62/5 SPD
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INTRODUCTION
INTRODUCTION

The New York City Employees’ Retirement System (NYCERS) is pleased to present the Tier 4 - 62/5 Summary Plan Description (SPD) booklet.

The SPD booklet is a complete guide to the 62/5 retirement plan and its myriad provisions. The information contained in this booklet is derived from applicable laws and/or rules that govern membership in this retirement plan, including, but not limited to, the Administrative Code of the City of New York, the New York State Retirement and Social Security Law (RSSL), and the rules of NYCERS. Since laws and/or rules affecting your retirement plan or the administration of benefits can be changed in any given year, information may need to be amended from time to time. Where changes occur, an SPD Update will accompany this booklet describing the relevant changes. In the event of a conflict between the contents of this SPD booklet or SPD Update and any applicable laws and/or rules, the applicable laws and/or rules will govern.

In NYCERS’ defined benefit structure, laws guide the administration of pension benefits. In addition, some laws authorize the Board of Trustees to establish rules. As such, the origins of many of the benefits explained in this SPD booklet can be traced back to a section of law or NYCERS rule. To maximize the effectiveness of this booklet for NYCERS members and staff alike, this booklet contains:

- Legislative References – The Chapter which created a new law or amended an existing law either establishing or modifying a particular benefit explained in this booklet
- Statutory References – The section of the RSSL, the NYC Administrative Code or other applicable law (e.g., New York State General Municipal Law) containing the relevant pension benefit

Members and/or staff who wish to consult chapters or sections of law may do so by visiting http://public.leginfo.state.ny.us, a website containing legislation dating back to 1995 and the laws of New York.

Throughout this SPD booklet, you will find each reference described above following a paragraph explaining a benefit. The abbreviation for each reference is as follows:

- LR = Legislative References
- SR = Statutory References

The absence of a legislative or statutory reference may mean such references are not applicable or the origins were not readily available or that a NYCERS rule is applicable to the benefit described.

This SPD booklet contains several sections outlining specific information about:

- Membership and Eligibility
- Contributions
- Credited Service
- Loans
- Leaving City Service
- Service Retirement
- Disability
- Survivor Benefits
- Tier 4 Members with Tier 3 Rights
- Taxation

Also included is a Glossary of Terms that defines terms that are used throughout the booklet.
ABOUT NYCERS

The New York City Employees’ Retirement System (NYCERS) was founded by the New York State Legislature in 1920 with 13,331 members. Today, NYCERS has grown into the largest municipal public employee retirement system in the United States with over 300,000 active members and retirees including civilian employees such as clerical workers, accountants and social workers, and uniformed employees such as New York City Correction Officers and Sanitation Workers.

NYCERS is a defined benefit retirement plan. Defined benefit retirement plans for public sector employees offer benefits which are defined in law. Generally, retirement allowances payable from such plans are based on a member’s years of service, age and compensation base. Other types of benefits such as loans, disability benefits and death benefits are also offered and specified in law. All benefits payable are funded by employee and employer contributions and from earnings on the invested assets of the system.

NYCERS is a cost-sharing, multiple-employer public employee retirement system. In addition to the City of New York (various agencies, boards and commissions), members are employed by public benefit corporations such as the NYC Transit Authority and the NYC Health and Hospitals Corporation.

NYCERS performs many functions for active members and retirees alike. Among other things, each year NYCERS issues approximately 50,000 loans and processes thousands of refunds and buy-back applications. For retirees, NYCERS verifies retirement allowances, calculates Cost-of-Living Adjustments, and much more.

NYCERS is dedicated to a client-centered approach to quality service delivery. Whether it’s upgrading Information Technology infrastructure, facilitating access to information, developing customer service upgrades or instituting advanced security measures, NYCERS is committed to sustaining quality service delivery for all our members, retirees and beneficiaries.

CONTACT INFORMATION

NYCERS members may contact the retirement system through various channels. Please refer to the four primary ways you may contact us on the following page.
CONTACT INFORMATION

MAILING ADDRESS
335 Adams Street, Suite 2300
Brooklyn, NY 11201-3724

WEBSITE
WWW.NYCERS.ORG

CUSTOMER SERVICE CENTER
Mezzanine level at 340 Jay Street in downtown Brooklyn.
M - F, 8 a.m. - 5 p.m.

CALL CENTER
M - F, 8 a.m. - 5 p.m. OR
24-hour automated telephone system
(347) 643-3000 (Call Center)
(877) 669-2377 (If calling from outside the NYC area)
(347) 643-3501 TTY (hearing impaired)
Howard M. Bell, Commissioner

MEMBERSHIP AND ELIGIBILITY

Tier 4 members are those who joined NYCERS between July 27, 1976 and March 31, 2012, except for:

- Members of the uniformed force of the NYC Department of Correction, and
- Investigators employed in a District Attorney's Office

LR: Chapter 414 of the Laws of 1983
SR: RSSL §600

The Tier 4 - 62/5 retirement plan, commonly referred to as the Basic Tier 4 Plan, allows participants to retire at age 62 with at least five years of Credited Service.

Membership in this plan is for employees of the City of New York or a Participating Employer in NYCERS who joined NYCERS after July 26, 1976 but prior to June 29, 1995 and did not elect to participate in the 55/25 Early Retirement Program created by Chapter 96 of the Laws of 1995.

Employees of the Triborough Bridge and Tunnel Authority (MTA Bridges and Tunnels) in the title of Bridge and Tunnel Maintainer, Assistant Bridge and Tunnel Maintainer, Senior Bridge and Tunnel Maintainer and Laborer are members of the 62/5 plan if they join NYCERS at any time after July 26, 1976.

Members who are mandated into the 57/5 retirement plan (established by Chapter 96 of the Laws of 1995) may also be eligible for membership in the 62/5 plan. This can occur if such members transferred a prior membership from another retirement system in New York State, where such membership was prior to June 29, 1995. Once the transferred membership is processed, such members will have the opportunity to elect to remain members of the 57/5 plan or continue as 62/5 plan participants.

Employees in certain "special occupational" titles may be participants of a special plan available to their specific title and, therefore, may not be participants in the 62/5 plan. However, such employees may retain the right to retire under the 62/5 plan under certain scenarios. Such employees are encouraged to contact NYCERS to learn more about retiring under the special plan or the 62/5 plan.

MANDATORY MEMBERSHIP VS. VOLUNTARY MEMBERSHIP

Membership in NYCERS is mandatory for all employees who are appointed and have completed six months in a permanent position in the competitive or labor class. Permanent employees may voluntarily join NYCERS during the first six months of employment. If they do not voluntarily join, membership will automatically be established after six months have lapsed.

Non-permanent employees are free to join NYCERS; they will not be forced in after six months. As long as such employees are on the payroll of their employer and file a membership application with NYCERS, membership can be established.

LR: Chapter 414 of the Laws of 1983; Chapter 929 of the Laws of 1937, as amended by Chapter 426 of the Laws of 1941
SR: RSSL §600 subdivision b; NYC Administrative Code §13-104, subdivision 1
SOCIAL SECURITY PARTICIPATION

Membership in NYCERS requires participation in the Social Security Program. Once an employee joins NYCERS, either through voluntary or mandatory membership, the employee must pay the 6.2% Federal Insurance Contributions Act (FICA) tax (reduced to 4.2% for 2011 and 2012). This tax, otherwise known as Social Security tax, is applied up to a maximum wage limit. The following table shows the maximum wage limits from 1937-2012:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
<th>Year</th>
<th>Amount</th>
<th>Year</th>
<th>Amount</th>
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<tr>
<td>1937-50</td>
<td>$3,000</td>
<td>1981</td>
<td>$29,700</td>
<td>1996</td>
<td>$62,700</td>
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<tr>
<td>1951-54</td>
<td>$3,600</td>
<td>1982</td>
<td>$32,400</td>
<td>1997</td>
<td>$65,400</td>
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<tr>
<td>1959-65</td>
<td>$4,800</td>
<td>1984</td>
<td>$37,800</td>
<td>1999</td>
<td>$72,600</td>
</tr>
<tr>
<td>1966-67</td>
<td>$6,600</td>
<td>1985</td>
<td>$39,600</td>
<td>2000</td>
<td>$76,200</td>
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<tr>
<td>1968-71</td>
<td>$7,800</td>
<td>1986</td>
<td>$42,000</td>
<td>2001</td>
<td>$80,400</td>
</tr>
<tr>
<td>1972</td>
<td>$9,000</td>
<td>1987</td>
<td>$43,800</td>
<td>2002</td>
<td>$84,900</td>
</tr>
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<td>1973</td>
<td>$10,800</td>
<td>1988</td>
<td>$45,000</td>
<td>2003</td>
<td>$87,000</td>
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<td>1974</td>
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<td>1989</td>
<td>$48,000</td>
<td>2004</td>
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<tr>
<td>1975</td>
<td>$14,100</td>
<td>1990</td>
<td>$51,300</td>
<td>2005</td>
<td>$90,000</td>
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<td>1977</td>
<td>$16,500</td>
<td>1992</td>
<td>$55,500</td>
<td>2007</td>
<td>$97,500</td>
</tr>
<tr>
<td>1978</td>
<td>$17,700</td>
<td>1993</td>
<td>$57,600</td>
<td>2008</td>
<td>$102,000</td>
</tr>
<tr>
<td>1979</td>
<td>$22,900</td>
<td>1994</td>
<td>$60,600</td>
<td>2009-11</td>
<td>$106,800</td>
</tr>
<tr>
<td>1980</td>
<td>$25,900</td>
<td>1995</td>
<td>$61,200</td>
<td>2012</td>
<td>$110,100</td>
</tr>
</tbody>
</table>

*Increases in subsequent years will be included in the SPD Update.

In addition, all employees since 1986 are required to pay 1.45% of earnings for the Medicare Program. Unlike the FICA tax, there is no maximum salary amount upon which Medicare deductions are based.

Windfall Elimination Provision

The Windfall Elimination Provision may reduce your Social Security benefits. You may be penalized by the Social Security Administration (SSA) if you are receiving a governmental pension based on years of service during which you did not pay the 6.20% FICA tax. You will likely be impacted if:

1. you were not a NYCERS member, but were employed in a position entitling you to NYCERS membership; and
2. you chose to contribute 7.50% or more of your wages to a Deferred Compensation Plan; and
3. you did not pay the 6.20% FICA tax during this time period; and
4. you subsequently joined NYCERS and applied to purchase (buy back) the years you worked and did not pay the 6.20% FICA tax.

If you have 30 or more years of “substantial earnings” in positions in which you paid the FICA tax, you will not be subject to the Windfall Elimination Provision penalties imposed by the SSA.

For more information on the Windfall Elimination Provision, visit www.socialsecurity.gov and download SSA Publication No. 05-10045.
DEFERRED COMPENSATION PLAN (DCP)

The New York City Deferred Compensation Plan (DCP), administered by the NYC Office of Labor Relations, is a defined contribution plan. DCP benefits are based on the cumulative value of employee contributions including the return on investments made with such contributions. Members of the DCP select how to invest their contributions, and benefits are paid out according to assets available in the individual member's account.

Employees may concurrently join NYCERS and DCP. Those who are not mandated into NYCERS membership may join the DCP and not NYCERS. DCP members 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 tax, even if you continue to contribute at least 7.50% of Wages to the Deferred Compensation Plan.

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

The retirement benefits payable from NYCERS are derived from three primary sources:

- The contributions made by the member
- The contributions made by the employer
- The return on the investments of the assets of the retirement system

Members are required to make Basic Member Contributions equal to 3% of gross wages, including overtime. The Basic Member Contributions deducted from your paycheck are Federal tax-deferred, meaning you do not pay Federal taxes on the contributions, only New York State and local taxes. Contributions made by members while on Union Leave are not Federal tax-deferred.

**LR:** Chapter 414 of the Laws of 1983  
**SR:** RSSL §613 subdivision a(1)  
**SR:** see RSSL §613 subdivision d for Federal tax-deferred

**NOTE:** NYCERS’ pension benefits are taxable on the Federal level but are not taxable on the state and local level if you reside in New York City or New York State as a retiree. If you move to another state, your pension may be subject to taxation by that particular state and possibly the locality of the state in which you reside.

**MEMBER CONTRIBUTION ACCUMULATION FUND**

Your Basic Member Contributions are deposited into an account called the Member Contribution Accumulation Fund (MCAF). The monies deposited into the MCAF earn interest. Since January 1, 1977, the interest rate has been fixed by law at a rate of 5% per annum, compounded annually.

**LR:** Chapter 890 of the Laws of 1976; Chapter 414 of the Laws of 1983  
**SR:** RSSL §517 subdivision b; RSSL §613 subdivision c

The accrual of interest on your contributions is of value in certain ways, but members should not view interest accrued in the MCAF as they would view interest accrued in a savings account. Remember, in a defined benefit retirement plan, a formula defined in law is used to calculate your pension. Interest has more of a direct impact in areas such as loans and refunds; the amount you can borrow is based on 75% of your MCAF, which is constantly growing because of interest, and refunds include interest earned.

**PENSION ENHANCEMENT LAW**

In October 2000, a new law known as the "Pension Enhancement Law" was enacted, which provides for the cessation of Basic Member Contributions for members who have:

- Accumulated ten years of Credited Service; or
- Reached their tenth anniversary of membership in NYCERS or in another public employee retirement system in New York State, if membership in such system is transferred to NYCERS.

The cessation of Basic Member Contributions is effective upon whichever occurs first — ten years of Credited Service or the tenth anniversary of membership. Members who had more than ten years of Credited Service at the time the law was enacted in October 2000 are not entitled to a refund of the contributions made for the years of service in excess of ten. The Pension Enhancement Law did not provide for a refund of such contributions.

**LR:** Chapter 126 of the Laws of 2000, as amended by Chapter 110 of the Laws of 2000  
**SR:** RSSL §911 subdivision b
NOTE: The cessation of your 3% Basic Member Contribution will trigger a review of your account. The purpose of the review is to ascertain whether all required contributions have been made or if a deficit or an overage exists. If a deficit exists, we will notify you and take the necessary steps to resolve it. If an overage exists, NYCERS will issue a refund check for the overage amount.

DEFICITS

Members are expected to make a specific amount of contributions based on their Tier and plan and their total years of service. The cumulative total of contributions that should be in your MCAF is known as your Required Amount. Anything short of your Required Amount constitutes a Deficit. Members are required to resolve Deficits in their MCAF. An unresolved Deficit may lead to a reduction in your pension benefit or may lead to a delay of your retirement date. The latter can occur if the deficit exceeds 75% of the amount in your MCAF. This percentage is important because a deficit equal to less than 75% of the amount in your MCAF can be treated as an outstanding loan at retirement and a corresponding reduction of your retirement benefit can result.

Deficits occur for many reasons. NYCERS makes every effort to ensure that deficits do not occur. For example, upon cessation of your Basic Member Contributions your account is reviewed to determine if it is fully funded. Identifying funding discrepancies sooner rather than later can provide a smoother transition to retirement. You too can play a role in identifying discrepancies. Members should always be aware of contributions deducted from their paychecks, particularly those who may transfer to another agency. On occasion, NYCERS is not notified in a timely manner of an agency-to-agency transfer. As a result, payroll deductions may be interrupted, which causes a deficit. If you are transferring to another agency, make sure that agency notifies NYCERS to ensure the continuation of payroll deductions.
CREDITED SERVICE

In NYCERS’ defined benefit structure, retirement benefits are calculated using three primary factors:

1. The member’s age
2. The member's compensation base (Final Average Salary)
3. The member’s Credited Service

The more Credited Service accumulated, the higher the retirement benefit. There are various ways for members to accumulate Credited Service. Below is a listing of the different types of Credited Service, followed by an explanation of each.

TYPES OF CREDITED SERVICE

- Membership Service
- Transferred Service
- Purchased Service (Buy-Back)
- Membership Reinstatement
- Military Service
- Union Leave Service
- Part-time Service

MEMBERSHIP SERVICE

Membership Service is defined as paid full-time or part-time service rendered after joining NYCERS. Full-time service is credited based on a member’s regular work schedule in which he or she works 1,827 hours 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. Members working less than 1,827 hours in a calendar year will receive part-time service, which is prorated on the basis of one year of full-time service. Membership Service also includes Transferred Service and Military Service, which are discussed in more detail below. Membership Service can be used for eligibility purposes for certain benefits and can be used for calculating benefits.

LR: Chapter 749 of the Laws of 1992
SR: NYC Administrative Code §13-638.4

TRANSFERRED SERVICE

Transferred Service is service credited while a member of another public employee retirement system in New York City or New York State which has not been terminated and which is transferred to NYCERS. Besides NYCERS, there are seven retirement systems in New York City and New York State. They are as follows:

- New York City Teachers’ Retirement System
- New York City Police Pension Fund
- New York City Fire Department Pension Fund
- New York City Board of Education Retirement System
- New York State & Local Employees' Retirement System
- New York State & Local Police & Fire Retirement System
- New York State Teachers’ Retirement System

LR: Chapter 687 of the Laws of 1955
SR: RSSL §43
PURCHASED SERVICE (BUY-BACK)

Purchased Service, commonly referred to as buy-back, is previous full-time or part-time public service rendered in the employ of a public entity anywhere in New York State that has been fully paid for and credited. Previous service will be credited to members who have rendered at least two years of Membership Service.

Generally, in order to purchase previous service, members must have been on the payroll of a public entity (not a private entity) in a position which would have allowed membership in a public employee retirement system in New York City or New York State. One benefit of purchasing previous service is the inclusion of such service as part of your Credited Service, which ultimately will enhance your retirement benefit. Another benefit is that purchasing such service may accelerate the cessation of your Basic Member Contributions (see page 6). Purchasing service does not change your membership date.

SR: RSSL §609 subdivision b(1)

Application Process & Cost

In order to purchase previous service, you must complete an Application (Form #241 from you; Form 242 and/or 243 from your employer) and file it with NYCERS while you are on active payroll. You may also apply online provided that you are a MY NYCERS accountholder. If you separate from City service, you are generally not allowed to initiate a new claim to purchase previous service unless you are purchasing service to reach a threshold for vesting or disability, five years or ten years, respectively.

Once your paper application or online application is filed, NYCERS will verify your previous service and salary earned. Verifying the salary earned is essential to calculating the cost. The cost is determined by multiplying 3% by the salary earned during such previous service, plus interest at a rate of 5% compounded annually. The 3% represents the Basic Member Contributions that you would have been required to make had you been a member of a retirement system at that time. Since those monies would have generated interest at a rate of 5%, the cost also includes interest.

Once the cost is calculated, NYCERS will send a cost letter containing a few payment options:

- A lump-sum payment of the entire amount
- A partial lump-sum payment and the balance paid through payroll deductions
- Payment of the entire amount through payroll deductions
- A direct rollover of funds from your NYC Deferred Compensation Plan account (457 or 403b) or MTA Deferred Compensation Plan account for employees of MTA Bridges and Tunnels and the NYC Transit Authority (457 or 401k), which allows the continuation of the tax shelter on those monies

If you receive your cost letter and fail to send payment by the time referenced in the letter, NYCERS will automatically begin payroll deductions. Should you wish to cancel your application, you must file Form #238 prior to the date payroll deductions are scheduled to begin. If payroll deductions have begun, you may cancel such deductions by filing Form #239. You will receive credit for service you purchased up to the effective cancellation date. If payroll deductions have begun and you wish to pay off the entire outstanding balance in a lump sum, you may file Form #240 and a payoff amount will be calculated and sent to you.

Members who participate in the NYC Deferred Compensation Plan who wish to pay from their 457 account 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 after receipt of the cost letter. You must complete an "In-Service Distribution Form" at Deferred Compensation. The funds will then be transferred directly to NYCERS from the banking institution and will be applied toward the payment of the previous service you have claimed. Members requiring more information should direct inquiries to Deferred Compensation Plan Client Services at (212) 306-7760.

Employees of the NYC Transit Authority or MTA Bridges and Tunnels who participate in the 457 or 401(k) MTA Deferred Compensation Plan should contact such plan directly at (877) 756-4682 for detailed information.

Employees of the Health and Hospitals Corporation who participate in the 403(b) Plan administered by Prudential Retirement Services may use funds in such plan to purchase previous service. All inquiries should be directed to Prudential at (800) 458-6333.

NOTE: NYCERS members, except NYC Transit Authority and MTA Bridges and Tunnels employees, may not use funds in their 401(k) Plan to purchase previous service.

Time spent off payroll
Generally, members are not permitted to purchase previous service for time spent off payroll. Exceptions to this general rule have been enacted recently. For example, NYC Carpenters and Supervisory Carpenters who were laid off because of economy measures on or after June 1, 1991 and who returned to service prior to July 1, 1993 can purchase the period of time during which they were laid off. NYC Parks Department employees in the title of Climber and Pruner who were laid off because of economy measures on or after July 1, 1991 and who returned to service prior to July 1, 1995 can purchase the period of time during which they were laid off. The length of layoff service Carpenters and Climbers and Pruners may purchase cannot exceed 25 months. Members employed with the School Construction Authority who were laid off due to economic measures on or after December 1, 2002 and who returned to service prior to January 8, 2008 can purchase the period of time during which they were laid off.

CARPENTERS
LR: Chapter 697 of the Laws of 2006
SR: Civil Service Law §80 subdivision 7-c

CLIMBER & PRUNER
LR: Chapter 182 of the Laws of 2007
SR: Civil Service Law §80 subdivision 7-d

SCHOOL CONSTRUCTION AUTHORITY
LR: Chapter 157 of the Laws of 2010
SR: Public Authorities Law §1738 subdivision 2

Another exception to this general rule applies to MTA Bridges and Tunnels employees in the titles of Bridge and Tunnel Officer, Sergeant or Lieutenant in a non-managerial position, Bridge and Tunnel Maintainer, Assistant Bridge and Tunnel Maintainer, Senior Bridge and Tunnel Maintainer and Laborer, or NYC Transit Authority members, who are off payroll and receiving a Workers’ Compensation Benefit.

SR: RSSL §609 subdivision a(4)

MEMBERSHIP REINSTATEMENT
Current members who were previous members of a public employee retirement system in New York City or New York State may apply to restore their original membership date. In order to be
eligible, the first membership must have been terminated. Unlike purchasing previous service, membership reinstatement requires that you were previously a member of a public employee retirement system, not merely employed by a public entity that would have allowed you to join a retirement system.

Membership reinstatement is beneficial to members in a couple of ways.

**Cessation of Basic Member Contributions**

As stated in the “Contributions” section of this SPD booklet, your Basic Member Contributions cease upon ten years of Credited Service OR upon your tenth anniversary of membership in NYCERS or another public employee retirement system if membership in such system is transferred to NYCERS. By reinstating a former membership which had been terminated, you may be able to stop your Basic Member Contributions sooner, as your tenth anniversary of membership would be an earlier date.

**Tier Reinstatement**

Another key benefit to membership reinstatement is reinstating to an earlier tier. If your first membership date was on or after July 1, 1973 and prior to July 27, 1976, you could reinstate to Tier 2. If your first membership date was prior to July 1, 1973, you could reinstate to Tier 1. The benefits in Tiers 1 & 2 are generally better than those in Tier 4, so if you think you might be eligible you should think of applying. In order to make an informed decision, you should visit our Customer Service Center and speak to a representative. In most cases the benefits will outweigh any cost, but individual cases differ.

**LR:** Chapter 646 of the Laws of 1999  
**SR:** RSSL §645

**MILITARY SERVICE**

Federal and state law allow members to purchase service credit for time spent on active duty in the U.S. military – The Uniformed Services Employment and Reemployment Rights Act (USERRA) and Article 20 of the Retirement & Social Security Law, respectively. Each law has different provisions governing the eligibility criteria to purchase military service. A member is entitled to receive credit for Military Service under the law that provides him or her with the greatest benefit.

In all cases, military service must have been satisfactorily completed and a discharge under honorable circumstances received. A DD214 form is the most common proof of satisfactory military service. However, other acceptable documents of military service include a Public Health Service (PHS) Certificate (PHS 2893; PHS 1867) or a certificate from the military issued pursuant to Presidential Executive Order 11519 during the United States Post Office work stoppage.

**The Uniformed Services Employment and Reemployment Rights Act (USERRA)**

USERRA affords members/employees all of the rights, benefits and privileges that they would have enjoyed had they never left their City position for military service.

Members employed by the City of New York who are activated to military service in one of the military branches of the U.S. armed forces may apply to receive service credit for the period of time spent on military duty, including any training rendered during City employment. Individuals so activated need not have been NYCERS members at the time of activation.

Members/employees are required to apply to return to a City position within 14 days after termination of military duty if their military service lasted between 31 and 180 days. If their mili-
Military service lasted more than 180 days, such members are required to apply to return to a City position within 90 days after termination of military duty.

**NOTE:** An employee is entitled to receive his or her City salary while on Ordered Military Duty, not to exceed 30 work days in any one calendar year or in any one continuous period of military service. Employees do not have to repay salaries earned during this 30-day period.

**LR:** Chapter 161 of the Laws of 1984; Chapter 238 of the Laws of 2008  
**SR:** New York State Military Law, §242 subdivision 5-a

There is no time limit for purchasing military service under USERRA. The right to purchase such service does not terminate when membership terminates.

**Cost**

In general, members purchasing military service under USERRA are entitled to the rights, benefits and privileges they would have been entitled to had they never left their City position for military service. Therefore, the cost to purchase military service is the equivalent of the contributions required of the member had he or she never left for military service.

Regarding charging interest on contributions due, USERRA states: “No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service…” Therefore, no interest shall be included in any costs charged to the member.

Any payments made by the member via payroll deductions shall be made during the period beginning with the date of reemployment. The repayment duration is three times the period of the person’s service in the military, not to exceed five years.

Under USERRA, the maximum service credit allowed for voluntary military service is five years (not including any time purchased under Article 20 of the RSSL explained further below). No cap on service is applied if the military service is mandatory (e.g., draft, redeployment).

**Article 20 of the Retirement and Social Security Law**

Under Article 20 of the Retirement and Social Security Law (RSSL), members (not retirees or vestees) are eligible to purchase military service rendered in specified periods of war and conflict. To be purchasable, the military service must have been rendered during one of the following periods of war:

- World War II (12/07/41 – 12/31/46)  
- Korean War (06/27/50 – 01/31/55)  
- Vietnam Era (02/28/61 – 05/07/75)

**NOTE:** The entire period of active duty in the above wars did not have to be during the periods shown in the parentheses above. If at least part of the active military service was rendered during the dates shown in the parentheses, the member will be eligible to purchase credit for their entire period of active service, up to a maximum of three years. For example, a member who served in Vietnam from August 28, 1959 through August 27, 1962 will be eligible to purchase the full three years of military service credit, even though 1½ years of the active duty service was rendered prior to the dates shown for the Vietnam Era.

**OR**
During one of the following military conflicts:

- Lebanon* (06/01/83 – 12/01/87)
- Grenada* (10/23/83 –11/21/83)
- Panama* (12/20/89 – 01/31/90)

*As established by receipt of the armed forces expeditionary medal, the Navy expeditionary medal or the Marine Corps expeditionary medal or any other medals or certain ribbons.

OR

During hostilities participated in by the military forces of the United States in the theatre of operations in the following locations or the airspace above such locations:

- 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 (08/02/90 to the end of such hostilities)

No military time rendered in the wars or conflicts specified above will be purchasable unless the member has at least five years of Credited Service in NYCERS (not including any prior military service) at the time of making application for the purchase.

The maximum service credit allowed under Article 20 of the RSSL is three years (including military service purchased while a member of another public retirement system in New York City or State, but not including any military service purchased under USERRA).

**Cost**

The cost to purchase military service will be:

- the number of years of military service being purchased, times 3%, times the member’s salary earned during the 12-month period prior to the date of application for purchase of military service.

**LR:** Chapter 548 of the Laws of 2000  
**SR:** RSSL §1000

If a member is paying via payroll deductions and retires prior to the completion of payments, he or she must either pay the balance due in a lump sum (prior to the selection of a final retirement option) or he or she will only receive military service proportional to the amount paid before retirement.

The cost for active duty military service rendered in Operation Desert Storm is paid for by the City of New York. The service must have been rendered on or after August 1, 1990 and prior to January 1, 1993. In order to be eligible, the individual must have been a member of a retirement system at the time of activation. Eligible members must file a Military Buy-Back Application (Form #244) and satisfactory proof of military service.

**LR:** Chapter 469 of the Laws of 1991  
**SR:** NYS Military Law §243-b
Refunds
In the event military service purchased under Article 20 of the RSSL does not increase a member’s retirement allowance or death benefit, any payments made towards such purchase shall be refunded by NYCERS, with interest.

For In-Service Survivor Benefits, a refund (plus interest) is issued if:
1. The member dies in service, and
2. The member purchased military service under RSSL Article 20, and
3. The military service purchased does not produce a greater death benefit than that which would have been payable had the member not purchased such service.

For Retirees, a refund (plus interest) is issued if:
1. The retiree purchased military service under Article 20 of the RSSL while a member, and
2. The military service purchased does not produce a greater retirement allowance than the allowance that would have been payable had the member not purchased such service.

LR: Chapter 547 of the Laws of 2002
SR: RSSL §1000 subdivision 9

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.

A member must pay his or her Basic Member Contributions for time spent on union leave. On an annual basis, NYCERS sends a letter to each member on union leave detailing the contributions required.

PART-TIME SERVICE
City service rendered by an employee who is regularly scheduled to work 1,827 hours in a calendar year is considered full-time service. 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.

Part-time service is service in which an employee works less than 1,827 hours in a calendar year. Part-time service can be Membership Service, Purchased Service, Transferred Service, etc. Regardless of how part-time service is obtained, NYCERS will prorate credit on the basis of one year of full-time service – 1,827 hours worked in a calendar year.

LR: Chapter 749 of the Laws of 1992
SR: NYC Administrative Code §13-638.4; RSSL §609 subdivision a

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 who concurrently hold two or more NYCERS-eligible positions are required to make member contributions based on Wages earned from such positions. In return, members who
meet certain eligibility requirements may receive retirement benefits based on such Dual Employment.

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.

The earnings from two or more concurrently held 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 the amount of compensation that could have been earned from one full-time position during that period.

The earnings from one full-time position may be combined with the earnings from a concurrently held part-time position for the purpose of calculating the compensation base to be used in computing benefits.

Combining earnings is only possible where a member has held either two or more part-time positions in City service or a full-time position and a part-time position concurrently for a total of at least nine months in each of 10 consecutive years.

Under certain circumstances, a retiree may receive a post-retirement refund of member contributions attributable to a Dual Employment position. This occurs 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.

**LR:** Chapter 749 of the Laws of 1992
**SR:** NYC Administrative Code §13-638.4 subdivision f
LOANS

ELIGIBILITY
As a Tier 4 member, you are qualified to take a loan if you:

- Have completed one year of NYCERS membership, and
- Have a minimum of $1,334 in your Member Contribution Accumulation Fund (MCAF), and
- Are in active payroll status, and
- Are not in default on a current loan from NYCERS, and
- Are not retired.

NOTE: NYCERS must have your birth date on file before processing a loan.

BORROWING
A loan cannot exceed 75% of the contributions, with interest, last posted to your MCAF account. You may not borrow less than $1,000, and you can obtain only one loan in any 12-month period. The restriction to one loan in any 12-month period is by law and NYCERS is not permitted to make exceptions, even in the event of an emergency you may experience.

LR: Chapter 920 of the Laws of 1990
SR: RSSL §613-b subdivision b

APPLYING AND GETTING THE MONEY

Applying Online
MY NYCERS accountholders with registered Personal Identification Numbers can apply for a loan online. This online tool provides an efficient and resourceful way to apply for a loan. It allows members to explore different loan options before settling on a loan amount and choosing which repayment option best fits their needs. This tool is particularly helpful for members with outstanding loans, since tax laws create a greater likelihood that all or part of your new loan will be taxable. By applying online, members will be presented with taxable and/or tax-free options to choose from and can weigh each option carefully. In addition, current procedures require members to sign a tax authorization letter before a taxable loan can be processed. By applying online, members selecting a taxable loan option can fulfill this requirement by electronic signature at the end of the online application.

Applying by Mail or In Person
An original (neither a copy nor a fax) Loan Application (Form #302) can be mailed or dropped off in person at our Customer Service Center. If your loan is taxable, a trip to our Customer Service Center will save you time, as you can sign the tax authorization letter immediately after filing your application. If you apply by mail and your loan is taxable, a tax authorization letter will be mailed to you.

Getting the Money
Members will usually receive a new loan within 15 business days after receipt of their loan application. Members have the option of receiving their loan by mail (paper check) or deposited directly into their bank checking or savings account through Electronic Funds Transfer (EFT).
We recommend EFT because:
- It is SAFE - eliminates the risk of your loan check being lost or stolen
- It is FAST - no waiting for the check to clear your bank – the funds are immediately available
- It is EASY - no more trips to the bank - no more waiting in line to deposit the check

JOIN THE THOUSANDS OF NYCERS MEMBERS AND PENSIONERS WHO SELECTED EFT FOR THE DEPOSIT OF THEIR LOAN OR PENSION FUNDS. THEY OVERWHELMINGLY CONFIRM THAT EFT IS SAFE, FAST, AND EASY.

REPAYMENT

When you apply for a loan, you agree to repay your loan through payroll deductions while on active City payroll. If you should leave City service or are simply off payroll for another reason, you are still responsible for payments due on your loan. Failure to make your payments in a timely manner may result in your loan being declared a "Non Performing Loan." If this occurs, not only are you still responsible for paying off your outstanding loan, but your loan will be subject to Federal taxation and may be subject to early distribution penalty charges imposed by the Internal Revenue Service (IRS).

You may choose to pay off the full amount of your outstanding loan in a lump sum at any time (no partial lump-sum payments are permitted, except at retirement before you are finalized). Determining your pay-off amount is simple! Just visit our website and locate "Pay-off Figure" under "Your Loan Activity" on your MY NYCERS page (this feature is only available to MY NYCERS accountholders with registered Personal Identification Numbers [PINs]). In addition, MY NYCERS accountholders with registered PINs may take advantage of an online payment feature called E-payments. Payment can be made by a credit or debit card, or by online check.

NOTE: The current interest rate is 7.3% (7% basic interest rate plus 0.3% mandatory loan insurance premium).

LR: Chapter 920 of the Laws of 1990
SR: RSSL §613-b subdivisions d and f

While repaying your loan by payroll deductions, you must pay at least 2% of your gross salary per pay period, and the payments must be sufficient to repay the amount borrowed plus interest within five years. Deductions for repayment of your loan should begin in the first or second pay period after your loan application has been processed. If loan payments are not deducted from your paycheck following the second pay period after your loan has been processed, notify NYCERS immediately. If you do not notify NYCERS, interest will continue to accrue on your outstanding balance.

LR: Chapter 920 of the Laws of 1990
SR: RSSL §613-b subdivision c

If you wish to change the amount of your repayment, you may elect one of the following two options:

- File a “Change of Repayment Form” (Form #309)
  You may change the amount of your repayment only once in any 12-month period at a one-time service fee of $40.00 (money order only).
- Renegotiate your loan
  When you are eligible for another loan you may change your loan repayment schedule by
borrowing additional amounts and changing the repayment schedule based on the new consolidated loan. Be forewarned, however, that a renegotiated loan may have tax consequences.

All loans (except Non-Performing Loans) are fully insured against the death of a member 30 days after being issued.

If you are called to Active Military Duty, the obligation to repay your loan will be suspended, and will be extended for the same amount of time that you are on Military Duty. However, the extension cannot exceed the five-year limitation on loan repayments. Interest will continue to accrue, but at the reduced rate of 6% plus the 0.3% loan insurance premium.

**LR:** Patriot Plan; Chapter 106 of the Laws of 2003  
Patriot Plan; Chapter 127 of the Laws of 2004 (one-year extension)  
Patriot Plan; Chapter 150 of the Laws of 2005 (one-year extension)  
Patriot Plan; Chapter 56 of the Laws of 2006 (two-year extension)  
Patriot Plan; Chapter 133 of the Laws of 2008 (two-year extension)

**SR:** Unconsolidated Law; Section 42 of Chapter 106 of the Laws of 2003

**FEES**

- By law, NYCERS is authorized to assess a service fee for processing each loan, which is used for the administration of loans for Tier 4 members. As of July 1, 2009, the service fee is $40.00. This fee is automatically deducted from the loan check.

  **LR:** Chapter 920 of the Laws of 1990  
  **SR:** RSSL §613-b subdivision e

- There is a loan insurance premium of 0.3% (in addition to the 7% interest rate). Loan insurance is mandatory and you may not elect to waive the premium.

  **LR:** Chapter 920 of the Laws of 1990  
  **SR:** RSSL §613-b subdivision f

- There is a $40.00 service fee when filing Form #309 for a Change of Repayment.

- If you are no longer on payroll, contact NYCERS to switch to direct payment; however, there is a $5.00 per-payment fee for each direct payment.

  **NOTE:** If you are on union leave, you must repay your loan by direct payment, but the $5 per-payment fee is waived.

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

**CONSEQUENCES OF NON-PAYMENT:**

If you fail to make a payment on an outstanding loan for over 90 days for any reason, the loan is in default – it is a Non-Performing Loan. This means that:

- You will not be eligible to take out another loan until you have paid the outstanding balance of your Non-Performing Loan in full.

- Your Non-Performing Loan will be taxable for Federal income tax purposes as a taxable distribution. There is an additional 10% early distribution tax penalty for members who are under age 59½.

- Your Non-Performing Loan will no longer be insured against your death and if a beneficiary is due to receive a benefit, the amount of that benefit will be reduced by the amount of the outstanding loan.
SPECIAL NOTE FOR MEMBERS WHO TRANSFERRED BETWEEN CITY AGENCIES:
If you transferred between City agencies and since the transfer there have been no deductions in your paycheck for loan repayments, contact NYCERS to arrange to make direct partial payments. If you do not, compound interest will continue to accrue on the loan and it may be classified as a Non-Performing Loan.

LEAVING CITY SERVICE
You need to continue to make loan payments even if you have Vested (meaning you left City service but are not yet eligible to collect your retirement benefit). If you do not, your loan will go into default, be subject to Federal taxation and early distribution penalty charges will be imposed by the IRS (if applicable). In addition, interest will continue to accrue on the outstanding loan balance, perhaps even to the extent that it will significantly reduce any future retirement benefit you are entitled to.

To repay a loan after you leave the City payroll, you may elect to either:

- Pay off your entire loan at any time. MY NYCERS accountholders with registered PINs can view their “Pay-off Figure” under “Your Loan Activity” on their MY NYCERS webpage and pay the outstanding loan balance through E-payments. For all others, visit NYCERS or write to ask for a repayment amount and date (make sure you include your member number, last 4 digits of your Social Security Number, current address and your signature). Lump-sum repayment can be made by bank check or money order; OR
- Make direct monthly repayments. Notify NYCERS if you want to repay directly. There is a $5 per-payment fee charged for each direct payment you make.

LOAN AT RETIREMENT
If eligible, you may take a loan at or near retirement. This type of loan will not be issued until after your retirement date as NYCERS completes a review of your account. It may take up to one month to complete the review and issue your loan check.

A loan taken at the time of retirement will permanently reduce your retirement benefit. The amount of the reduction in your benefit depends on your age at retirement and the size of the loan. An outstanding loan at the time of retirement which has not been paid will also permanently reduce your retirement benefit. For Non-Performing Loans, since interest continues to accrue up to the retirement date, the outstanding balance may increase to such a sizeable amount as to significantly decrease the retirement benefit that may be otherwise payable.

The table below illustrates the benefit reduction in dollars for every $1,000.00 of an outstanding loan for some sample ages (based on a table of factors for 2012 Retirements):

<table>
<thead>
<tr>
<th>AGE PAYMENT BEGINS</th>
<th>REDUCTION PER $1000 (RANGE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>$59.90</td>
</tr>
<tr>
<td>57</td>
<td>$62.35</td>
</tr>
<tr>
<td>62</td>
<td>$69.89</td>
</tr>
<tr>
<td>65</td>
<td>$75.60</td>
</tr>
</tbody>
</table>

As of August 16, 2005, retirees are permitted to repay the total amount of the outstanding loan at any time after retirement.
By doing that, you will increase your monthly pension checks prospectively only. Upon repayment of the loan in full, your benefit will revert to what it would have been had it never been reduced by the actuarial equivalent of your outstanding loan.

**LR:** Chapter 511 of the Laws of 2005  
**SR:** RSSL §613-b subdivision i

### TAXABLE LOAN

**Active Members:**

The taxability of your loan is determined by the amount being borrowed and/or the length of the period it is being repaid. If subject to tax, you will be provided with a tax authorization letter (online applicants are provided with a taxable option), as the taxable portion of the loan is treated as ordinary income for Federal income tax purposes. In addition, members under the age of 59½ will incur a 10% early distribution penalty tax assessed by the IRS. Tier 3 and 4 loans are subject to taxation if the total outstanding loan is both:

- Greater than $10,000
- More than 50% of the member’s non-forfeitible accrued vested benefit (the present value of your Vested Retirement Benefit).

When borrowing results in a consolidated loan amount over $50,000, the excess over $50,000 is subject to Federal income tax.

**Active Members with an Outstanding Loan:**

If you have an outstanding loan and decide to apply for a new loan, you could incur a taxable event. NYCERS will offer you three methods to renegotiate your loan to help you make an informed decision about the tax consequences associated with the loan. Each method may contain taxable and/or tax-free options.

If you apply for the new loan online, you will be presented with taxable and/or tax-free options to choose from. If you apply for the new loan by filing Form #302 by mail or in person, you will be provided with a tax authorization letter that will outline the three methods and taxable and/or tax-free options. You must select how you want the loan to be distributed before your loan application can be processed. If you apply online, you make your selection during the completion of the online application. If you apply in person at NYCERS, you make your selection during the very same visit. If you apply by mail, you must return the tax authorization letter indicating your selection to NYCERS.

### THREE METHODS

1. **Refinance**

You have an outstanding loan that has not yet been paid in full. If your new loan is approved, NYCERS will consolidate the existing balance with the new amount, and a new repayment schedule (not to exceed 5 years from the date of your refinanced loan) will be implemented. This method may result in the highest tax consequence.

**Example:** Your outstanding loan currently amounts to $1,650.00 with 27 remaining payments of $63.82. You now want to borrow an additional $10,000.00. If you choose to repay both loans by the “Refinance” method, your new outstanding loan will amount to $11,650.00 and your new repayment schedule will be $107.05 per payment for 130 payments (5 years from the date of your refinanced loan).
2. **Original Terms**
You have an outstanding loan that has not yet been paid in full. If your new loan is approved, the amount of the new loan will be added to the existing balance; however, the consolidated amount will be paid within the original repayment schedule (not to exceed 5 years from the date of your original loan).

**Example:** Your original loan repayment schedule is 5 years. Your outstanding loan currently amounts to $1,650.00 with 27 remaining payments of $63.82. You now want to borrow an additional $10,000.00. If you choose to repay both loans under "Original Terms," your new repayment schedule will be $448.65 per payment for the same remaining balance of payments (27).

3. **New Loan**
You have an outstanding loan that has not yet been paid in full. If you repay the outstanding loan balance you will be eligible to apply for a new loan with a new repayment schedule of 5 years.

**Example:** Your outstanding loan currently amounts to $1,650.00 with 27 remaining payments of $63.82. You now want to apply for a new loan of $10,000.00. If you repay your outstanding loan ($1,650.00), your new loan amount will be $10,000.00 and the repayment schedule will be $91.92 per payment for 130 payments (5 years from the date of your new loan).

**TAXES AT RETIREMENT**
IRS regulations require NYCERS to treat pension loans as a retirement distribution if they are taken at, or near, the time of retirement. In addition, an outstanding loan balance at retirement will trigger Federal income tax liability if the amount you received is considered taxable money. However, you may roll over the taxable portion to a Traditional IRA, Roth IRA or Employer Plan. In the event you choose not to roll over the taxable amount, NYCERS is required to deduct 20% Federal withholding tax before issuing the check (or disbursing via EFT). If you have not yet reached the age of 55, and you choose not to roll over the taxable distribution, you will also be subject to an additional IRS 10% early distribution penalty tax when you file your taxes for that calendar year.

If you elect to roll over the eligible distribution, it is your responsibility to make sure that the institution you name will be able to receive this direct rollover from NYCERS.

The taxable portion of any outstanding loan balance is also available for rollover at retirement. However, you must accomplish this rollover on your own because the distribution was previously given to you. You will receive a post-retirement rollover letter approximately 30 days after you have retired explaining the exact amount that is eligible for rollover. You will have 60 days from the date of that letter to roll over the taxable portion to your Traditional IRA, Roth IRA or Employer Plan.
LEAVING CITY SERVICE
LEAVING CITY SERVICE

REFUNDS

Tier 4 members in the 62/5 Plan who resign or separate from City service with less than 10 years of Credited Service can voluntarily apply for a refund of the Basic Member Contributions held in their Member Contribution Accumulation Fund (MCAF) account inclusive of interest accrued. 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 the right to a Vested Retirement Benefit before a refund can be processed. This is necessary because any Tier 4 member who leaves City service with at least five years of Credited Service has the right to a Vested Retirement Benefit. Tier 4 members with 10 or more years of Credited Service are not eligible for a refund of their Basic Member Contributions and interest in the MCAF.

LR: Chapter 389 of the Laws of 1998
SR: RSSL §613 subdivision c

Tier 4 members in the 62/5 Plan who resign or separate from City service with less than 5 years of Credited Service and do not return to City service within a five-year period will have their membership terminated by operation of law. A membership terminated in such fashion is commonly referred to as a “five-year out.” A five-year out can also occur if the time out of City service aggregates more than five years in any ten consecutive year period. Such members may apply to receive a refund of the Basic Member Contributions held in their MCAF account, inclusive of interest earned up to the five years after resignation or termination of covered employment. Members who last joined NYCERS prior to July 16, 1989 may leave their Basic Member Contributions in the MCAF where such contributions will continue to accrue interest until their 62nd birthday. However, if such members apply for a refund before age 62, interest will accrue only until five years from separation if earlier than the date of the refund.

Termination of Membership
LR: Chapter 929 of the Laws of 1937; Chapter 550 of the Laws of 1938
SR: NYC Administrative Code §13-146

Refund
LR: Chapter 470 of the Laws of 1989
SR: RSSL §613 subdivision c

VESTING

Vesting refers to your right to receive retirement benefits, even if you terminate employment before you are eligible for payment of a Service Retirement Benefit. Think of it as freezing your retirement benefit and thawing it out when you reach age 62.

ELIGIBILITY AND PAYABILITY DATE

You can vest in the 62/5 Plan if you have at least five years of Credited Service before you have separated from City service. Upon reaching the age of 62, you are able to collect a Vested Retirement Benefit. The date on which you reach age 62 is commonly referred to as your Payability Date.

Five-Year Vesting
LR: Chapter 389 of the Laws of 1998
SR: RSSL §612 subdivision a
Tier 4 members with Tier 3 rights (those who joined NYCERS after July 26, 1976 and prior to September 1, 1983) can collect a Vested Retirement Benefit before their Payability Date, but the benefit is subject to a reduction and is offset by 50% of the Primary Social Security Benefit at age 62. See section on Tier 4 members with Tier 3 rights for additional details on page 66.

**LR:** Chapter 890 of the Laws of 1976, as amended by Chapter 389 of the Laws of 1998  
**SR:** RSSL §516 subdivision b

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**FILING REQUIREMENTS**

If you have at least five years of Credited Service, your pension vests automatically and filing paperwork with NYCERS at the time of separation from City service is not required. However, NYCERS encourages members who separate from City service to file a Notice of Intention to File for a Tier 3 or Tier 4 Vested Retirement Benefit Form (Form # 254). By doing so, NYCERS can send you important information regarding your vested membership. For example, in addition to receiving an Annual Disclosure Statement, you will receive a Retirement Account Summary detailing your account balances, deficit and/or outstanding loan amounts (where applicable) and your total years of service. Additionally, NYCERS will send you an Application for Payment of a Vested Retirement Benefit (Form #266) approximately 90 days prior to your Payability Date. Filing Form #266 is required in order to begin collecting your Vested Retirement Benefit.

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**PURCHASING SERVICE CREDIT**

As an active member (on active payroll) you are eligible to purchase service credit for previous public service rendered in New York City or New York State. Once you separate from City service, you may NOT initiate a new claim or submit an application to purchase previous service credit. However, if payroll deductions for the purchase of previous service were not completed at the time you separated from City service, you can pay off the balance in a lump sum and receive credit for the service so long as you have completed the purchase prior to making a final option selection at retirement (which occurs after your Payability Date has passed). If you decide to wait until you get closer to your Payability Date to complete the purchase, you should know that the payoff amount continues to grow as interest continues to accrue on the unpaid balance. So, the longer you wait the higher the payoff amount. If you choose not to pay off the balance, you will receive credit for the time you purchased up to your separation date.

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**DEATH BENEFITS FOR VESTED MEMBERS**

If you die prior to your Payability Date, and at a time and in a manner which did not result in payment of an Ordinary Death Benefit to your beneficiary(ies), a lump-sum death benefit will be paid to the beneficiary(ies) you last designated if you have 10 or more years of Credited Service. The death benefit amount is based on 50% of the death benefit that would have been payable if you had died on your last day in active service plus the return of the contributions in your MCAF plus interest. If you did not render 10 or more years of Credited Service, only the return of the contributions in your MCAF plus interest will be payable to your beneficiary(ies).

**LR:** Chapter 388 of the Laws of 1998  
**SR:** RSSL §606-a
If you wish to change your last designated beneficiary(ies) on file, you may do so at any time prior to making a final option selection at retirement (which occurs after your Payability Date has passed) by filing a properly executed Designation of Beneficiary Form.

HEALTH INSURANCE FOR VESTED MEMBERS

NYCERS does not administer health benefits for employees of NYC mayoral agencies or for employees of any of the Participating Employers of NYCERS. It is strongly recommended that you visit your agency’s personnel office to find out how you can continue your health benefit coverage into retirement.

TRANSFERS

TO ANOTHER NYC OR NYS PUBLIC RETIREMENT SYSTEM

There are eight public employee retirement systems in New York State; NYCERS is one of the eight. If you accept another position with the City or State of New York (or any of its political subdivisions) 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 Basic Member Contributions, or before your membership is terminated by operation of law as mentioned in the “Refunds” subsection. In order to transfer to another system, you must file a form (Form #321) with NYCERS. If you have less than five years of Credited Service at the time of separation, you must file the transfer form within five years from the date you separate from City service.

FROM ANOTHER NYC OR 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 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.

LR: Chapter 687 of the Laws of 1955
SR: RSSL §43

TRANSFERRED CONTRIBUTORS

If you resign from all positions that entitle you to membership in NYCERS, and you accept another position in City service that entitles you to 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 transferring your membership, provided you:

- Accept the other position within 60 days of resigning from your current job; AND
- Do not withdraw your Basic Member 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 (if applicable) and to accrue benefits with NYCERS.

**LR:** Chapter 685 of the Laws of 1964 subdivision a; Chapter 570 of the Laws of 2005 subdivision b  
**SR:** NYC Administrative Code §13-188

**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.

### 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.

**POLICE**  
**LR:** Chapter 625 of the Laws of 1947  
**SR:** NYC Administrative Code §13-143

**FIRE**  
**LR:** Chapter 738 of the Laws of 1948  
**SR:** NYC Administrative Code §13-144

### TERMINATING MEMBERSHIP

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

- A member with less than ten years of Credited Service may request a refund of his or her Basic Member Contributions after separating from City service; **OR**
- A membership is automatically terminated if a member has less than five years of Credited Service and five years have passed since his or her separation from City service -- with or without the member formally requesting a refund; **OR**
- The member retires and is assigned a pension number; **OR**
- The member transfers his or her membership to another NYC or NYS public employee retirement system; **OR**
- The member dies

**LR:** Chapter 929 of the Laws of 1937; Chapter 550 of the Laws of 1938  
**SR:** NYC Administrative Code §13-146
THE SERVICE RETIREMENT PROCESS

FILING AN APPLICATION

Tier 4 members in the 62/5 Plan who are on active payroll and meet all eligibility requirements may file a service retirement application (Form #521) no earlier than 90 days before, and no later than one day before, their effective retirement date.

Before filing an application with NYCERS, it is strongly recommended that you coordinate with your employer to determine if you are entitled to payment of any accumulated annual leave. Coordinating with your employer is essential to determining your last day paid, which is necessary to determine your correct retirement date.

Getting your retirement date correct is imperative. If your retirement application is processed with the wrong retirement date there can be negative consequences. For example, unused leave time may be paid in a lump sum (generally, managers) or through paychecks (generally, non-managers). For non-managers, if you are being paid for unused leave time through paychecks you are still considered an active employee. Your retirement date should be the day after the last day you are paid by your agency. If you select a retirement date prior to your last day paid you will not receive service credit following your retirement date. Moreover, any salary after your retirement date will be subject to post-retirement earnings limitations (see page 36).

If it is important to you to receive your first pension check as soon as possible, you should meet with your employer to determine your last day of work so that you can select a retirement date that falls on the first or the second day of the month. Your retirement date will dictate when you receive your first "advance payment," which is a temporary partial pension payment until such time as NYCERS can finalize your pension.

For example:

<table>
<thead>
<tr>
<th>RETIREMENT DATE</th>
<th>FIRST ADVANCE PAYMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>JANUARY 2</td>
<td>JANUARY 31</td>
</tr>
<tr>
<td>JANUARY 3</td>
<td>FEBRUARY 28</td>
</tr>
</tbody>
</table>

NOTE: No advance pension payment will be sent to you until NYCERS has a copy of your birth certificate on file. Also, your pension will be paid in monthly installments. The law does not permit payment of your pension in a lump sum.

PROCESSING THE APPLICATION

Once your application is filed, NYCERS checks your file for service and salary records, calculations are made and data is entered into our computer system. Also, requests for missing information are made of your agency and/or you when necessary. Finalizing your pension depends on completion of this process and your selection of a retirement option and may take additional time depending on the volume of retirement applications received at the time you file.

Interim Option Selection

All members are strongly encouraged to select an "Interim Option" on their retirement application. This precautionary measure enables you to leave some form of pension payment to a beneficiary...
should you die before a final option selection is made and your pension is finalized. You may choose to be temporarily covered by Option 1 (100% Joint-and-Survivor) or Option 4 (Ten-Year Certain). Please see the "Retirement Options" subsection of this section for more information. Selecting an Interim Option protects you and whomever you designate as your beneficiary in this temporary period. If you do not select an Interim Option and you die before your pension benefit is finalized, it is assumed that you selected the Maximum Retirement Allowance and your pension will not continue upon your death.

Final Option Selection
Once your file is thoroughly reviewed and checked for any missing information, a computation of your retirement benefit under various options available to you is done. A final option package is then sent to you containing the appropriate option forms and informational brochures. Here is some important information you should know:

- You will have 60 days from the date on the final option package in which to choose a final option.
- If you do not choose an option in that 60-day period, your retirement benefit will be processed under the Interim Option you selected on your retirement application. If no Interim Option was selected by you on your retirement application and you do not file an option selection in the 60-day period, you will receive the Maximum Retirement Allowance – the maximum benefit available to you without optional modification, with all payments ceasing upon your death.

Finalizing Your Pension
After you have selected an option (or after the Interim Option or Maximum Retirement Allowance has been selected for you because you did not select an option), you are placed on the pension payroll for the full amount of your benefit. This will include retroactive amounts for the difference between your advance payment and finalized pension payment.

A letter will be sent to you stating the details of your retirement. Also included is information you will need for Federal income tax purposes. 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 to have taxes withheld on a different basis, or to have no taxes withheld. Your retirement application has a Federal tax withholding section and NYCERS Form #349 is available for you to indicate your preference.

HELPFUL HINTS - OTHER IMPORTANT INFORMATION

- The sooner you file an option selection, the sooner NYCERS can process your full retirement benefit.
- You may change your option selection no later than the last business day prior to the check date (payment date for Electronic Funds Transfer [EFT]) of your first full payment.
- 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 (Form #399) will be sent to you. NYCERS cannot take a report of non-receipt of a pension check until the 10th of the month. However, 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 through EFT. Simply complete Form #380 and return it to NYCERS. 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.

**HEALTH INSURANCE**

NYCERS does not administer health insurance benefits for its members. If you have any questions in this regard you should contact your agency’s personnel office. For most City employees, the Office of Labor Relations administers health insurance for retirees. The Health Benefits Divisions of the NYC Transit Authority or MTA Bridges and Tunnels administers health insurance for their respective employees and retirees. Here is the contact information for each entity:

- **NYC Office of Labor Relations - Health Benefits Division** - (212) 513-0470
- **NYC Transit Authority - Employee Benefits** - (347) 643-8550
- **MTA Bridges & Tunnels - Benefits Division** - (646) 252-7935

**POST-RETIREMENT EARNINGS LIMITATIONS FOR SERVICE RETIREES**

Section 212 of the Retirement and Social Security Law (RSSL) sets the amount a retired person may earn during a calendar year in public employment in New York State or New York City without loss, suspension or diminution of his or her retirement allowance. The maximum earnings in 2008 and thereafter is $30,000. This dollar limit is subject to change in any given year through the enactment of legislation. If a change is made, the latest amount will be in the SPD Update.

Post-retirement earnings limitations do not apply to those who are 65 or older or those under age 65 who work in the private sector, the Federal Government or enter public employment in another state. In addition, these limitations do not apply to City retirees who are employed with a public benefit corporation in New York State. However, NYCERS retirees who retired from a public benefit corporation (except NYC Transit) and accept employment with a City agency are subject to the earnings limitations. You are strongly encouraged to consult with a NYCERS representative before you accept public employment as a retiree.

**LR:** Chapter 729 of the Laws of 1996; Chapter 474 of the Laws of 2002; Chapter 74 of the Laws of 2006

**SR:** RSSL §212

**WITHDRAWING AN APPLICATION FOR SERVICE RETIREMENT**

You may withdraw your application for service retirement by filing Form #542 with NYCERS up to the day before your effective date of retirement.

**CHANGING YOUR RETIREMENT DATE**

- If you have filed for retirement and want to change your retirement date, you may extend your retirement date up to 90 days from the original filing date. Any extension longer than 90 days will require you to withdraw your original application.

- If you want to retire before the retirement date already on file with NYCERS, be sure to file Form #543 before the new effective retirement date.
RETIREMENT OPTIONS

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 and the impact on your retirement allowance?
- Can you choose more than one person to receive retirement income and can you change the person(s) you choose after you’ve been retired for some time?

You can provide for continuing retirement income to a beneficiary by selecting a retirement option. Selecting a retirement option means you will receive a reduced retirement allowance for your lifetime in exchange for providing some type of continuing income to your beneficiary. If you do not select a retirement option in a timely manner, you will receive the Maximum Retirement Allowance with all payments ceasing upon your death, unless you selected an Interim Option on your retirement application, in which case your Interim Option will take effect.

The following Retirement Options apply to all Tier 4 Service Retirements, Vested Retirements and Disability Retirements.

MAXIMUM RETIREMENT ALLOWANCE

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 highest benefit and is payable to you for as long as you live. However, no further payments will be made after your death.

OPTION 1 (100% JOINT-AND-SURVIVOR)

Option 1 is intended for those who wish to ensure that a designated beneficiary will continue to receive a fixed annual lifetime benefit after their death. Option 1 is a reduced benefit that is payable to you for your lifetime. 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. If your designated beneficiary dies before you, you will continue to receive the reduced benefit for your lifetime with all payments ceasing upon your death.

OPTION 2 (75% - 50% - 25% 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 75% or less (in 25% increments) of the reduced benefit paid to you. The Option 2 reduction is not as great as the Option 1 reduction because the surviving beneficiary receives a lesser percentage of your pension benefit. All payments cease after the death of both you and your designated beneficiary. 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. If your designated beneficiary dies before you, you will continue to receive the reduced benefit for your lifetime with all payments ceasing upon your death.

**OPTION 3 (FIVE-YEAR CERTAIN)**

Option 3 provides the retiree with a reduced benefit for his or her lifetime. If the retiree dies within five years from the date of retirement, the reduced benefit will continue to be paid to the designated primary beneficiary for the unexpired balance of the five-year period. If the designated primary beneficiary predeceases the retiree, the payments due for the remainder of the five-year period are continued to the retiree's contingent beneficiary, if there is one. If none exists, the balance is paid in a lump sum to the estate of the retiree. Should the designated primary beneficiary 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, but only within five years from the date of retirement.

**OPTION 4 (TEN-YEAR CERTAIN)**

Option 4 provides the retiree with a reduced benefit for his or her lifetime. If the retiree dies within ten years from the date of retirement, the reduced benefit will continue to be paid to the designated primary beneficiary for the unexpired balance of the ten-year period. If the designated primary beneficiary predeceases the retiree, the payments due for the remainder of the ten-year period are continued to the retiree's contingent beneficiary, if there is one. If none exists, the balance is paid in a lump sum to the estate of the retiree. Should the designated primary beneficiary 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, but only within ten years from the date of retirement.

**OPTIONS 1-4**

LR: Chapter 414 of the Laws of 1983
SR: RSSL §610 subdivision a

**OPTION 5 (50% OR 100%)**

Option 5 is known as the "pop-up" option. Under this option, your designated beneficiary will receive the benefit payable under the 50% or 100% joint-and-survivor option (see Option 1 or Option 2 [50% only]). 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 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.

**OPTION 5**

LR: Chapter 592 of the Laws of 1992
SR: RSSL §610 subdivision a
CALCULATING YOUR RETIREMENT BENEFIT

Members in the 62/5 Plan must be at least age 62 and have five or more years of Credited Service, of which two years is Membership Service, to be eligible to receive an unreduced Service Retirement Benefit. Each year of service is calculated at a certain percentage contingent upon the years of Credited Service you've accumulated. The calculation is as follows:

| Members with less than 20 years of Credited Service | 1.67% for each year |
| Members with 20-30 years of Credited Service | 2% for each year |
| Members with more than 30 years of Credited Service | 2% for each year up to 30 years, PLUS 1.5% for each year in excess of 30 |

LR: Chapter 266 of the Laws of 1998  
SR: RSSL §604 subdivisions a, b and c

At retirement, the number of years of Credited Service you have will be confirmed and the Maximum Retirement Allowance payable to you will be calculated by multiplying:

Years of Credited Service X Applicable percentage X Final Average Salary

The following table illustrates hypothetical Maximum Retirement Allowances for members in the 62/5 Plan with 16-25 years of Credited Service. The table assumes a range of Final Average Salaries (calculating Final Average Salary is discussed on the next page). Meeting the 20-year threshold allows members to attain a higher benefit calculation, since reaching 20 years of Credited Service increases the calculation to 2% for each year. It is urged that you pay particular attention to the difference between the Maximum Retirement Allowance of a member with 19 years of Credited Service and a member with 20 years of Credited Service.

EXAMPLES OF MAXIMUM RETIREMENT ALLOWANCES

<table>
<thead>
<tr>
<th>YEAR OF SERVICE</th>
<th>IF YOU MAKE BETWEEN $60,000 - $90,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FINAL AVERAGE SALARY</td>
</tr>
<tr>
<td>$60,000</td>
<td>$65,000 $70,000 $75,000 $80,000 $85,000 $90,000</td>
</tr>
<tr>
<td>16</td>
<td>$16,000.00 $17,333.33 $18,666.67 $20,000.00 $21,333.33 $22,666.67 $24,000.00</td>
</tr>
<tr>
<td>17</td>
<td>$17,000.00 $18,416.67 $19,833.33 $21,250.00 $22,666.67 $24,083.33 $25,500.00</td>
</tr>
<tr>
<td>18</td>
<td>$18,000.00 $19,500.00 $21,000.00 $22,500.00 $24,000.00 $25,500.00 $27,000.00</td>
</tr>
<tr>
<td>19</td>
<td>$19,000.00 $20,583.33 $22,166.67 $23,750.00 $25,333.33 $26,916.67 $28,500.00</td>
</tr>
<tr>
<td>20</td>
<td>$20,000.00 $21,666.67 $23,333.33 $25,000.00 $26,666.67 $28,333.33 $30,000.00</td>
</tr>
<tr>
<td>21</td>
<td>$21,250.00 $22,791.67 $24,500.00 $26,250.00 $27,916.67 $29,583.33 $31,250.00</td>
</tr>
<tr>
<td>22</td>
<td>$22,500.00 $24,000.00 $25,625.00 $27,375.00 $29,000.00 $30,625.00 $32,250.00</td>
</tr>
<tr>
<td>23</td>
<td>$23,750.00 $25,291.67 $26,950.00 $28,750.00 $30,416.67 $32,091.67 $33,750.00</td>
</tr>
<tr>
<td>24</td>
<td>$25,000.00 $26,625.00 $28,375.00 $30,125.00 $31,875.00 $33,625.00 $35,375.00</td>
</tr>
<tr>
<td>25</td>
<td>$26,250.00 $27,875.00 $29,625.00 $31,375.00 $33,125.00 $34,875.00 $36,625.00</td>
</tr>
</tbody>
</table>

WWW.NYCES.ORG
Please note that the figures in the table represent Maximum Retirement Allowances which are based on payments to you during your lifetime only. A deficit in any of your contribution accounts, or outstanding loans at retirement, will result in a reduction in your retirement benefit.

**FINAL AVERAGE SALARY**

The compensation base that is used to calculate your pension benefit is referred to as your Final Average Salary (FAS). Your FAS is defined in law as the greater of: 1) the average of wages earned in any three consecutive calendar years; or 2) the average of wages earned in the 36 months immediately preceding your retirement date.

The FAS is not determined by a mere average of the wages in either 1 or 2 above. Due to a provision in law referred to as the “Kingston Limitation,” wages earned in any one year used in the FAS computation cannot exceed the average of the previous two years by more than 10 percent. If the wages earned in one year of the FAS exceeds the average of the previous two years by more than 10 percent, the amount in excess of 10 percent is excluded from the FAS computation. Please refer to the example below to illustrate using hypothetical salaries.

**LR:** Chapter 414 of the Laws of 1983  
**SR:** RSSL §608 subdivision a

### KINGSTON LIMITATION

WAGES EARNED IN ANY YEAR USED IN THE FAS COMPUTATION CANNOT EXCEED MORE THAN 10% OF THE AVERAGE OF THE PREVIOUS TWO YEARS

<table>
<thead>
<tr>
<th>Year</th>
<th>2011</th>
<th>2010</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$50,000</td>
<td>$45,000</td>
<td>$40,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>2010</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>$45,000</td>
<td>$40,000</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>2009</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>$40,000</td>
<td>$35,000</td>
<td>$30,000</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>2008</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>$35,000</td>
<td>$30,000</td>
<td></td>
</tr>
</tbody>
</table>

**AVERAGE $42,500**  
**AVERAGE $37,500**  
**AVERAGE $32,500**

<table>
<thead>
<tr>
<th>Year</th>
<th>2011</th>
<th>2010</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>$46,750 ($42,500 + 10%)</td>
<td>$41,250 ($37,500 + 10%)</td>
<td>$35,750 ($32,500 + 10%)</td>
<td></td>
</tr>
</tbody>
</table>

\[= \frac{$123,750}{3} = $41,250\text{ (FAS)}\]

In this example, each year exceeds the average of the previous two years by more than 10%. Therefore, instead of the FAS being an average of the wages actually earned ($45,000), it is reduced to $41,250.

**MISCELLANEOUS FAS ISSUES**

- To determine the FAS for part-time service, NYCERS computes hours worked per year (service credited at no more than 70 hours in a two-week pay period), the sum of which equals 1,827 hours (a full year of service). In other words, NYCERS may be required to use more than one year of service in a part-time position to attain 1,827 hours for each year of the FAS. In an alternative computation, the wages earned in each of the six years immediately preceding your retirement date are added together and the sum is then divided by your years of Credited Service. Whichever computation provides the higher FAS is the one NYCERS will use for the benefit calculation.
If you receive a lump-sum paycheck in one of the years used in the FAS calculation for retroactive wage increases pursuant to a collective bargaining agreement, you will not be penalized by the Kingston Limitation. In other words, the wage increases will be applied to the years in which the money was earned, not the year in which the lump-sum paycheck for the retroactive increases was paid. If you have already retired, your pension will be revised to reflect the increases in salary.

Whether or not increases in compensation due to longevity pay or shift differentials can be included in your FAS is an issue governed by union contract. To find out if such additional compensation is pensionable, please consult with your public employee union.

**TIER EQUITY**

Under a law commonly referred to as “Tier Equity,” members in the 62/5 retirement plan may retire earlier than age 62, but no earlier than age 55. However, taking advantage of early retirement under Tier Equity carries a penalty – a permanent reduction in your retirement benefit. The reduction is based on your age when you file for retirement (Please see Age Reduction Table below). You must be at least age 55 and file for retirement while you are still in active payroll status to take advantage of Tier Equity. You cannot separate from City service and collect an early Vested Retirement Benefit with the penalty; you must wait until age 62 to collect a Vested Retirement Benefit, unless you are a Tier 4 Member with Tier 3 Rights (see page 66).

The following table shows the percentage reduction for various ages:

<table>
<thead>
<tr>
<th>AGE PAYMENT BEGINS</th>
<th>PERCENT OF BENEFIT REDUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>61</td>
<td>6%</td>
</tr>
<tr>
<td>60</td>
<td>12%</td>
</tr>
<tr>
<td>59</td>
<td>15%</td>
</tr>
<tr>
<td>58</td>
<td>18%</td>
</tr>
<tr>
<td>57</td>
<td>21%</td>
</tr>
<tr>
<td>56</td>
<td>24%</td>
</tr>
<tr>
<td>55</td>
<td>27%</td>
</tr>
</tbody>
</table>

**NOTE:** The percentage reduction is actually calculated per month. The percentages shown in the table assume retirement at exact ages for illustration purposes. Retirement between ages will be calculated on a prorated basis per month.

**LR:** Chapter 553 of the Laws of 2000
**SR:** RSSL §603 subdivision i (2)

**SPECIAL AGE REDUCTION PROVISIONS (TBTA ONLY)**

Bridge and Tunnel Officers, Sergeants, Lieutenants, Maintainers (all levels), and Laborers are able to retire earlier than age 62 without a benefit reduction. The age at which such members may retire without a benefit reduction depends on the number of years of “covered employment,” which is service rendered in one of the aforementioned titles. For each year of covered
employment prior to January 1, 2009, a four-month age reduction will apply. For example, a member with 12 years of covered employment will be eligible to retire at age 58 without a benefit reduction (48 months or 4 years earlier than age 62).

**LR:** Chapter 511 of the Laws of 1988  
**SR:** RSSL §651

**COST-OF-LIVING ADJUSTMENT (COLA)**

Once you meet eligibility thresholds after retirement, your pension benefit will be increased due to COLA. COLA is an annual adjustment to your retirement benefit that is based on the Consumer Price Index (CPI).

The following persons are eligible to receive COLA:

- Disability retirees, regardless of age, who have been retired for at least 5 years
- Service retirees, who are at least age 62 AND have been retired for at least 5 years
- Service retirees, who are at least age 55 AND have been retired for at least 10 years
- Beneficiaries receiving an Accidental Death Benefit, regardless of age, who have been receiving that benefit for at least 5 years
- Spouses receiving a joint-and-survivor option benefit are eligible to receive 50% of the monthly COLA that the retiree would have been eligible for

The following persons are not eligible for COLA:

- Most Tier 3 retirees, because the statutory escalation they are receiving is greater than the COLA which would otherwise be payable
- Non–spouse beneficiaries
- Beneficiaries of the 5- or 10-Year Certain Option

The COLA calculation is based on 50% of the CPI. This figure is then multiplied by either $18,000 or your Maximum Retirement Allowance (including any prior years’ COLAs), whichever is less. The result is then added to any previous permanent COLA amounts. The sum of these COLA figures equals the current year’s COLA payment. The COLA amount may not be less than 1% nor more than 3% in any year.

**LR:** Chapter 125 of the Laws of 2000  
**SR:** NYC Administrative Code §13-696
DOMESTIC RELATIONS ORDERS AND OTHER MARITAL ISSUES

Under the equitable distribution laws of the State of New York and other states, 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.

An ex-spouse cannot assign his or her portion of the member’s pension during his or her lifetime to another person. In addition, an ex-spouse cannot designate a beneficiary for his or her portion of the member’s pension to continue after his or her death. Unless there is an option selection naming the ex-spouse as a beneficiary, the ex-spouse’s portion will cease upon the death of the pensioner.

A portion of your current and/or future pension benefits may be assigned by Court Order to satisfy child support payments.

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

NY State Estate Powers of 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 pension or death benefit.
DISABILITY RETIREMENT

No one likes to think of becoming disabled. Though it may be unpleasant to think about, it is prudent to learn about NYCERS’ disability benefits.

In the event you become physically or mentally incapacitated and cannot continue to perform the duties of your job title, you may be eligible to collect a Disability Retirement Benefit, provided you meet the eligibility requirements specified below. In addition to meeting the eligibility requirements, the application filing process must be adhered to, so it is imperative that you review ALL requirements set forth in this section. If you are in a title covered by a special disability benefit, your eligibility and filing requirements may differ. Please refer to the “Special Disability Provisions” subsection for more details.

DISABILITY RETIREMENT - ELIGIBILITY

Provided that you meet the filing requirements for your title, you are eligible to receive a Disability Retirement Benefit at any age, if:

- You have ten or more years of Credited Service; **AND**

- NYCERS’ Medical Board determines that:
  1) you are physically or mentally incapacitated to perform the duties of your job title; **AND**
  2) you were so incapacitated at the time you ceased performance of your duties.

**LR:** Chapter 414 of the Laws of 1983  
**SR:** RSSL §605 subdivisions b(1) and c

Provided that you meet the filing requirements for your title, you are also eligible to receive a Disability Retirement Benefit at any age, if:

- You have less than ten years of Credited Service; **AND**

- NYCERS’ Medical Board determines that:
  1) you are physically or mentally incapacitated to perform the duties of your job title; **AND**
  2) you were so incapacitated at the time you ceased the performance of your duties; **AND**
  3) your disability is the result of an accidental injury sustained while a NYCERS member in City service, in the performance of your duties, and not caused by your own willful negligence.

**LR:** Chapter 414 of the Laws of 1983  
**SR:** RSSL §605 subdivision b(3)

**Definition of an Accident**

A stringent standard is used when determining which disabling injuries qualify as an accident. The term “accident” has been defined by the courts as “a sudden, fortuitous mischance, unexpected, out of the ordinary, and injurious in impact.” 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 while in the performance of duty due to an incident which involves routine lifting or bending would not qualify as an accident.

FILING AN APPLICATION FOR DISABILITY RETIREMENT

You must file an application for a Disability Retirement Benefit:

1. within three months from the last date you were being paid on the payroll, OR

2. while you are on a leave of absence without pay for medical reasons, either voluntarily or involuntarily, OR

3. no later than 12 months after the date you receive notice that your employment has been terminated, provided that you were on an approved leave of absence without pay for medical reasons, which was in effect immediately prior to such termination.

LR: Chapter 414 of the Laws of 1983
SR: RSSL §605 subdivision b(2)

The application 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

LR: Chapter 414 of the Laws of 1983
SR: RSSL §605 subdivisions a(1) and a(2)

NOTE: See the Special Disability Provisions subsection on pages 54 and 55 for filing requirements if you are an Emergency Medical Technician (EMT) or Deputy Sheriff applying for a three-quarters disability benefit.

DISABILITY APPLICANTS NEED THE FOLLOWING:

- Form # 801 - Instructions for Members Applying for Disability Retirement
- Form # 604 - Application for Disability Retirement for Tier 4 Members
- 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

Due to medical privacy laws, you must authorize NYCERS to request information from your treating physician/medical facility. Please be advised that upon authorization, it is NYCERS’ practice to contact public hospitals and/or H.I.P. Centers. If you have a private physician or your medical provider practices in another healthcare facility, it is your responsibility to submit any and all medical evidence to support your claim for disability.

If you are claiming that your disability was the result of an on-the-job accident, NYCERS will send an Agency Report on Accident to your agency to verify the accident/incident. When your agency returns the Agency Report on Accident, it will also submit documentation such as an incident report prepared by you, your manager or supervisor, or a witness, which describes all of the injuries and the events surrounding them. This report is most valuable if it is written at the time of the accident/incident.
**Withdrawing an Application for Disability Retirement**

You may withdraw your application for a Disability Retirement Benefit provided that NYCERS’ Medical Board has not yet finalized its findings.

You must complete Form #619 in order for your application to be officially withdrawn.

**PLEASE NOTE:** NYCERS will not process your disability retirement application until the Medical Unit receives all of the appropriate forms/reports, etc. and determines your eligibility. You are also encouraged to submit your birth certificate as early as possible, as it will help facilitate the process if you are ultimately approved.

**Most Common Reasons for Rejection of an Application**

- You did not submit your application for disability retirement on a timely basis.
- You are vested (except certain members filing for WTC disability benefits) or retired or received a refund of your contributions, which terminated your membership in NYCERS.
- You do not have 10 years of Credited Service and did not claim to have an on-the-job accident.
- Your agency cannot verify your accident/incident or it occurred prior to your NYCERS membership date.

**THE MEDICAL BOARD**

NYCERS’ Medical Board functions as an independent entity. The Medical Board consists of three medical doctors: one appointed by the Board of Trustees; one appointed by the Department of Health and Mental Hygiene; and one appointed by the Department of Citywide Administrative Services.

**LR:** Chapter 929 of the Laws of 1937  
**SR:** NYC Administrative Code §13-123

The Medical Board is charged with conducting all medical examinations resulting from disability applications and reporting its findings to the Board of Trustees. The standards used by the Medical Board in determining initial entitlement for a disability benefit focus on the physical or mental incapacitation of the applicant. In determining whether such incapacity exists, the Medical Board follows guidelines set forth in NYCERS’ Rules. Here is an excerpt of such Rules:

> In determining whether such incapacity exists, the Medical Board must determine that the member is unable to perform the critical or essential elements of his or her job title in a customary and usual manner. The mental or physical incapacity must be such that the Medical Board concludes that the end of disability cannot be foreseen for at least one year. In addition, a physical or mental incapacity shall not be considered to be disabling if the member may alleviate or control the condition by availing his or her self of reasonable and safe medical treatment. In determining whether the member was incapacitated at the time he or she ceased performance of his or her duties, there shall be a rebuttable presumption that a member who is disabled at the time of the Medical Board's determination was also disabled at the time he or she ceased performance of his or her duties.
THE PROCESS

What happens after you apply?

Once NYCERS receives your properly completed disability retirement application, NYCERS will:

1. Verify your eligibility to apply, which may entail contacting your employing agency to verify your employment status and to obtain the Agency Report on Accident (where applicable).
2. If eligible, and if you have completed Form #608, ask public hospitals and/or H.I.P. Centers to provide a medical history. Remember, if you have a private physician or your medical provider practices in another healthcare facility, you must provide the medical history.
3. Verify that your case file, including medical records, is complete. The processing of your case may be suspended or closed if the Medical Board determines that the medical evidence is insufficient to schedule you for an examination.
4. Schedule you to appear before NYCERS’ Medical Board for a medical interview and/or examination. (You must confirm your appointment at least 5 days in advance by calling 347-643-3000.)

Appearing Before NYCERS’ Medical Board for Examination

You MUST appear before NYCERS’ Medical Board when scheduled for an interview and/or examination, or provide proof that you were medically unable to do so. If you fail to do so, your disability retirement application will be suspended or closed. Depending on your employment status, you may not be eligible to reapply. Please note that you will have to be examined by the Medical Board before a decision can be made on your application for disability retirement. No decision rendered in a proceeding under the Workers’ Compensation Law or Social Security Law shall be binding on the Medical Board. Tier 4 members with Tier 3 rights should refer to page 69 for special provisions relating to Social Security determinations.

Actions by the Medical Board

1. NYCERS’ Medical Board will review your medical file and conduct an interview and/or examination.
2. The Medical Board may defer its decision pending receipt of additional medical evidence from you or it may refer you to an independent consultant for examination at NYCERS’ expense.
3. The Medical Board will then make its recommendation to the Board of Trustees either approving or denying your application.
4. Your application could be approved on the condition that you return one year later for reexamination to determine your continued eligibility to receive a Disability Retirement Benefit.
5. The Medical Board reserves the right to reexamine a disability retiree once a year until normal service retirement age. If upon reexamination 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 Benefit 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.
6. Members retired by reason of disability for more than one year may request a reexamination by 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.
**Actions by NYCERS**

1. If the Medical Board recommends approval of your disability application, NYCERS will establish a retirement date, process your advance payment and send you a letter advising you of the amount. An advance payment is a temporary partial payment until such time as your Disability Retirement Benefit is finalized. NYCERS will process your case for an advance payment when it receives necessary payroll information from your employer. Approximately 90 days after you receive your first advance payment, you will be sent a letter advising you of the amount payable to you under various options.

2. If the Medical Board denies your disability application, you have appeal rights described in detail in the Denial and Appeal Process subsection.

3. If the Medical Board defers its decision, NYCERS will send you a letter notifying you of the deferral. You may be asked to provide additional information or appear for an evaluation before a medical specialist. If you do not comply with the instructions in the letter, your application will be suspended or closed.

**DENIAL AND APPEAL PROCESS**

**Denial of Application**

- If the Medical Board finds that you are not physically or mentally incapacitated for the performance of your duties, it will recommend denial of your application to the Board of Trustees.

- If you do not meet the Credited Service requirement and your application is being considered because of an on-the-job incident, even though you are disabled your application may still be denied. The reason for denial may be either the fact that the incident is not an accident or that the disability is not causally related to the accident.

**Appeal Process**

If your application is denied for reasons other than a finding by the Medical Board that you are not disabled, you may appeal the Medical Board’s denial recommendation to the Board of Trustees. Your request to appeal must be in writing and submitted to NYCERS by the date noted on your denial letter. You will then be scheduled to appear before the Board of Trustees to present your appeal.

NYCERS’ Board of Trustees does not have the authority to make medical decisions or to overrule medical decisions of the Medical Board. Therefore, an appeal brought before the Board of Trustees will involve issues relevant to the cause of the disability, rather than a medical determination on physical or mental incapacitation.

If the Board of Trustees accepts the recommendation of the Medical Board to deny your application, you may:

- reapply for disability retirement if you are otherwise eligible,  
  **OR**
- submit current medical evidence not previously reviewed by the Medical Board within 60 days of the Board of Trustees’ determination if you are not otherwise eligible to reapply for disability retirement,  
  **OR**
- challenge your decision in court (Article 78 relief),  
  **OR**
- contest the Medical Board’s recommendation by electing the Final Medical Review process, whereby your current application with supporting documentation and all Medical Board reports, is evaluated by a Special Medical Review Committee made up of three independent doctors (See Final Medical Review subsection).
**FINAL MEDICAL REVIEW**

Tier 4 members have the opportunity to contest the findings and recommendation of NYCERS’ Medical Board through a process called Final Medical Review.

In order to elect Final Medical Review, a request must be made on your behalf by either your bargaining representative or by the head of the agency in which you are employed. In addition, you must waive your right to challenge the decision in court. The request and the completed waiver must be received by NYCERS within 45 working days from your receipt of the Board of Trustees' letter indicating denial of your disability retirement application. Information on Final Medical Review is sent after the Board of Trustees ratifies the Medical Board's recommendation of denial.

Once you choose to proceed with Final Medical Review, NYCERS will forward your current application, supporting documentation and all Medical Board reports to a Special Medical Review Committee of three independent doctors selected by a Final Medical Review Coordinator. You cannot submit any additional medical evidence to these doctors. Your union and the City will pay the fee for each examination conducted by the committee.

The Board of Trustees must accept the findings and recommendation of the Special Medical Review Committee, resulting in a final and conclusive administrative determination. You waived your right to challenge this determination in court when you elected Final Medical Review.

**LR:** Chapter 607 of the Laws of 1998  
**SR:** RSSL §605 subdivision e; NYC Administrative Code §13-169 (cross-reference)

**DISABILITY RETIREMENT BENEFIT**

If your application for disability retirement is approved by NYCERS’ Medical Board, the Disability Retirement Benefit is equal to the greater of:

- 1.67% times Final Average Salary (FAS) times years of Credited Service, **OR**
- 1/3 of your FAS, **EXCEPT**
- where a member is eligible to receive a Service Retirement Benefit, and that benefit is greater than either of the above calculations, then the member will receive a Disability Retirement Benefit equal to the Service Retirement Benefit.

As is the case with Service Retirement, a Disability Retirement Benefit is payable as a Maximum Retirement Allowance or in an optional form elected by you at retirement. A deficit in any of your contribution accounts, or outstanding loans at retirement, will result in a reduction in your retirement benefit.

**NOTE:** 62/5 Plan members who are in EMT titles or who are NYC Deputy Sheriffs and qualify for a performance of duty or accidental disability benefit, respectively, should refer to pages 54 and 55.

**LR:** Chapter 601 of the Laws of 1997  
**SR:** RSSL §605 subdivision d (3)
SPECIAL DISABILITY PROVISIONS

WORLD TRADE CENTER LAW

This law provides for presumptive eligibility for an accidental disability benefit in connection with the World Trade Center (WTC) tragedy of September 11, 2001. This law does not grant a new disability benefit. Rather, it allows members/vested members/retirees who meet pre-qualifying criteria and develop a WTC-related Qualifying Condition or Impairment of Health to benefit from the presumption that such illness was sustained in the performance of duties as the natural and proximate result of an accident. Members approved for disability under this law receive a Disability Retirement Benefit equal to the amount payable under the section of law applicable to their tier and title. To meet the pre-qualifying criteria in the law, members/vested members/retirees must have:

1. Filed a Notice of Participation prior to September 11, 2010 indicating the dates and locations of participation in rescue, recovery or clean-up operations. Eligible Beneficiaries of members who participated and subsequently died without having filed a Notice of Participation may file;

   AND

2. Passed a physical examination upon entry into public service or, for those who were not required to take such examination upon entry into public service, authorize the release of all relevant medical records. In the event a WTC disability application is filed, the relevant medical records must not show evidence of the Qualifying Condition or Impairment of Health prior to 09/11/01;

   AND

3. Participated in rescue, recovery or clean-up operations at the WTC site, worked at the Fresh Kills Landfill, the NYC Morgue or temporary morgue on pier locations on the west side of Manhattan, or manned the barges between the west side of Manhattan and the Fresh Kills Landfill for any period of time within the first 48 hours after the first airplane hit the towers or for a minimum of 40 hours between 09/11/01 and 09/12/02;

   OR

4. Repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment, owned by NYC that were contaminated by debris at the WTC site, regardless of where the work was performed, for any period of time within the first 48 hours after the first airplane hit the towers or for a minimum of 40 hours between 09/11/01 and 09/12/02;

   OR

5. Worked at the following locations in the following titles (see table on the next page) for any period of time within the first 24 hours after the first airplane hit the towers:
The filing requirements for disability under this law are the same as the requirements for your title. However, vested members who are separated from City service and awaiting payability of a Vested Retirement Benefit may file for disability with immediate payability if approved.

**IMPORTANT NOTE:** Emergency Medical Technicians (EMTs) and NYC Deputy Sheriffs who are vested and awaiting payability of a Vested Retirement Benefit must wait until their payability date to file for WTC-related disability under the sections providing a “three-quarters benefit” (RSSL §§607-b and 605-c, respectively). However, such members may file under the basic Tier 4 disability provisions with immediate payability.

**Reclassification**
Members who have met the pre-qualifying criteria and subsequently retired under service retirement, ordinary disability retirement or performance of duty disability retirement (EMTs only) may reclassify their retirement to a WTC accidental disability retirement.
Upon application by the retiree, the Medical Board will evaluate the retiree based on the Qualifying Condition or Impairment of Health claimed. The Medical Board must determine whether the retiree would have been incapacitated for the performance of duties had the condition been known and fully developed at the time of retirement.

All approved reclassification cases will have a prospective, not retroactive effect. Any option selection made upon retirement cannot be changed upon reclassification. Should a case be denied by the Board of Trustees based on a finding by the Medical Board that the retiree is not disabled pursuant to the WTC Law, the retiree may refile an application for reclassification no earlier than 12 months after the date of the Medical Board’s denial. However, such retirees may refile sooner if diagnosed with a terminal illness that is a Qualifying Condition or Impairment of Health. Retirees who are denied reclassification are not eligible for Final Medical Review.

**EMERGENCY MEDICAL TECHNICIANS**

**Three-Quarters Performance of Duty Disability Retirement**

Emergency Medical Technicians (EMTs) or Advanced EMTs who become mentally or physically incapacitated as a natural and proximate result of an injury sustained in the performance and discharge of duty on or after March 17, 1996 shall be entitled to a disability benefit equal to three-quarters of Final Average Salary minus 100% of the annual payment from the Workers’ Compensation Board associated with the injury. In order to file an application for this type of disability retirement, you must be employed in the title of EMT or Advanced EMT at the time you file.

**Heart Law**

The Heart Law provides a presumption that a disease of the heart was incurred in the performance of duty. Emergency Medical Technicians and Paramedics employed by the Fire Department of New York who are approved for disability under the Heart Law are entitled to a disability benefit equal to three-quarters of Final Average Salary minus 100% of the annual payment from the Workers’ Compensation Board associated with the disease of the heart. The presumption may be rebutted by competent medical evidence.
**Hepatitis, AIDS and Tuberculosis (HAT) Law**

The HAT Law provides that an EMT or Advanced EMT who contracts HIV (where he or she may have been exposed to bodily fluids of a person under his or her care or treatment, or while the member examined, transported or had contact with such person in the performance of duties), tuberculosis or hepatitis, will be presumed to have contracted such disease in the performance and discharge of duty. Members approved for disability under this law are entitled to a disability benefit equal to three-quarters of Final Average Salary minus 100% of the annual payment from the Workers’ Compensation Board associated with the disabling condition. The presumption may be rebutted by competent medical evidence.

**NEW YORK CITY DEPUTY SHERIFFS**

**Three-Quarters Accidental Disability Retirement**

NYC Deputy Sheriffs who become physically or mentally incapacitated for the performance of duties as the natural and proximate result of an accident, not caused by their willful negligence, are entitled to a disability benefit equal to three-quarters of Final Compensation. Final Compensation is defined as wages earned during any five consecutive years (subject to certain limitations), minus 100% of the annual payment from the Workers’ Compensation Board associated with the injury. In order to file an application for this type of disability benefit, you must be employed in a Deputy Sheriff title specified in the law at the time you file.

**POST-RETIREMENT EARNINGS LIMITATIONS FOR DISABILITY RETIREEs**

Tier 4 disability retirees of NYCERS are required to report any additional earnings received after the effective date of retirement. This requirement is in effect each year for as long as the retiree receives a disability pension and entails the reporting of such additional earnings received in the prior calendar year. Disability retirees are required to complete Form #351 (Affidavit of Personal Service Income) on an annual basis, specifying earnings from the public and/or private sectors for the preceding calendar year. Failure to comply with this requirement will result in the suspension of future monthly pension payments until Form #351 is completed and submitted to NYCERS along with any pertinent documentation.

Personal Service Income is defined as any income earned from the public and/or private sectors excluding the Disability Retirement Benefit received from NYCERS, Social Security benefits, Workers’ Compensation payments or any income earned from rental property, stocks, bonds, IRAs and interest earned on deposits in bank accounts.

Depending on which disability provision a retiree retired under, Personal Service Income may be subject to a yearly cap, referred to as the Income Limitation.
The Income Limitation is a fixed dollar amount established by adding (or subtracting) the Consumer Price Index (CPI) percentage increase (or decrease) to (or from) the Income Limitation for the prior year. The Income Limitation for prior years has been:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>INCOME LIMITATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>$17,100</td>
</tr>
<tr>
<td>1992</td>
<td>$17,600</td>
</tr>
<tr>
<td>1993</td>
<td>$18,000</td>
</tr>
<tr>
<td>1994</td>
<td>$18,500</td>
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<tr>
<td>1995</td>
<td>$19,000</td>
</tr>
<tr>
<td>1996</td>
<td>$19,600</td>
</tr>
<tr>
<td>1997</td>
<td>$19,900</td>
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<td>1998</td>
<td>$20,200</td>
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<tr>
<td>2001</td>
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<td>2008</td>
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<td>2009</td>
<td>$26,700</td>
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<tr>
<td>2010</td>
<td>$27,100</td>
</tr>
<tr>
<td>2011</td>
<td>$27,900</td>
</tr>
</tbody>
</table>

Once a disability retiree exceeds the Income Limitation in any given year, his or her pension will be suspended for 12 months; the penalty is not dollar for dollar.

**LR:** Chapter 414 of the Laws of 1983  
**SR:** RSSL §605 subdivision c

**IMPORTANT NOTE FOR NYC DEPUTY SHERIFFS AND EMERGENCY MEDICAL TECHNICIANS:**

- **NYC Deputy Sheriffs** receiving an accidental disability retirement benefit are not subject to any limitations on income earned from the private sector, but are limited to $1,800 in earnings derived from public employment in New York City, New York State or a locality within New York State, including pension earned. NYC Deputy Sheriffs must still file Form #351 with NYCERS on an annual basis.

- **Emergency Medical Technicians** receiving a performance of duty disability benefit under Retirement and Social Security Law (RSSL) §607-b are not subject to any limitations on income earned from the private sector, but are limited to $1,800 in annual earnings derived from public employment in New York City, New York State or a locality within New York State, including pension earned. Emergency Medical Technicians must still file Form #351 with NYCERS on an annual basis.

**LR:** Chapter 461 of the Laws of 2009  
**SR:** RSSL §607-b subdivision a
SURVIVOR BENEFITS
SURVIVOR BENEFITS

In the event of your death prior to retirement, your membership in NYCERS entitles your beneficiary(ies) to a Death Benefit. There are two primary types of death benefits – Ordinary Death Benefits and Accidental Death Benefits. This section explains the characteristics of each type.

DESIGNATING BENEFICIARIES

When you filed your membership application, you were able to designate one or more beneficiaries to receive an Ordinary Death Benefit (ODB) in the event of your death before retirement. You were able to designate whomever you wish – family members, partners, friends, etc. – or your Estate. If you designated a minor (under age 18), you must have also completed Form #137 indicating guardian information. If there is no designation on file, the ODB will be payable to your Estate.

Your beneficiary designation remains on file at NYCERS and will govern eligibility to receive the ODB. At any time prior to your retirement, you may change the beneficiary(ies) you designated by filing a Designation of Beneficiary Form. If you designate a minor, you must also complete Form #137 indicating guardian information. The latest properly executed form you file will supersede all previously filed forms.

You may choose to designate two categories of beneficiaries – Primary Beneficiaries and Contingent Beneficiaries. Primary Beneficiaries are entitled to an ODB in the event of your death before retirement. Contingent Beneficiaries are entitled to an ODB only if they have survived all designated Primary Beneficiaries at the time of your death.

You must indicate the percentages of the ODB you wish to allocate for each category, and the sum of each category must total 100%. If you do not indicate percentages, the ODB will be divided equally.

EXAMPLE:

John Smith designates his wife and three daughters as his Primary Beneficiaries and his two brothers as his Contingent Beneficiaries. John does not allocate percentages among his designees. The default percentages for his Primary Beneficiaries are 25% each. The default percentages for his Contingent Beneficiaries are 50% each (only payable if no Primary Beneficiaries are eligible).

When you have designated multiple Primary Beneficiaries and one or more predeceases you and you do not file a revised beneficiary form, your ODB will be divided among the remaining designees according to the percentages you allotted to each.

Your Annual Disclosure Statement (ADS) indicates the beneficiaries on file with NYCERS. You are encouraged to review your ADS carefully as you may need, or want, to change the beneficiaries on file.

If you designate your spouse as a beneficiary for an ODB, your designation will be revoked upon divorce, annulment of marriage or judicial separation. However, the revocation will not take effect if you redesignate such person as a beneficiary after the divorce, annulment or separation. Designations made in connection with joint-and-survivor retirement options, or designations that are required under a domestic relations order on file with NYCERS, are irrevocable by law. Before payment of an ODB can be issued, NYCERS must receive a copy of the judgment of divorce, annulment or judicial separation.

LR: Chapter 173 of the Laws of 2008
SR: Estates, Powers and Trusts Law §5-1.4

Right of Election

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

NOTE: Should your death be the result of an on-the-job accident, an Accidental Death Benefit is payable to your Eligible Beneficiaries. Such Eligible Beneficiaries are defined by statute. Please refer to page 61 for more information.

ORDINARY DEATH BENEFIT

Your beneficiary(ies) will be entitled to an ODB if you die before retirement, whether or not death occurs as the result of an accident sustained on the job.

An ODB will be paid only if:

A) you were being paid on payroll at the time of your death;

OR

B) you were off payroll or you were on an authorized leave without pay at the time of your death;  AND

you were on payroll, in service and paid within the last 12 months before death;  AND

you were not gainfully employed since last on the payroll;  AND

you had credit for one or more years of continuous service since you last entered the service of your employer.

LR: Chapter 617 of the Laws of 1986
SR: RSSL §606 subdivision e(1)

OR

C) Effective October 1, 2000, you were on an authorized leave of absence without pay for medical reasons which has continuously been in effect since you were last paid on the payroll, provided you were in service and last paid on the payroll within the four-year period prior to your death.

LR: Chapter 290 of the Laws of 2001
SR: RSSL §606 subdivision e(1)

Death Benefit Plans

Two distinct Death Benefit Plans exist within the Ordinary Death Benefit structure - Death Benefit Plan 1 and Death Benefit Plan 2. Each type pays a different benefit and recent laws dictate who belongs to which plan.

If you became a member of NYCERS prior to January 1, 2001, you were required to irrevocably choose between Death Benefit Plan 1 and Death Benefit Plan 2. However, legislation enacted in 2000 allows beneficiaries to receive the greater of Death Benefit Plan 1 or Death Benefit Plan 2, if the member had selected Death Benefit Plan 1. If, however, the deceased member had selected Death Benefit Plan 2 and Death Benefit Plan 1 would provide a greater benefit, Death Benefit Plan 2 is still payable. Additionally, the law provides that any person who becomes a member of NYCERS on or after January 1, 2001 will automatically be covered by Death Benefit Plan 2.

LR: Chapter 554 of the Laws of 2000
SR: RSSL §606 subdivision a(4)

The following is a description of Death Benefit Plan 1 and Death Benefit Plan 2:

DEATH BENEFIT PLAN 1

A refund of the Basic Member Contributions, plus interest, in your Member Contribution Accumulation Fund (MCAF) account,

PLUS
The greater of:

- one month's salary for each full year of service (up to a maximum of three years' salary after 36 years of service), or
- if eligible for a Service Retirement Benefit without benefit reduction, the actuarial reserve for the Service Retirement Benefit which would have been payable had you retired on the day before your death.

**LR:** Chapter 617 of the Laws of 1986  
**SR:** RSSL §606 subdivision a(1)

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### DEATH BENEFIT PLAN 2

A refund of the Basic Member Contributions, plus interest, in your MCAF account, plus

A multiplication of your salary as indicated in the following table:

<table>
<thead>
<tr>
<th>YEARS OF SERVICE</th>
<th>A LUMP-SUM BENEFIT EQUAL TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least one year, but less than two years</td>
<td>One year’s Current Salary*</td>
</tr>
<tr>
<td>At least two years, but less than three years</td>
<td>Two times Current Salary</td>
</tr>
<tr>
<td>At least three years</td>
<td>Three times Current Salary</td>
</tr>
</tbody>
</table>

* Current Salary: The regular compensation earned during a member’s last 12 months of service, plus overtime, night differentials, longevity payments and any other type of pensionable earnings where applicable.

The lump-sum benefit described above is reduced for each year a member remains in active service beyond age 60. The following table shows the reduction for each age:

<table>
<thead>
<tr>
<th>AGE AT DEATH</th>
<th>AMOUNT OF BENEFIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>61</td>
<td>95% of benefit in force</td>
</tr>
<tr>
<td>62</td>
<td>90% of benefit in force</td>
</tr>
<tr>
<td>63</td>
<td>85% of benefit in force</td>
</tr>
<tr>
<td>64</td>
<td>80% of benefit in force</td>
</tr>
<tr>
<td>65</td>
<td>75% of benefit in force</td>
</tr>
<tr>
<td>66</td>
<td>70% of benefit in force</td>
</tr>
<tr>
<td>67</td>
<td>65% of benefit in force</td>
</tr>
<tr>
<td>68</td>
<td>60% of benefit in force</td>
</tr>
<tr>
<td>69</td>
<td>55% of benefit in force</td>
</tr>
<tr>
<td>70 OR OVER</td>
<td>50% of benefit in force</td>
</tr>
</tbody>
</table>

Death Benefit Plan 2 also contains a Post-Retirement Death Benefit (PRDB). The PRDB is less than the ODB; the amount is dependent upon your date of death after retirement (see table on the next page). At retirement, members can designate the beneficiary(ies) to receive this benefit. In the event a designation is not made, the benefit will be paid to the beneficiaries designated for the Ordinary Death Benefit. If none exist, then payment will be made to the deceased retiree’s estate.

<table>
<thead>
<tr>
<th>IF DEATH OCCURS</th>
<th>AMOUNT OF BENEFIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the first year of retirement</td>
<td>50% of the benefit in force*</td>
</tr>
<tr>
<td>In the second year of retirement</td>
<td>25% of the benefit in force*</td>
</tr>
<tr>
<td>In the third year of retirement and thereafter</td>
<td>10% of the benefit in force* at age 60</td>
</tr>
</tbody>
</table>

*The benefit in force is defined as the Ordinary Death Benefit (ODB) which would have been payable if you died the day before your retirement date, if any. However, where death occurs in the third year of retirement or thereafter, the benefit in force is defined as the ODB at age 60, if any.
Alternative Death Benefit for Members who joined NYCERS before July 26, 1986

In the event of the death of a member in active service who joined NYCERS before July 26, 1986, there may be paid to the member’s Designated Beneficiary or estate, as the case may be, a lump-sum death benefit or an annuity based on such benefit, calculated by multiplying one-twelfth of the Wages earned by such member during the last 12 months of Active Service while a member, by the number of years of Credited Service. The years of Credited Service may not exceed 36. This benefit may be paid if greater than the Ordinary Death Benefit payable under Plans 1 or 2.

DEATH BENEFITS FOR VESTED MEMBERS

If you die prior to your Payability Date, and at a time and in a manner which did not result in payment of an Ordinary Death Benefit to your beneficiary(ies), a lump-sum death benefit will be paid to the beneficiary(ies) you last designated if you have 10 or more years of Credited Service. The death benefit amount awarded is based on 50% of the death benefit that would have been payable if you had died on your last day in active service plus the return of the Basic Member Contributions in the Member Contribution Accumulation Fund (MCAF), plus interest. If you did not render 10 or more years of Credited Service, only the return of your contributions in the MCAF will be made payable to your beneficiary(ies), plus interest.

ACCIDENTAL DEATH BENEFIT

If NYCERS’ Medical Board determines that your death was the natural and proximate result of an accident sustained in the performance and discharge of duty, not caused by your own willful negligence, your Eligible Beneficiary(ies) is entitled to an Accidental Death Benefit. The annual benefit equals 50% of the Wages you earned during your last year of service, or your annual wage rate if you had less than one year of service. Unlike the Ordinary Death Benefit, the deceased member’s Basic Member Contributions are not refunded to the beneficiary(ies).

The Eligible Beneficiaries of the Accidental Death Benefit are defined by statute in priority order. The benefit is paid in the following priority order:

- Your spouse, until remarriage, unless he or she has renounced survivorship rights, OR
- Each of your children until he or she reaches age 25, OR
- Your parents who depend on you for support, OR
- Any person who qualified as a dependent on your final Federal income tax return, until age 21, OR
- Anyone you designate as your beneficiary(ies) for your Ordinary Death Benefit

If one of the persons in the priority order above ceases to be an Eligible Beneficiary, then the benefit continues to the next person(s) on the list. For example, if no spouse exists and the children are receiving the Accidental Death Benefit, when they reach 25 the benefit will continue to the next on the list – dependent parents, etc.

Where there are two or more children as the Eligible Beneficiaries, the benefit will be divided equally between them. Likewise, where there are two dependent parents, the benefit will be...
divided equally between them. Where there are two or more Designated Beneficiaries for the Ordinary Death Benefit entitled to receive the Accidental Death Benefit, the benefit will be divided in accordance with the percentage allotted to such Designated Beneficiaries.

**FILING FOR ORDINARY OR ACCIDENTAL DEATH BENEFITS**

Once a member is deceased, NYCERS must be notified and provided with an original death certificate. Notification can be given to NYCERS by the decedent’s beneficiary, relative, friend or union representative.

Upon receipt of the death certificate, NYCERS will:
- Calculate any benefits due
- Mail a Claimant’s Statement form(s) and instructions to the beneficiary(ies)
- Outline payment choices

For Accidental Death Benefits, the Claimant’s Statement form(s) must be filed by your beneficiary(ies) and received by NYCERS within 60 days after NYCERS is notified of your death. The 60-day period may be waived provided an Ordinary Death Benefit has not been paid.

**LR:** Chapter 414 of the Laws of 1983  
**SR:** RSSL §607 subdivision a

When an application for an Accidental Death Benefit is filed, the case will be referred to the Medical Board. Once the Medical Board reviews all necessary documentation, it will render an opinion on the cause of death and report its findings to the Board of Trustees. If the Medical Board recommends denial of the claim, the claimant will be notified of the opportunity to appeal the denial before a Trial Committee. The Trial Committee is made up of members of the Board of Trustees, who will hear argument and take evidence and report their recommendations to the full Board of Trustees. The Board of Trustees will then make the final determination.

**NOTE:** Accidental Death Benefit cases will require the completion of an Agency Report on Accident to be submitted by the deceased member’s employing Agency.

**SPECIAL ACCIDENTAL DEATH BENEFITS (EMT & TBTA ONLY)**

The Special Accidental Death Benefit will be paid to the widow or widower, or to the child under the age of 18 or under the age of 23 if a student, of NYCERS members in the following titles who have died of injuries sustained in the line of duty as the natural and proximate result of an accident, not caused by the member’s own willful negligence:
- An EMT or Advanced EMT
- A member of the Triborough Bridge and Tunnel Authority

The Special Accidental Death Benefit is a supplemental monthly payment in addition to the Accidental Death Benefit of 50% of Wages. The effect of the Special Accidental Death Benefit is to continue paying the equivalent of the decedent’s last year salary including earned overtime, night differential, longevity payments and any other type of pensionable earnings, where applicable. The Special Accidental Death Benefit is 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 the Social Security survivor’s benefit and the Workers’ Compensation award.

**EMT**

**LR:** Chapter 583 of the Laws of 2004 (original chapter; 3% increase of salary computation enacted annually)  
**SR:** General Municipal Law §208-f
TBTA
LR: Chapter 742 of the Laws of 2004 (original chapter; 3% increase of salary computation enacted annually)
SR: General Municipal Law §208-f

PRESUMPTIVE ACCIDENTAL DEATH BENEFITS UNDER THE HEART LAW (EMT)
FDNY Emergency Medical Technicians who die from a disease of the heart will be entitled to a presumption that such disease of the heart was incurred in the performance and discharge of duty. The Eligible Beneficiary(ies) of such members are entitled to an Accidental Death Benefit and Special Accidental Death Benefit which are paid in accordance with the relevant statute(s) governing such death benefits.

EMT
LR: Chapter 697 of the Laws of 2002
SR: General Municipal Law §207-q

WORLD TRADE CENTER DEATH BENEFITS
The WTC Law provides line-of-duty death benefits to the statutory beneficiary(ies) of eligible members/vested members/retirees who die from a Qualifying Condition or Impairment of Health contracted as a result of participation in WTC rescue, recovery or cleanup operations. The following summarizes the law's provisions:

- The Eligible Beneficiary(ies) of active members, vested members and retirees who have met the pre-qualifying criteria of the WTC Law (see Page 52 for details on pre-qualifying criteria) may apply for Accidental Death Benefits upon such member's, vested member's or retiree's death.
- The Eligible Beneficiary(ies) of retirees who have been retired for more than 25 years are not eligible for the WTC death benefit.
- Retirees who did not file a Notice of Participation because they had retired on a non-WTC accidental disability may nevertheless be deemed pre-qualified if it is shown that they would have met such criteria.
- Awards the Eligible Beneficiary(ies) an Accidental Death Benefit (and Special Accidental Death Benefits for covered titles) and requires that they relinquish their rights to prospective non-WTC benefits paid or payable under a Service or Disability Retirement Benefit, including any Post-Retirement Death Benefits, since the retiree's death.
- If the Eligible Beneficiary is not the only beneficiary receiving or entitled to receive a non-WTC benefit under the Service or Disability Retirement Benefit (including, but not limited to, Post-Retirement Death Benefits or benefits paid or payable pursuant to the retiree’s option selection) the Accidental Death Benefit payments to the Eligible Beneficiary will be reduced by any amounts paid or payable to any other beneficiary. This also applies to any Special Accidental Death Benefit payment.

SR: General Municipal Law §208-f (TBTA & EMT ONLY)
   RSSL §2(36)
   RSSL §607-b (EMT)
   RSSL §605-c (Deputy Sheriffs)
   RSSL §605
DEATH BENEFITS FOR MILITARY PERSONNEL

The beneficiaries of members who die while on military duty may be entitled to receive either an Ordinary Death Benefit or an Accidental Death Benefit. Depending on the deceased member’s title, a Special Accidental Death Benefit might also be paid.

To be eligible for coverage a member must have died while performing “service in the uniformed services” as defined by the Uniformed Services Employment and Reemployment Rights Act (USERRA). Under USERRA, the term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

Ordinary Death Benefit. For the purposes of paying the Ordinary Death Benefit, such members are considered to be in service provided they:

(a) were on payroll (in any status) at the time they were called to perform service in the uniformed services and died on or after June 14, 2005; and
(b) had not been otherwise employed while off payroll performing service in the uniformed services.

If such members die prior to rendering the minimum amount of service for the Ordinary Death Benefit, they are considered to have met the requirement. The Ordinary Death Benefit is paid to the designated beneficiaries of such members.

Accidental Death Benefit. For the purposes of paying the Accidental Death Benefit, such members are deemed to have died as a natural and proximate result of an accident provided that:

(a) they were on payroll (in any status) at the time they were called to perform service in the uniformed services and died on or after June 14, 2005; and
(b) no Ordinary Death Benefit had been previously paid.

Such members’ Eligible Beneficiaries will be entitled to an Accidental Death Benefit. The beneficiaries of Emergency Medical Technicians and Triborough Bridge and Tunnel Authority members will also be entitled to a Special Accidental Death Benefit.

Ordinary and Accidental Death Benefit
SR: RSSL §606 subdivision e, RSSL §607 subdivision a

Special Accidental Death Benefit
EMT
LR: Chapter 583 of the Laws of 2004 (original chapter; 3% increase of salary computation enacted annually)
SR: General Municipal Law §208-f

TBTA
LR: Chapter 742 of the Laws of 2004 (original chapter; 3% increase of salary computation enacted annually)
SR: General Municipal Law §208-f
TIER 4 MEMBERS WITH TIER 3 RIGHTS
TIER 4 MEMBERS WITH TIER 3 RIGHTS

ELIGIBILITY
If you last joined a public employee retirement system of the City or State of New York after July 26, 1976 and prior to September 1, 1983, you are eligible to elect Tier 3 benefits. Tier 3 benefits may be more advantageous to you than Tier 4 benefits. However, Tier 4 benefits are generally better than the benefits under Tier 3. While many features of Tier 3 are either similar or identical to Tier 4, some areas are significantly different. This section will highlight those areas where there are significant differences between Tier 3 and Tier 4 benefits.

IF YOU LAST JOINED A PUBLIC EMPLOYEE RETIREMENT SYSTEM OF THE CITY OR STATE OF NEW YORK AFTER AUGUST 31, 1983, YOU ARE COVERED ONLY BY TIER 4 BENEFITS AND DO NOT HAVE THE OPTION OF ELECTING TIER 3 BENEFITS. YOU MAY NOT MIX THE PROVISIONS OF TIERS 3 AND 4 TO CHANGE THE ELIGIBILITY REQUIREMENTS FOR A BENEFIT UNDER EITHER PLAN.

SERVICE RETIREMENT BENEFIT
The Service Retirement Benefit for those with Tier 3 rights, which is payable at age 62, is calculated as follows:

- If you have less than 20 years of Credited Service:
  1.67% times Final Average Salary (FAS) times the years of Credited Service, minus 50% of your Primary Social Security Benefit.

- If you have 20 or more years of Credited Service:
  2% times FAS times the years of Credited Service (up to a maximum of 30 years of Credited Service), minus 50% of your Primary Social Security Benefit.

PLEASE NOTE: For offset purposes, your Primary Social Security Benefit is calculated only on the basis of your earnings in covered employment for which you also received Credited Service in NYCERS.

A deficit in your Member Contribution Accumulation Fund will result in a reduction in the Tier 3 Service Retirement Benefit (as is the case with a Tier 4 Service Retirement Benefit).

LR: Chapter 890 of the Laws of 1976
SR: RSSL §504, subdivisions a and b
SOCIAL SECURITY OFFSET: RSSL §511

Although the percentages for each year are the same as Tier 4, there are two significant differences: 1) The Tier 3 Service Retirement Benefit is offset by 50% of your Primary Social Security Benefit, whereas the Tier 4 benefit has no such offset; and 2) the Tier 3 Service Retirement Benefit is capped at a maximum of 30 years, whereas the Tier 4 benefit has no such cap.
EARLY SERVICE RETIREMENT BENEFIT

Unlike Tier 4, Tier 3 permits you to elect to receive a reduced Early Service Retirement Benefit between ages 55 and 62 even if you are off payroll at the time you file your retirement application. To be eligible, you must have a minimum of five years of Credited Service and have reached at least age 55.

Your Early Service Retirement Benefit (between ages 55 and 62) is calculated and reduced as follows:

- **If you have less than 20 years of Credited Service:**
  \[1.67\% \times \text{Final Average Salary} \times \text{years of Credited Service}.\]

- **If you have 20 or more years of Credited Service:**
  \[2\% \times \text{Final Average Salary} \times \text{years of Credited Service} \text{ (up to a maximum of 30 years of Credited Service)}.\]

YOUR BENEFITS WILL BE SUBJECT TO THE FOLLOWING REDUCTIONS AT RETIREMENT

<table>
<thead>
<tr>
<th>AGE AT RETIREMENT</th>
<th>PERCENTAGE OF BENEFIT REDUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>61</td>
<td>6.7%</td>
</tr>
<tr>
<td>60</td>
<td>13.3%</td>
</tr>
<tr>
<td>59</td>
<td>16.7%</td>
</tr>
<tr>
<td>58</td>
<td>20.0%</td>
</tr>
<tr>
<td>57</td>
<td>23.3%</td>
</tr>
<tr>
<td>56</td>
<td>26.7%</td>
</tr>
<tr>
<td>55</td>
<td>30.0%</td>
</tr>
</tbody>
</table>

**LR:** Chapter 890 of the Laws of 1976

**SR:** RSSL §504, subdivision c

In addition, after your 62nd birthday, your Maximum Retirement Allowance (before reduction for a retirement option) will be further reduced by 50% of your Primary Social Security Benefit.

In summary, the following differences should be noted between Tiers 3 and 4 regarding Early Service Retirement:

- The maximum reduction in Tier 3 (30% at age 55) is greater than the reduction in Tier 4 (27% at age 55).
- Tier 3 members applying for Early Service Retirement need not be on active payroll; Tier 4 members MUST be on active payroll.
- The Tier 3 Early Service Retirement Benefit is offset by 50% of the Primary Social Security Benefit upon reaching age 62; Tier 4 contains no such offset.
ESCALATION: POST-RETIREMENT INCREASES

If you retire on or after age 65, your Service Retirement Benefit increases by up to 3% a year if the cost of living increases by 3% or more the preceding year. If the cost of living decreases in the preceding year, your benefit will be reduced by a corresponding percentage, but never by more than 3% in any year. In no event will your benefit be reduced below the amount of your initial benefit at retirement. If you retire between ages 62 and 65, your Escalation will be reduced by 1/36 for each month your retirement precedes age 65. In order to qualify for full post-retirement increases, you may postpone receipt of your Service Retirement Benefit until your 65th birthday. Post-retirement increases are generally greater than the COLA otherwise payable to a Tier 4 member.

LR: Chapter 890 of the Laws of 1976
SR: RSSL §510

VESTING

The vesting provisions in Tier 3 are similar to the vesting provisions of Tier 4. The following differences are noted:

- Tier 3 members’ payability date is 62, or on a reduced basis as early as age 55; the payability date for Tier 4 Members in the 62/5 plan is age 62.
- The reductions for Early Service Retirement are not applicable in Tier 4. Reductions do not apply because vested members in the Tier 4 62/5 plan cannot receive a Vested Retirement Benefit with a reduction prior to age 62.
- You may postpone receipt of your Tier 3 Vested Retirement Benefit until your 62nd birthday in order to be eligible for partial post-retirement escalation or until age 65 for full post-retirement escalation.

The Vested Retirement Benefit is calculated in the same manner as the Service Retirement Benefit.

LR: Chapter 890 of the Laws of 1976
SR: RSSL §516

RETIREMENT OPTIONS

Tier 3 retirement options vary slightly from those offered in Tier 4.

Option 2: Joint-and-Survivor Option

Option 2 is the same as Option 2 in Tier 4 but with different percentages. You receive a reduced monthly lifetime benefit. After your death, your surviving beneficiary receives 90% or less (you decide on the amount in increments of 10%) of your reduced benefit. You can name only one beneficiary and cannot change the beneficiary you name. If your beneficiary predeceases you, your reduced benefit remains unchanged and ceases upon your death.

In-Service Survivor Annuity Option

In-Service Survivor Annuity Option is an additional option available only in Tier 3. If you are in active service, or if you have deferred receipt of benefits and have reached age 55, you may elect to provide financial protection for your beneficiary should you die before your retirement benefits commence. Under this option, you can elect to provide your beneficiary with a joint-and-survivor annuity under Options 1 or 2 to be payable should you die between ages 55 and 62, or at any later time before your retirement benefit begins.
If you elect this option, there is an associated cost. Tier 3 benefits payable to you, or your survivor, will be actuarially reduced to finance the cost of the annuity. Moreover, the annuity will be paid in lieu of any other death benefit available, unless such other benefit is greater.

If you are eligible to elect the In-Service Survivor Annuity Option, you should contact NYCERS to discuss the advantages and disadvantages of making this election.

**LR:** Chapter 890 of the Laws of 1976  
**SR:** RSSL §514, subdivisions a & b

**DISABILITY RETIREMENT BENEFITS**

Tier 3 Disability Retirement Benefits are dependent upon the receipt of Primary Social Security Disability Benefits. Tier 4 Disability Retirement Benefits, which are not reduced by Primary Social Security Disability Benefits, often provide a higher benefit than Tier 3. However, a Tier 3 Disability Retirement Benefit may be the only benefit available to a member whose disability is not the result of a service-connected accident, and who does not have credit for enough years of service to qualify for a Tier 4 Disability Retirement Benefit.

If you apply for disability benefits under Tier 3, and have not applied for Primary Social Security Disability Benefits, you will be required, within 60 days, to submit proof to NYCERS that you have applied for Primary Social Security Disability Benefits. NYCERS will hold your application open for a maximum of two years pending a Social Security disability award (extended by any time necessary to complete any and all appeals to the Federal courts). If you receive a Primary Social Security disability award, you must notify NYCERS within the earlier of:

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

If you do not follow these procedures, you will not be eligible to receive disability benefits under Tier 3.

Members with Tier 3 rights who do not qualify for Tier 4 Disability Retirement Benefits are entitled to apply for the Ordinary and Accidental Disability Benefits under Tier 3 simultaneously. If a member applies for and is awarded both benefits, one benefit must be selected. The following is a summary of each type of benefit.

**ORDINARY DISABILITY RETIREMENT BENEFITS ELIGIBILITY**

You qualify for an Ordinary Disability Retirement Benefit if you meet ALL of the following eligibility requirements:

- You file your application for Ordinary Disability Retirement while you are in Active Service, and
- You submit proof of filing for Primary Social Security Disability within 60 days from the date of filing your application, and
- You have at least five years of Credited Service, and
- You have been found disabled and eligible for Primary Social Security Disability by the Social Security Administration
You will be considered to be in Active Service for the purpose of filing an application for Tier 3 Ordinary Disability Retirement, if:

- you are on an authorized leave of absence without pay, and
- your leave was granted 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.

**BENEFIT FORMULA**

If your application for Ordinary Disability Retirement is granted, you will receive an annual benefit equal to the greater of:

A) 33 1/3% times your Final Average Salary (FAS)  
OR  
B) 2% times your FAS times your years of Credited Service

*Both A and B are reduced by:*

- 50% of your Primary Social Security Disability Benefits  
  AND  
- 100% of any Workers’ Compensation payments

**PLEASE NOTE:** If you are eligible for service retirement, your benefit may be greater than the benefit described above. Please consult with NYCERS for further information.

**LR:** Chapter 890 of the Laws of 1976  
**SR:** RSSL §506

**ACCIDENT DISABILITY RETIREMENT**

There is no minimum service requirement for Accident Disability Retirement. You qualify provided you meet ALL of the following requirements:

- Your application for Accident Disability Retirement is filed while you are in Active Service, and
- You submit proof of filing for Primary Social Security Disability within 60 days from the date of filing your application, and
- You have been found disabled and eligible for Primary Social Security Disability by the Social Security Administration, and
- NYCERS’ Medical Board determines that your disability, as established by the Social Security Administration, is a result of an accidental injury sustained while in City service and while a member of NYCERS, and not due to your own willful negligence. NYCERS’ Medical Board makes a recommendation to the Board of Trustees that you be retired under accident disability provisions.

**BENEFIT FORMULA**

If your application for Accident Disability Retirement is approved, you will receive an annual benefit equal to:

- 60% times your Final Average Salary (FAS)  
  LESS  
- 50% of your Primary Social Security Disability Benefits  
  AND  
- 100% of any Workers’ Compensation payments

**LR:** Chapter 890 of the Laws of 1976  
**SR:** RSSL §507
DISABILITY RETIREMENT EFFECTIVE DATE
The effective date of your Tier 3 Ordinary or Accident Disability Retirement Benefit is either:

- the effective date set by the Social Security Administration for your Primary Social Security Disability Benefits,
- or
- if you are ineligible for Primary Social Security Disability Benefits, and NYCERS’ Medical Board determines that you are disabled, your effective date will be six months from the date your application for disability retirement was filed with NYCERS.

ESCALATION: POST-RETIREMENT INCREASES
Tier 3 Disability Retirement Benefits increase up to 3% a year if the cost of living increases 3% or more each year. If the cost of living decreases in the preceding year, your increased Disability Retirement Benefit will be reduced by a corresponding percentage, but never by more than 3% per year. In no event will your Disability Retirement Benefit be reduced below the amount of your initial benefit at retirement. Escalation begins on the first of the month after the effective date of your Disability Retirement.

SUSPENSION OF TIER 3 DISABILITY RETIREMENT BENEFITS
In the event you are no longer eligible for Primary Social Security Disability Benefits, or if NYCERS’ Medical Board approved your disability retirement application and subsequently determines you are no longer disabled, your name will be forwarded to the Department of Citywide Administrative Services for placement on a list of preferred eligible candidates for appointment to a position in a salary grade not exceeding that from which you retired. Disability benefits will be paid until you are offered a position in public service.
TAXATION
TAXATION

This section outlines the tax implications associated with benefit disbursements from NYCERS.

TIER 3 AND TIER 4 LOANS

Please refer to the LOANS Section of this SPD booklet for detailed tax information about loans prior to and after retirement.

REFUNDS

Refunds may result in Federal income tax liability. The taxable portion of your refund, if any, is outlined on an Election of Payment Notice, which is sent to you after your refund has been calculated. This notice explains the Federal income tax consequences and how you may temporarily avoid such consequences by rolling over the taxable portion into a Traditional IRA, Roth IRA or Employer Plan such as the NYC Deferred Compensation Plan, to the extent such rollovers are permissible. If you do not elect to roll over the taxable portion of your refund, NYCERS is required (by the Internal Revenue Code) to withhold 20% of the taxable portion of the refund.

It is important that you review the Election of Payment Notice carefully, particularly deadlines by which you must make a decision on the disbursement of these funds. 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 (your refund will be processed under this option if you fail to respond by the deadline stated in the notice).

› Rollover of the entire 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.

IMPORTANT NOTE: Your refund check may be less than the total taxable portion if you have an outstanding loan at the time of the refund.

If you are under age 59½, you may incur a 10% IRS early distribution tax penalty in addition to the normal tax rate. Members who are age 55 or older and have retired or terminated their membership are not subject to the 10% penalty.

PENSIONS

Your pension is subject to Federal income taxes, but not New York State and New York City taxes if you reside in New York State/New York City. If you retire and move to another state, you should inquire about the tax laws of that particular state and/or locality as state and local taxes may be assessed on your pension.

Internal Revenue Code § 414h (IRC 414h) provides for favorable Federal tax treatment for the contributions you made to NYCERS. Federal taxes were deferred while you were making regular pension contributions via payroll deductions. Non-414 Contributions were deducted from your paychecks after tax and, therefore, are not subject to taxation a second time (for example,
pre-1989 contributions and any non-rollover payments made for the purchase of previous service). At the time of retirement, your Retirement Resolution indicates the amount of IRC 414h and non-IRC 414h contributions included in the calculation of your pension. The IRS considers the non-IRC 414h contributions to be your “Investment in Contract” for the purpose of determining the excludable part of your pension. Consult your tax preparer for further information.

The IRS requires taxpayers to remit tax payments on a “pay as you go” basis. In order to avoid a penalty at year-end for non-prepayment of the tax on your pension, you must either make payments of estimated taxes quarterly, or have income tax withheld from your monthly pension check or electronic payment. You may request income tax withholding when you file your retirement application. Subsequent changes can be made by filing IRS Form W4P (Form #349).

DEATH BENEFITS

Ordinary Death Benefits
The first $50,000 of an Ordinary Death Benefit is considered to come from the New York City Public Employees’ Group Life Insurance Plan and is tax-free. Death benefits paid from other sources count towards the $50,000 tax-free amount. For example, if your union pays a death benefit of $10,000, then the first $40,000 of your ODB is considered tax-free. For the balance of the Ordinary Death Benefit that is taxable, NYCERS will withhold Federal taxes 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 an election regarding tax withholding.

Beneficiaries 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. The Federal Pension Protection Act of 2006 permits non-spouse beneficiaries to roll over the taxable portion of their lump-sum death benefit.

- Direct payment of the taxable portion, subject to 20% Federal income tax withholding. (The death benefit will be processed under this option if your beneficiary(ies) fail to respond by the deadline stated in the Election of Payment Notice).

- Rollover of the entire taxable portion into an IRA account.

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

Accidental Death Benefits
Accidental Death Benefits are paid in the form of a pension to an Eligible Beneficiary(ies) and are tax-free.
GLOSSARY OF TERMS

1099-R TAX FORM
A tax form used to report distributions from qualified retirement plans to the IRS. This form is sent to retirees annually in the month of January.

414(H) CONTRIBUTIONS
A provision in the Internal Revenue Code which authorizes the deferral of Federal taxes on member contributions. This provision does not apply to New York State and local taxes.

ACCIDENT
In the realm of disability pensions, the term “accident” has been defined by the courts as: "a sudden, fortuitous mischance, unexpected, out of the ordinary, and injurious in impact."

ACCIDENTAL DEATH BENEFIT
A benefit paid in the form of a pension to the Eligible Beneficiary(ies), as defined by law, of a member who dies as a result of an on-the-job accident not caused by willful negligence on his or her part.

ACCIDENT DISABILITY BENEFIT
A disability pension paid to a member who has been found to be disabled due to the natural and proximate result of an accident sustained in the performance of his or her duties.

ACTUARIAL
Relating to the mathematical science of life expectancy and risk probabilities. In this science, risks are carefully evaluated, proper costs are assessed and adequate provisions are made for future financial obligations.

ANNUAL DISCLOSURE STATEMENT
A comprehensive annual statement sent to NYCERS members detailing: Membership Information, Loan Activity, Beneficiary Designation, Service Summary and all Account Activity for the calendar year.

BASIC MEMBER CONTRIBUTIONS
The contributions required of all Tier 4 members (except Transit 25/55 plan members) equal to 3% of gross wages. These contributions cease upon the attainment of 10 years of Credited Service or upon reaching the tenth anniversary of membership.

BASIC TIER 4 PLAN
This refers to the 62/5 Plan, the original plan created when Tier 4 was enacted.

BUY-BACK
This term relates to the purchase of previous full-time or part-time public service rendered in the employ of a public entity anywhere in New York State.

CHAPTER 96
A law enacted in 1995 which created two additional Tier 4 plans – the 55/25 plan and the 57/5 plan.
CITY SERVICE
Service rendered as a paid employee of the City of New York or a Participating Employer which entitles you to NYCERS membership.

CONSUMER PRICE INDEX (CPI)
A leading economic indicator that measures changes in the cost of goods and services in the United States. Certain benefits are based on the CPI such as Cost-of-Living Adjustments.

CONTINGENT BENEFICIARY
A person or persons designated by a member who will receive an Ordinary Death Benefit, provided that all primary beneficiaries are deceased at the time of the member’s death.

COST-OF-LIVING ADJUSTMENT (COLA)
An annual increase in pension payments based on changes in the Consumer Price Index. Pensioners are eligible for this annual increase after they have met certain criteria.

CREDITED SERVICE
The total amount of service (Membership, Transferred, Purchased, etc.) accumulated by a member which will count towards his or her pension calculation.

CURRENT SALARY
The regular compensation earned during a member’s last 12 months of service, plus overtime, night differentials, and any other type of pensionable earnings, where applicable.

DEATH BENEFIT
A benefit paid to a Designated Beneficiary(ies) or Eligible Beneficiary(ies) upon the death of a member while in service.

DEFICIT
A shortage of contributions in a member’s account.

DEFINED BENEFIT PLAN
A type of retirement plan that specifies the type of benefit to be paid. The benefit payable is typically calculated using a predetermined formula based on years of service and compensation base.

DEFINED CONTRIBUTION PLAN
A type of retirement plan that allows an employee to decide how much to contribute toward his or her retirement plan. The future benefit is not specified and is dependent on the amount of contributions and the return on investments.

DESIGNATED BENEFICIARY
A person or persons nominated by a member to receive an Ordinary Death Benefit upon his or her death. Designated Beneficiaries could be Primary Beneficiaries or Contingent Beneficiaries.

DISABILITY
A physical or mental impairment that prevents an employee from performing the routine duties of his or her job title.
DOMESTIC RELATIONS ORDER (DRO)
A court order derived from a divorce decree or legal separation agreement outlining the circumstances and amounts payable to an alternate payee from a member's pension benefit.

ELECTRONIC FUNDS TRANSFER (EFT)
A mechanism for distributions from NYCERS, such as loans and monthly pension payments, to be electronically deposited into a member's or retiree's bank account.

ELIGIBLE BENEFICIARY
A person(s) who is entitled to receive an Accidental Death Benefit based upon a priority order specified in law.

FINAL AVERAGE SALARY (FAS)
A compensation base used to calculate a pension benefit. FAS is the greater of the average annual wages earned during any three consecutive calendar-year periods, or the average of the wages earned during the 36 months immediately preceding the member's retirement date, subject to the Kingston Limitation.

FINAL MEDICAL REVIEW
A process by which a member can contest the findings of NYCERS' Medical Board denying his or her disability claim.

GROSS WAGES
All earnings paid to an employee of a public employer in New York City or New York State before tax deductions and other types of deductions (e.g., health insurance premiums).

INCOME LIMITATION
The dollar amount of Personal Service Income (income derived from the private and/or public sectors) a disability retiree can earn in the 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.

INTERIM OPTION
A temporary option selection chosen by a member on his or her retirement application. If the member dies before selecting a final retirement option, the interim option chosen by the member is payable.

KINGSTON LIMITATION
A limitation on the salary earned in any year used in the Final Average Salary computation. Under this limitation, the earnings in any year used in such computation cannot exceed the average salary of the previous two years by more than ten percent.

MAXIMUM RETIREMENT ALLOWANCE
This is the highest pension payable to a NYCERS member while retired, which does not continue upon the member's death.

MEMBER CONTRIBUTION ACCUMULATION FUND (MCAF)
The account in which Tier 4 Basic Member Contributions are deposited. Funds in this account earn 5% interest compounded annually.
MEMBERSHIP DATE
Generally, the date a member application is "clocked in" at NYCERS. For members who are mandated into NYCERS membership (did not voluntarily join), six months from their civil service appointment date.

MEMBERSHIP REINSTATEMENT
The restoration of a membership in a public retirement system in New York State which had been terminated.

MEMBERSHIP SERVICE
Full-time or part-time service rendered after joining NYCERS. Transferred Service and Military Service can also be considered Membership Service.

MILITARY SERVICE
Service credited to a member for active duty in the United States Military. Military Service can be purchased under Federal or New York State law.

NON-PERFORMING LOAN
A loan on which no payments have been made for 90 days, or a loan which goes into default.

NOTICE OF PARTICIPATION
A sworn statement filed by a member/vested member/retiree indicating the dates and locations he or she participated in World Trade Center Rescue, Recovery or Clean-Up Operations.

ORDINARY DEATH BENEFIT
A lump-sum benefit payable to the designated beneficiary(ies) of a member who dies while in service for reasons other than an on-the-job accident.

ORDINARY DISABILITY
A disabling injury or illness of an active member that was not the result of an on-the-job accident.

PART-TIME SERVICE
Public service rendered in the employ of a public entity in which an employee works less than 1,827 hours in a calendar year.

PARTICIPATING EMPLOYERS
Employers, other than agencies of the City of New York, whose employees may join NYCERS (e.g., NYC Transit Authority, NYC Health and Hospitals Corporation).

PAYABILITY DATE
The date by which a member reaches the minimum age required to receive a Vested Retirement Benefit.

PENSION ENHANCEMENT LAW
A law enacted in October 2000 that provides for the cessation of Basic Member Contributions (BMCs) for members who have accumulated 10 years of Credited Service or reached their tenth anniversary of membership.
PERSONAL SERVICE INCOME
For the purposes of post-retirement earnings limitations for disability retirees, any income (pub-
lic or private) received during a calendar year excluding a NYCERS pension; Social Security ben-
efits; Workers’ Compensation payments; or any income earned from rental property, stocks,
bonds, IRAs and interest earned on deposits in bank accounts.

POST-RETIREMENT DEATH BENEFIT
A lump-sum death benefit payable to a person(s) designated by a member at retirement. The
amount of the benefit is dependent upon the date of the member’s death after retirement. This
benefit is in addition to any benefit payable under a retirement option.

PREVIOUS SERVICE
Public service rendered in the employ of a public entity in New York State or New York City, or a
Participating Employer, before becoming a NYCERS member.

PRIMARY BENEFICIARY
A person(s) designated by a member to receive an Ordinary Death Benefit upon his or her death
while in service.

PRIMARY SOCIAL SECURITY BENEFIT
The benefit payable at age 62 or later, under the Federal Social Security Program, exclusive of
any family benefits (applicable only to Tier 4 members with Tier 3 rights).

PURCHASED SERVICE
See Buy-Back.

RECLASSIFICATION
A provision in the WTC law allowing a retiree to apply to have his or her pension changed to an
accident disability pension.

RETIREMENT DATE
The date a member indicates on his or her retirement application, which should be the day after
his or her last day paid. If a member is otherwise eligible to retire and files a properly executed
retirement application, he or she is officially retired as of his or her retirement date.

ROLLOVER
Transferring a pre-tax retirement account from one institution to another.

SECTION 212 LIMITATION
A provision in the Retirement and Social Security Law (RSSL) setting the amount a retired per-
sion may earn in public employment in New York State without loss, suspension, or diminution
of his or her retirement allowance during a calendar year.

SERVICE SUMMARY
A history of Credited Service belonging to a member. If updated, this information can be found
in your MY NYCERS account or your Annual Disclosure Statement.

SPECIAL ACCIDENTAL DEATH BENEFIT
A supplemental monthly payment in addition to the Accidental Death Benefit of 50% of Wages,
the effect of which is to continue paying the decedent’s last year salary (EMT and TBTA only).
**SPECIAL OCCUPATIONAL TITLES**
Titles eligible for special retirement plans which allow early retirement, e.g., Transit 25/55 Plan, Sanitation 20-Year Plan.

**TIER EQUITY**
A law enacted in 2000 which gives 62/5 Plan members the ability to retire as early as age 55, but with a pension reduction.

**TIERS**
Different levels of pension benefits based on one's membership date and/or title.

**TRANSFERRED SERVICE**
Where an active membership in a public employee retirement system in New York State is transferred to (and combined with) another membership in a different public employee retirement system in New York State.

**UNION LEAVE SERVICE**
Service granted to a member who is on an authorized leave of absence without pay to conduct labor relations activity on behalf of a public employee union.

**UNPAID LEAVE**
A leave of absence during which a member does not receive wages from his or her employer. Generally, members may not receive Credited Service for periods of unpaid leave.

**VESTED MEMBER**
A member who has met or exceeded the minimum service requirements for his or her retirement plan, but who is no longer employed with the City of New York or a Participating Employer.

**VESTING**
A member's right to receive future plan benefits after completion of minimum service requirements, even if the member discontinues employment prior to reaching the age for service retirement.