program.

Members who become Correction Captains and Tier 3 members after August 4, 1993, are required to have 20 years of *Allowable Correction Service* to be eligible to retire under this Program.

A member who is a *Participant* in this Program who is not entitled to benefit provided by this Program may still be eligible for:

- 5 Year Tier 3 Vested Benefit
- 25-Year Uniformed Correction Force Service Retirement Benefit
- Tier 3 Service Retirement Benefit

As a *Participant* in the **CC-20** Program, you will eligible to receive a Service Retirement Benefit, provided that you have made all the “basic” required member contributions plus all *Additional Member Contributions* required by the Program.

A *Participant*, who is otherwise eligible for a Service Retirement Benefit under this Program, but did not pay the entire amount of his/her contribution deficiency (prior to retirement), is still eligible to retire. However, the benefit will be reduced by the actuarial equivalent of any contribution deficiency which was not paid prior to the effective date of retirement.

##### **Benefit Calculation**

Your Service Retirement Benefit will be computed as follows:

- 50% *times* your *Final Average Salary (FAS)*

**plus**

1.67% *times* your *FAS* for each year of Service\* rendered after completion of the first 20 years of such service

**minus**

the actuarial equivalent of any contribution deficiency which was not paid prior to retirement

**SPECIAL PROGRAMS****CC-20**

**NOTE:** The maximum retirement benefit computed without optional modification will be equal to the benefit payable upon completion of 30 years of service.

**NOTE:** There is no Escalation of benefits associated with this Program

**Vested Retirement Benefit****Vesting Eligibility**

*Participants* in the **CC-20** Program are eligible for a Vested Retirement Benefit if they resign with at least five but less than 20 years of Service\*, at least two years of which are membership service, have paid all deficits, and do not withdraw their *AMCs*.

A Participant, who is otherwise eligible for a Vested Retirement Benefit under this Program, but did not pay the entire amount of his/her contribution deficiency (prior to date of discontinuance), is still eligible to vest. However, the Vested Retirement Benefit will be reduced by the actuarial equivalent of any contribution deficiency which was not paid prior to the date of discontinuance from service.

**Vested Retirement Benefit**

City employees whose employment ends after qualifying for a Vested Retirement Benefit will not be covered by City-paid health insurance until they begin receiving retirement benefit checks.

The Vested Retirement Benefit becomes payable on the earliest date the member could have retired with 20 years of Service\*.

If the *Participant* has paid all the *Additional Member Contributions* required by his/her Program, he/she will receive a Vested Retirement Allowance of:

$2\frac{1}{2}\%$  times *FAS* times years of Service\*

**minus**

the actuarial equivalent of any contribution deficiency prior to discontinuance

\*Refer to the Retirement Eligibility section to determine which type of service is required (*Credited* or *Allowable Correction Service*).

## SPECIAL PROGRAMS CC-20

### **Vested Filing Requirements**

If you file a Notice of Intent to Vest (Form # 254) with NYCERS when you terminate employment, NYCERS will send you a notice of the approaching payability of your Vested Retirement Benefit and an application (Form # 264) approximately 90 days before your payability date. **You must file an application before you will begin receiving payment of your Vested Retirement Benefit.** You may file the application any time within 90 days before your payability date.

### **Death Benefits For Vested Members**

Tier 3 vested members with 10 or more years of *Credited Service* who die on or after January 1, 1997 are entitled to a death benefit equal to 50% of the benefit that would have been payable if the member had died on his or her last day of Active Service. Vested members generally are not eligible for a Post-Retirement Death Benefit.

## TAXATION OF PAYMENTS RECEIVED FROM NYCERS

### General

NYCERS' benefit payments (monthly retirement allowance, loans and refunds) are subject to Federal taxes, but are exempt from New York State and local income taxes if your primary residence is within New York State. If you are not a resident of New York State, you should check with your state tax authority to determine the taxability, if any, of the benefit payments you will be receiving from NYCERS.

### Pensions

Pension payments received from NYCERS are subject to Federal income taxes but part of it may be excludable. Shortly after you begin receiving your full pension payment, NYCERS will send you a Retirement Resolution that details the amount of tax-free or non-414 (h) contributions that were used in the calculation of your retirement benefit. The Internal Revenue Service (IRS) considers this amount to be your Investment in Contract (cost) for the purpose of determining the excludable part of your monthly retirement allowance. These contributions are exempt because non-414 (h) contributions are taxed from your paycheck, so they are not subject to taxing a second time. An example of Tier 3 contributions is the purchase of previous service provided you pay by payroll deduction or lump sum (other than 457 or 403(b)). Each year thereafter, NYCERS will send you a 1099R that will include this same information for that specific tax year.

Because the IRS considers your pension payments to be a source of income you are required to pay Federal taxes. When filing for retirement you may choose to automatically have these taxes withheld or to make quarterly payments to avoid a penalty at the end of the year.

Once you are retired, if you choose to change the amount of your withholdings you may file IRS Form W4P, which is sent annually to all pensioners. Alternatively, you can send us a signed letter, indicating your instructions for income tax withholding.

### Loans at Retirement

According to IRS regulations, any loan taken at or near retirement must be treated like a retirement distribution. And as such, the taxable amount may be rolled over to an IRA or qualified Employer Plan. The taxable distribution is outlined on the Election of Payment Notice sent to you by NYCERS. You may temporarily avoid the Federal income tax consequences by directly rolling over the taxable portion of the distribution into an Individual Retirement Account (IRA) or Employer Plan, if your new employer's plan allows such rollovers.

Those who choose not to roll over the taxable amount, NYCERS is required to deduct 20% Federal withholding tax on the taxable portion before issuing the check. In addition to being taxable at the member's normal tax rate, if you have not reached the age of 55 and you choose not to roll over the taxable portion, you will also be subject to an IRS penalty tax of 10% when you file your Federal tax return.

Please note that if you have a prior outstanding loan at retirement, the balance may also be taxable and eligible for you to roll over on your own. Two to three months after your effective date of retirement, you will receive a letter from NYCERS advising you of the taxable amount of

## TAXATION OF PAYMENTS RECEIVED FROM NYCERS

the prior outstanding loan. This letter will remind you that you may defer your Federal tax liability by rolling over the taxable amount to an IRA or Employer Plan. You will have 60 days from the date of notification to roll over the taxable portion of your prior outstanding loan; otherwise, you will have to claim it as income on your Federal return.

### Refunds

Withdrawal of your accumulated salary deductions and/or Additional Member Contributions may result in a Federal income tax liability. The taxable distribution, if any, is outlined on your Election of Payment Notice, along with an explanation of the Federal income tax consequences. You may temporarily avoid the Federal income tax consequences by rolling over the taxable portion of the distribution into an IRA account or employer plan, if your new employer's plan allows such rollovers. If you do not elect to roll it over, NYCERS is required by the Internal Revenue Code rules and regulations to withhold 20% of the taxable portion of the distribution.

The Election of Payment Notice contains three options, under which you can elect to receive or roll over the taxable portion of your refund:

- Direct refund, including the taxable portion, subject to 20% Federal income tax withholding.
- Rollover of the taxable portion of the refund into an IRA account or employer plan.
- Rollover of a portion of the taxable distribution, designated by you, into an IRA account or employer plan.

Members have 30 days to complete and return their Election of Payment Notice to NYCERS. If you do not return the notice to us within 30 days of the date of our letter, we will process your full refund, less 20% Federal income tax withholding on the taxable portion of your distribution.

Upon a member's obtaining a refund after resignation, the outstanding balance on a loan may be at least partially taxable. The refund check you receive from NYCERS may be less than the total taxable distribution, if you have an outstanding loan at the time of the refund. In addition to being taxable at the member's normal tax rate, a member under the age of 55 will incur an additional 10% Federal income tax penalty. Members who are age 55 or older are not subject to the 10% penalty.

In addition to a Federal income tax liability, partial withdrawals of your contributions prior to your separation from City service before you attain age 59½ may result in an additional 10% Federal income tax penalty.

## TAXATION OF PAYMENTS RECEIVED FROM NYCERS

### Death Benefits

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) requires NYCERS to withhold taxes on death benefits that are subject to Federal taxation, unless the beneficiary files an election to be exempted from such withholding. NYCERS cannot pay any taxable death benefit to a beneficiary, until the beneficiary returns their election regarding tax withholding.

Beneficiaries who are the spouses of deceased members of NYCERS may choose from three options under which they can elect to receive or roll over the taxable portion of their lump sum death benefit:

Direct payment of the taxable portion, subject to 20% Federal income tax withholding.

Rollover of the taxable portion into an IRA account.

Rollover of a portion of the taxable distribution, designated by them, into an IRA account.

Basic Tier 4 contributions and *Additional Member Contributions* made to NYCERS through payroll deduction are not included as current gross income for Federal income tax purposes [IRC Section 414(h)], but they are subject to current Social Security and Medicare deductions and to New York State and local income taxes.

**All NYCERS' benefit payments and refunds are subject to Federal income taxation in the year(s) distributions ARE MADE, but they are not subject to New York State and local income taxation.**

## COST OF LIVING ADJUSTMENTS (COLA)

Chapter 125 of the Laws of 2000 provides a “permanent” Cost of Living Adjustment (COLA) for retirees of NYCERS if you meet the following requirements.

The COLA is payable to all NYCERS retirees who:

Have attained age 62

**and**

Have been retired for five years

**OR**

Have attained age 55

**and**

Have been retired for 10 years

**OR**

Retired on a disability at any age

**and**

Have been retired for five years

**OR**

Are recipients of an accidental death benefit, regardless of age

**and**

Have been receiving that benefit for five years

The COLA each year will be based on:

The maximum (annual fixed) retirement allowance,  
including

any prior years' COLA payable under this legislation

not to exceed \$18,000

The COLA percentage each year will be:

Based on the Consumer Price Index (CPI) for each calendar year

50% of the annual inflation as determined by the CPI in the one-year period ending on the March 31 prior to the COLA payment to be made on the following September 1,

**and**

Not less than 1%

**or**

More than 3%

Effective September 1 of each year, starting in the year 2000

The COLA provided by this legislation will be payable in lieu of any previous COLA legislation (the latest being Chapter 390 of 1998, which provided COLA to all pre-1994 retirees), unless the earlier COLA would pay more.

## COST OF LIVING ADJUSTMENTS (COLA)

The surviving spouse of a deceased retiree who is receiving a benefit under a joint-and-survivor option, will be eligible to receive a COLA equal to:

50% of the amount the retiree would be receiving, if he or she were still alive and would have been payable on September 1, 2000 or the month following the date of death of the retiree, whichever is later

### **VSF's**

Where a Uniformed Correction Force retiree:

Is eligible to receive a payment from a Variable Supplements Fund (VSF),  
and

Is also eligible to receive a COLA under this legislation (and any prior COLA legislation enacted after January 1, 1992),

The VSF payment for any calendar year will be reduced by any COLA that is payable

## **DOMESTIC RELATIONS ORDERS**

Under the Domestic Relations Laws of the State of New York, pension benefits are considered a marital asset. As a result, the Supreme Court of the State of New York may assign a portion of your current and/or future pension benefits to an ex-spouse under a Domestic Relations Order.

By law, NYCERS is bound to execute the order of the court.

## RE-EMPLOYMENT AFTER RETIREMENT

### SERVICE RETIREES

If you decide you want to return to NY public service after retirement, it is important you contact NYCERS to find out how your retirement allowance is affected, for there may be limitations on the amount that you, as a pensioner, may earn, without loss, suspension or reduction of your retirement benefit. These limitations are created by law and are based on various factors such as type of retirement (service or disability) and source of income (who you work for).

There are **no** earning limitations if you work for:

- the private sector
- federal government
- out-of-NY City and state public service employment
- public benefit corporations (such as: HHC, Transit, OTB, etc. To obtain a complete listing, please contact NYCERS)
- City Agency if you are retired from the Transit Authority

Pensioners (not subject to §211 or §212 of the RSSL described below) who return to City service have 90 days to rejoin NYCERS if they wish to become members again. If you do not, you will not be eligible to rejoin for the entire period of your post-retirement employment. In addition, you get no credit for any service rendered after returning.

If you join another public retirement system, the pension portion of your retirement allowance including Cost of Living is suspended for the entire period of your post-retirement employment.

If a retiree is employed pursuant to Section 211 or Section 212, of the RSSL (described below), he/she may not join a public retirement system or earn service credit. The following briefly describes the legislation that governs the earning limitations for pensioners re-employed in NY public service. If you decide you want to return to NY public service, contact NYCERS' Call Center to see how these laws will affect your pension.

#### **SECTION 211 of the RSSL**

This law is intended for employees hired for "hard-to-fill" positions. A service retiree is permitted to receive income from public service, subject to an earnings limitation. The amount you may earn while employed by the same employer\*, without loss, suspension or reduction of your retirement allowance, is the difference between the salary on which your retirement allowance was based and the maximum pension portion of your retirement allowance plus cost of living adjustments. To be covered under Section 211, the prospective employer must obtain a waiver from the State or City Civil Service Commission or other authorized agency.

**\*There is no earnings limitation for retirees who are hired by a different employer**

## RE-EMPLOYMENT AFTER RETIREMENT

### SECTION 212 of the RSSL

Under this law you may receive income from public service, subject to an earnings limitation, that are set each year by the NYS Legislature. The amount you may earn, without loss, suspension or reduction of your retirement allowance, is \$25,000 for calendar year 2003. You must file a form with NYCERS electing to have the provisions of Section 212 apply.

**There is no earnings limitation for the year you become age 65 or any year thereafter.**

#### **Remember, If You Decide To Return To Work:**

There may be earning limitations created by law that affect your pension

If you are eligible to rejoin NYCERS, you must do so within 90 days

You forfeit your rights to join and receive credit for your returned subsequent if you do not join within 90 days

If you rejoin a public retirement system, your pension will be suspended

### DISABILITY RETIREES

Section 13-171 of the New York City Administrative Code and Section 1117 of the New York City Charter controls the re-employment of Disability Retirees.

If you are employed while receiving a Disability Retirement Benefit from NYCERS, your Personal Service Income, including income earned from both the **public** and the **private** sectors, is subject to a yearly cap called the *Income Limitation*. The *Income Limitation* changes each year based on increases or decreases in the Consumer Price Index. If your *Personal Service Income* exceeds the *Income Limitation* for any calendar year, the law requires that your Disability Retirement Benefit be suspended for 12 months. The *Income Limitation* for the year 2002 is \$22,200\*. The *Income Limitation* is applied for as long as you are receiving a Disability Retirement Benefit, even after you attain the minimum service retirement age and/or service.

\* The limitation for any current year cannot be determined until the spring of the following year. However, the increase has never been more than a few hundred dollars.

**NOTE:** No matter how little your *Personal Service Income* exceeds the *Income Limitation* for any given year, you will lose an entire year's Disability Retirement Benefit. The penalty is not dollar for dollar!

Members who retire under Section 507-c of the RSSL (Accident Disability for Uniformed Correction Force members only) have no limits on earnings from private employment. However, they are subject to limits on earnings from public employment as set forth in Section 1117 of the NYC Charter.

## NYCERS FORMS

### NYCERS FORMS FOR UNIFORMED CORRECTION FORCE MEMBERS AND HOW TO GET THEM

NYCERS offers many easy ways to obtain forms:

- Go on-line and download the most commonly used forms from our web site [www.nycers.org](http://www.nycers.org)
- Call NYCERS' automated Call Center 24 hours a day, 7 days a week @ (347) 643-3000. Follow the menu prompts, and you can have a form faxed or mailed to you
- Speak to a Call Center Representative, Monday – Friday, 8:00 – 5:00 @ (347) 643-3000
- Visit our Customer Service Center on the Mezzanine level of 340 Jay Street, in downtown Brooklyn

The following are forms most commonly used by Uniformed Correction Force members:

<b>Form Number</b>	<b>Form Name</b>
133	Designation of Beneficiary for Tier 3 Correction Officers and Tier 4 Members
134	Designation of Primary & Contingent Beneficiary for Tier 3 Correction Officers and Tier 4 Members
137	Designation of Guardian when naming a minor as a Beneficiary
165	Election of 20-Year Retirement Program for Correction Members Below the Rank of Captain
166	Election of 20-Year Retirement Program for Correction Members of the Rank of Captain or Above, Promoted to such Position on or after August 4, 1993
168	Election to Contribute to Retire after 20 Years of Allowable Service in the Uniformed Force of the NYC Department of Correction
181	Membership/Tier Reinstatement
241/242/243	Application to Purchase Credit for prior service and Employers Certification
244	Application to Purchase Credit for Military Service
254	Notice of Intent to file for a Tier 3 or Tier 4 Vested Retirement Benefit
264	Application for Payment of Vested Retirement Benefit for Tier 3 Correction Officers
290	Change of Address Form
291	Name Change Affidavit
302	Application for Loan (For Tiers 3 and 4 Members Only)
309	Application for Change in Loan Repayment Schedule (Tier 3 and 4 only)
331	Application for Refund of Member's Accumulated Salary Deductions
333	Application for Refund of Additional Member Contributions
341	Waiver of Right to a Vested Retirement Benefit
351	Affidavit of Personal Service Income (Tier 3 or 4 Disability Retirees)
521	Application for Service Retirement Tier 2, 3 and 4
542	Withdrawal of Service Retirement Application
543	Request to Change or Correct Retirement Date
603	Application for Disability Retirement for Tier 3 Uniformed Correction Force Only
605	Applicant's Report of Disability
606	Physician's Report of Disability
608	General Authorization for Release of Medical Information
609	Questionnaire to be Completed by Applicant for Disability Retirement
801	Instructions for Members Applying for Disability Retirement

## GLOSSARY

The following terms will appear in *italics* throughout this booklet:

### **Accumulated Member Contributions**

The total of all basic contributions plus interest earned on such contributions. *Accumulated Member Contributions* are maintained in the *Member's Contribution Accumulation Fund (MCAF)* account.

### **Active Service**

Service rendered while the employee is on the payroll and being paid by the City of New York or a *Participating Employer*.

### **Additional Member Contributions (AMC's)**

Contributions that are in addition to the Basic Tier 3 contributions, and are required to be paid each payroll period by *Participants* in any of the Special Programs for uniformed Correction force members. The *AMC* percentages differ in each Program. Refer to the Contributions section in this booklet. All *AMC's* are maintained in the Retirement Reserve Fund.

### **Allowable Correction Service**

- Service rendered in the Uniformed Force of the Department of Correction, provided that where such service is pre-membership service, the member applies to receive credit for such service
- Service rendered in the Uniformed Force of the Transit or Housing Police Departments or in the Uniformed Force of the Department of Sanitation immediately prior to the member's appointment to the Uniformed Force of the Department of Correction, provided they applied to receive credit for such service
- Service rendered in the uniformed forces of the New York City Police or Fire Departments immediately preceding service in the Uniformed Force of the Department of Correction, provided the member applies for such service and such service credit was transferred to NYCERS

### **Credited Service**

Includes:

- Service rendered while a member of NYCERS, and
- Service rendered while a member of another retirement system within New York City or New York State and transferred to NYCERS, and
- Service purchased under applicable laws and rules for Buy-Back, which can include:
  - ✓ Membership Reinstatement
  - ✓ Military Service
  - ✓ Part-time Service
  - ✓ Previous Service
  - ✓ Pre-Membership Service
  - ✓ Previous Part-time Service

## GLOSSARY

**REFER TO PAGE 5 FOR A MORE DETAILED EXPLANATION OF EACH TYPE OF SERVICE CREDIT.**

### **Designated Beneficiary**

Any person whom a member has named, by filing a properly completed form with NYCERS, to receive a survivor benefit upon the death of the member in *Active Service*.

### **Earnable Salary**

The regular rate of pensionable compensation payable to a member.

### **Earned Salary**

The actual salary earned by a member, including overtime and additional pensionable compensation.

### **Eligible Beneficiary**

A person who is eligible to be paid an Accidental Death Benefit, in the following order of priority:

- a surviving spouse for his or her lifetime, unless he or she has renounced survivorship rights in a separation agreement, until remarriage
- dependent child(ren) up to age 25
- dependent parents
- any person up to age 21 who qualified as a dependent on the member's final Federal income tax return **OR**
- any person you designate for your *Active Service* Ordinary Death Benefit

An *Eligible Beneficiary* must make application for an Accidental Death Benefit, and NYCERS' Medical Board and Board of Trustees must approve the application.

In the event that a class of *Eligible Beneficiaries* consists of more than one person (for example, two or more children under the age of 25), benefits will be divided equally among such persons.

### **Eligible Member**

A member in one of the *Special Programs* for Tier 3 members employed in the uniformed force of the NYC Department of Correction.

### **Final Average Salary (FAS)**

The greater of the average annual *Wages* earned during any three consecutive calendar-year periods, or the final 36 months immediately preceding the member's retirement date, whichever is greater.

If the salary earned during any year included in the calculation of a member's *FAS* exceeds the average of the previous two years by more than 10%, the amount in excess of 10% is excluded from the computation. For members who did not work full time, or who had absences without pay in the 36 months immediately preceding retirement, the *FAS* will be computed by using more than three years' of salary.

## GLOSSARY

### **Income Limitation**

The fixed dollar maximum amount of *Personal Service Income* a pensioner receiving a Tier 3 Disability Retirement Benefit can earn in any calendar year. The *Income Limitation* is established annually and is based on the percentage increase or decrease in the prior year's Consumer Price Index. The *Income Limitation* chart can be found on page X of this booklet.

### **Members' Contribution Accumulation Fund (MCAF)**

An account maintained for each Tier 3 member into which the "basic" contributions of 3% of *Wages* deducted from the member's paycheck each payroll period are deposited, plus interest earned on such contributions.

### **Participant**

Any Tier 3 member of NYCERS who elects or is required to contribute to one of the *Special Programs* for uniformed Correction force members described in this booklet.

### **Participating Employer**

In addition to the City of New York, members of NYCERS are also employed by the following *Participating Employers*:

- ✓ NYC Transit Authority
- ✓ Triborough Bridge & Tunnel Authority
- ✓ NYC Housing Authority
- ✓ NYC Health & Hospitals Corporation
- ✓ NYC Off Track Betting Corporation
- ✓ NYC Rehabilitation Mortgage Insurance Corporation
- ✓ NYC Housing Development Corporation
- ✓ City University of New York
- ✓ NYC School Construction Authority
- ✓ Municipal Water Authority
- ✓ The NYC Employees' Retirement System (NYCERS)
- ✓ The NYC Teachers' Retirement System
- ✓ Departments of the State of New York which had formerly been departments of the City of New York, where members of NYCERS are still employed

### **Personal Service Income**

Any *Wages*, salaries, tips, professional fees, or other compensation received for personal services actually performed for any employer after the effective date of retirement of a Tier 3-disability retiree.

## GLOSSARY

### **Previous Service**

Service rendered while employed by an agency of the City of New York or a *Participating Employer*, or the State of New York or any municipality within the State. This service was rendered prior to your membership in NYCERS.

### **Salary Base**

Compensation used in computing a benefit from NYCERS.

### **Special Programs**

20-Year Retirement Program for Correction Officers Below the Rank of Captain (CO-20)

20-Year Retirement Program for Correction Officers of the Rank of Captain or Above (CC-20)

### **Unpaid Leave**

An approved leave of absence during which a member does not receive *Wages* from his or her employer.

- EXAMPLES:**
- Sick leave of absence without pay
  - Workers' Compensation leave of absence without pay
  - Leave of absence without pay for the purpose of engaging in union activities

### **Wages**

Any earnings paid for services rendered to a public employer in New York City or New York State

## APPENDIX A

## TIER 3 LOAN S APPROXIMATE REPAYMENTS FOR BI-WEEKLY PAYROLLS

TIER 3 LOAN S APPROXIMATE REPAYMENTS FOR BI-WEEKLY PAYROLLS						
	# OF YEARS	5	4	3	2	1
	# OF MONTHS	130	104	78	52	26
LOAN AMOUNT						
\$40,000		\$368	\$444	\$572	\$878	
\$39,000		\$358	\$433	\$557	\$807	
\$38,000		\$349	\$422	\$543	\$786	
\$37,000		\$340	\$411	\$529	\$766	
\$36,000		\$331	\$400	\$515	\$745	
\$35,000		\$322	\$389	\$500	\$724	
\$34,000		\$313	\$377	\$486	\$704	
\$33,000		\$303	\$366	\$472	\$683	
\$32,000		\$294	\$355	\$457	\$662	
\$31,000		\$285	\$344	\$443	\$642	
\$30,000		\$276	\$333	\$429	\$621	
\$29,000		\$267	\$322	\$415	\$600	
\$28,000		\$257	\$311	\$400	\$579	
\$27,000		\$248	\$300	\$386	\$559	
\$26,000		\$239	\$289	\$372	\$538	
\$25,000		\$230	\$278	\$357	\$517	\$998
\$24,000		\$221	\$266	\$343	\$497	\$958
\$23,000		\$211	\$255	\$329	\$476	\$919
\$22,000		\$202	\$244	\$314	\$455	\$879
\$21,000		\$193	\$233	\$300	\$435	\$839
\$20,000		\$184	\$222	\$286	\$414	\$799
\$19,000		\$175	\$211	\$272	\$393	\$759
\$18,000		\$165	\$200	\$257	\$373	\$719
\$17,000		\$156	\$189	\$243	\$352	\$679
\$16,000		\$147	\$178	\$229	\$331	\$639
\$15,000		\$138	\$167	\$214	\$310	\$599
\$14,000		\$129	\$155	\$200	\$290	\$559
\$13,000		\$119	\$144	\$186	\$269	\$519
\$12,000		\$110	\$133	\$172	\$248	\$479
\$11,000		\$101	\$122	\$157	\$228	\$439
\$10,000		\$92	\$111	\$143	\$207	\$399
\$9,000		\$83	\$100	\$129	\$186	\$359
\$8,000		\$74	\$89	\$114	\$166	\$319
\$7,000		\$64	\$78	\$100	\$145	\$280
\$6,000		\$55	\$67	\$86	\$124	\$240
\$5,000		\$46	\$56	\$71	\$103	\$200
\$4,000		\$37	\$44	\$57	\$83	\$160
\$3,000		\$28	\$33	\$43	\$62	\$120
\$2,000		\$18	\$22	\$29	\$41	\$80
\$1,000		\$9	\$11	\$14	\$21	\$40

IN ALL CASES, PAYMENTS MAY NOT BE LESS THAN 2% OF SALARY.

**For a member on a weekly payroll, the repayment amount will be about one-half of that of a loan payable over the same of number of years shown in the table above.**

**Tier 3 Interest and Insurance Rate on Newly Issued Loans**

INTEREST RATE	7.00%
INSURANCE RATE	0.30%
Total	7.30%

## APPENDIX B

### EARLY SERVICE RETIREMENT BENEFIT REDUCTION CHART

Tier 3 members may be eligible to receive payment of a Service Retirement Benefit under the “Basic” Tier 3 Plan before they reach age 62, but not earlier than age 55.

The following table shows the percentage reduction in your Service Retirement Benefit or Vested Retirement Benefit if you elect to receive that benefit as an Early Service Retirement Benefit.

AGE AT PAYABILITY	PERCENTAGE OF BENEFIT REDUCTION
61	6.7%
60	13.3%
59	16.7%
58	20.0%
57	23.3%
56	26.7%
55	30.0%

**PLEASE NOTE:** The **percentage reduction** in your Retirement Benefit as shown above **will be applied** to your Maximum Retirement Allowance (and reduced further based on an option you may select) **for your lifetime.**



### Tier 3 SPD Updates

**Page 24:** Replace IRS Section 415 limits with current information, including new legislation regarding benefits in excess of 415 limits.

Internal Revenue Code Section 415(b) requires defined benefit plans such as NYCERS to apply limits on certain annual pension benefits (particularly those benefits received under a pension enhancement or early retirement incentive). Most NYCERS members are not adversely affected by Section 415 because the amount of their base pension plus enhancements does not exceed Section 415 limits currently \$170,000 annually for benefits commencing at age 62.

A recent law (Chapter 623 of the Laws of 2004) establishes an excess benefit plan which restores benefits to those pensioners whose annual pension benefits were previously limited by Section 415.

Pensioners whose benefits were previously limited will now receive the full amount of their annual pension benefit. The excess benefits will be paid to all pensioners who retired on or after July 1, 2000. The excess benefit is incorporated in the retiree's monthly pension payment. As with monthly pension payments the excess benefits are exempt from New York State and local income taxes. Please go to our web site ([www.nycers.org](http://www.nycers.org)) and click on the link "Planning Your Retirement" - Tier 3, for complete details.

**Page 25:** Add the new CF-20 Plan description page number references (this section describes the CO-25 as the fall-back plan to the CO-20, CC-02 and now CF-20 plan descriptions).

**Page 35:** The annual Disability Income Limitation is updated each spring for the previous year. The 2003 limits were \$22,600.

This limit also appears on page 53.

**Page 37:** Fix typo in heading "Appearing Before NYCERS' Medical Board for Examination".

**Page 42:** Same note about CO-20 AMCs upon death (see also pages 13 and 17).

**Page 53:** Update the Section 212 (re-employment after retirement earnings) to \$27,500 for 2004. Update the Disability Income Limitation (Personal Service Income). 2003 limits were \$22,600.

**Page 54:** Mention that the new CF-20 is also one of the Special Programs described in this SPD.

**Page 55:** Add a note that no one first becoming a Tier 3 member and a Corrections Officer on or after 10/19/04 can join the CO-20 Plan (must join CF-20). The same note goes on Page 58 (CC-20 program).

**Page 58:** Note that new members can no longer join the CC-20 Plan. Also at bottom of page revise the paragraph on the refund of AMCs upon the death of the member. (see pages 13, 17, and 42 - same reference).

**Page 62:** Explains the new CF-20 plan. For complete details, please obtain a copy of NYCERS brochure # 917 dated Feb 2005. This is available on our web site under "Plans and Brochures" or by request from our Call Center or Customer Service Center. The following is a brief overview:  
Plan is restricted to Officer below the rank of Captain, Correction Captain, Asst, Deputy Warden, Deputy Warden, Deputy Warden-in-Command, Deputy Chief, or Chief of Department.  
Need 20 years of Allowable Correction Service  
Retirement benefit is 50% FAS for the first 20 years and 1 2/3 for each year thereafter  
Vesting is 2 1/2 FAS for each year of Allowable Correction Service  
Contributions are 3% basic (to be paid for 10 years) and 4.61% AMCs (to be paid for 20 years)

**Glossary Page 64:** fix page number reference for Personal Service Income

**Glossary Page 65:** add the new CF-20 plan to the list of mentioned Special Programs under T3