

This Fact Sheet contains questions and answers about the WTC Disability Law. This law is expansive and uses many key terms. Each *italicized* term is defined in the Glossary of Terms on pages 2 - 4. Reference to the Glossary of Terms is strongly recommended.

What is the World Trade Center (WTC) Disability Law?

This law provides that members/retirees (who retired after 9/11/01) who *Participated in WTC Rescue, Recovery or Clean-up Operations during a Qualifying Period*, may be entitled to a presumption that any current or future *Qualifying Condition or Impairment of Health* arose from participation in such operations, unless the contrary is proven. While the original law required that you were a member during your period of participation, Chapter 424 of the Laws of 2021 amended this requirement to include public employees who became members after the *qualifying period* who purchased some or all of that pre-membership period.

What is a Notice of Participation (Form #622)?

The law requires that members file a statement indicating the dates and locations of participation. This statement is known as a Notice of Participation. A Notice of Participation is not a disability application. If you develop a disability, you must file a [disability application](#). **A Notice of Participation must be filed no later than September 11, 2022.**

Should I file a Notice of Participation?

- **Are you an active or vested member, or a retiree who retired after 9/11/2001 who *Participated in WTC Rescue, Recovery or Clean-up Operations during a Qualifying Period*?** If yes, you should file Form #622.
- **I am not experiencing any health issues. Do I still need to file a Notice of Participation?** Yes. Although you may not be experiencing any health issues at this time, filing a Notice of Participation preserves your right to apply for disability retirement under this law. You cannot predict if you will develop a *Qualifying Condition or Impairment of Health* in the future so it is recommended that you file the Notice.
- **Are you an *Eligible Beneficiary* of a member or retiree who participated and subsequently died without having filed a Notice of Participation?** If yes, you should file Form #622.

How do I file a Notice of Participation (Form #622)?

Download the Notice of Participation Form #622 at www.nycers.org. Complete the form and register for or log in to MyNYCERS at www.nycers.org to upload your form. You can also mail the completed form to 30-30 47th Avenue, 10th Floor, Long Island City, NY 11101.

What happens after I file a Notice of Participation?

- You will receive an acknowledgment letter upon receipt of your Notice.
- NYCERS will communicate with your agency to verify eligibility, based upon your pre-qualifying criteria.
- When your agency's response is received, you will be advised of the outcome in writing. You may also log in to your MyNYCERS account to check the status of your Notice of Participation at www.nycers.org.
- It is recommended that you pay close attention to any correspondence NYCERS sends to you. If your agency cannot verify that you meet the pre-qualifying criteria, you may be able to submit documentation to NYCERS to support your case.

If my Notice of Participation is approved, does that mean I am automatically entitled to a WTC disability retirement benefit?

No, the approved Notice of Participation preserves your right to apply for disability retirement under this law. If you believe that you have developed a *Qualifying Condition or Impairment of Health* that has caused you to be disabled, you must file for disability retirement. After an interview/examination by NYCERS' Medical Board, the Medical Board will make a determination as to whether you are disabled and cannot continue to perform your job duties. If you are deemed to be disabled, the cause of that disability is then considered. Since you have an approved Notice of Participation, you may benefit from the presumption that the disability is WTC-related, unless the contrary is proven.



What should I do if the status of my health changes after retirement?

If you have retired for service, ordinary disability, performance-of-duty disability or non-WTC accidental disability, you may apply to *reclassify* your pension benefit to a WTC accidental disability benefit if you believe that you have developed a *Qualifying Condition or Impairment of Health* that has caused you to become disabled. Upon application, the process to evaluate your disability will commence. The benefit is paid according to the provisions that cover accidental disability for your tier and title. If you are eligible to *reclassify*, your reclassification, along with any possible change in benefits would be effective upon your approval by the Board of Trustees. It is not a retroactive change. Reclassification will not change the retirement option under which your retirement was finalized.

What can I do if my Notice of Participation is not approved or I am denied for a WTC disability retirement?

- Future changes to the law may affect your Notice of Participation eligibility. NYCERS will consider enacted amendments to the law when reviewing your Notice of Participation.
- If you are deemed ineligible for the WTC disability retirement, you may *appeal* to the NYCERS Board of Trustees under existing appeals procedures.
- If you are denied disability based on a finding by the Medical Board that you are not disabled under this law, you may reapply after 12 months from the date of denial. You may also reapply at any time if you are diagnosed with a terminal illness.

What if the WTC Disability Retirement applicant dies during the process?

A WTC disability retirement *Eligible Beneficiary* will only be able to collect from one retirement account. If the person's death was from a *Qualifying Condition or Impairment of Health*, the *Eligible Beneficiary* may be entitled to a presumption that their death was related to *Participation in WTC, Rescue, Recovery or Clean-up Operations*. The *Eligible Beneficiary* will be required to relinquish the right to a *non-WTC retirement* benefit.

If a different beneficiary is entitled to a non-WTC retirement benefit, the WTC benefit would be reduced by the amount of the non-WTC benefit.

Note: Accidental death has limits on eligibility. For instance, date of death cannot exceed 25 years **after** the retirement date.

GLOSSARY OF TERMS

Appeal

If a Notice of Participation is deemed ineligible, the applicant is allowed to request an appeal. The appeal request requires a second consideration of the decision, and may possibly lead to a reversed decision.

View [Fact Sheet #730 Disability Appeals](https://www.nycers.org/fact-sheet/disability-appeals-fact-sheet) on NYCERS' website at <https://www.nycers.org/fact-sheet/disability-appeals-fact-sheet> for a description of the disability retirement appeal process.

Eligible Beneficiary

Any person(s) eligible to receive an accidental death benefit in the following priority order:

- A surviving spouse who has not remarried (no remarriage penalty for Uniformed Sanitation members)
- Surviving children up to age 25
- Dependent parents
- Any person(s) up to age 21 who qualifies as a dependent on the member's Federal tax return (except Tiers 1 & 2)
- Any person(s) designated as beneficiaries for an Ordinary Death Benefit (except for 22-year plan members and all Sanitation members)

Non-WTC retirement

Visit NYCERS' website for comprehensive overviews of our service and disability retirement processes: <https://www.nycers.org/planning-retirement>



Participated in World Trade Center Rescue, Recovery or Clean-up Operations

Any member/vested member/retiree (retired after 9/11/01) who:

1. Participated in the Rescue, Recovery or Clean-up Operations at the WTC site; or
2. Worked at the Fresh Kills Land Fill; or
3. Worked at the New York City morgue or the temporary morgue on pier locations on the west side of Manhattan; or
4. Manned the barges between the west side of Manhattan and the Fresh Kills Land Fill; or
5. Repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment, owned by the City of New York that were contaminated by debris in the WTC site regardless of where the work was performed, provided it was prior to the decontamination of such vehicles; or
6. Worked in the following communication/dispatcher titles at the locations below:

- **New York City Police Department**

Locations: 11 MetroTech Center (Brooklyn) or 1 Police Plaza (Manhattan)

Titles: Police Communication Technician (PCT), Supervisor Police Communication Technician (SPCT), Principal Police Communication Technician I, Principal Police Communication Technician II, Principal Police Communication Technician III, Administrative Manager-Communications, or in the Police Administrative Aide title series

- **New York City Fire Department – Dispatcher titles**

Locations: 35 Empire Boulevard (Brooklyn), 79th Street Transverse (Manhattan), 83-98 Woodhaven Boulevard (Queens), 1129 East 180th Street (Bronx), 65 Slosson Avenue (S.I.), 9 MetroTech Center (Brooklyn), or 25 Rockaway Avenue (Brooklyn)

Titles: Fire Alarm Dispatchers (FAD), Supervising Fire Alarm Dispatchers I (SFAD), Supervising Fire Alarm Dispatchers II (Borough Supervisor), Deputy Director and Director of Fire Dispatch Operations, or Assistant Commissioner for Communications

- **New York City Fire Department – EMS titles**

Locations: 1 MetroTech Center (Brooklyn), 9 MetroTech Center (Brooklyn) or 55-30 58th Street (Queens)

Titles: Emergency Medical Specialist-Level I (EMT), Emergency Medical Specialist-Level II (Paramedic), Supervising Emergency Medical Specialist-Level I (Lieutenant), Supervising Emergency Medical Specialist-Level II (Captain), Deputy Chief EMS Communications, or Division Commander EMS Communications

Qualifying Condition or Impairment of Health

A Qualifying Physical Condition or a Qualifying Psychological Condition as defined below. For the communication/dispatcher titles specified above who participated at one of the locations specified above, it shall only mean Qualifying Psychological Condition.

Qualifying Physical Condition

- Diseases of the upper respiratory tract and mucosae, including conditions such as rhinitis, sinusitis, pharyngitis, laryngitis, vocal cord disease, and upper airway hyper-reactivity, or a combination of such conditions; or
- Diseases of the lower respiratory tract, including, but not limited to, tracheo-bronchitis, bronchitis, chronic obstructive pulmonary disease, asthma, reactive airway dysfunction syndrome, and different types of pneumonitis, such as hypersensitivity, granulomatous, or eosinophilic; or
- Diseases of the gastroesophageal tract, including esophagitis and reflux disease, either acute or chronic, caused by exposure or aggravated by exposure; or
- Diseases of the skin such as conjunctivitis, contact dermatitis or burns, either acute or chronic in nature, infectious, irritant, allergic, idiopathic or exposure; or
- New onset diseases resulting from exposure as such diseases occur in the future including cancer, asbestos-related disease, heavy metal poisoning, and musculoskeletal disease.

Qualifying Psychological Condition

- Diseases of the psychological axis, including post-traumatic stress disorder, anxiety, depression, or any combination of such conditions; or
- New onset diseases resulting from exposure as such diseases occur in the future including chronic psychological disease.



Qualifying Period

For all titles **EXCEPT** communication and dispatcher titles specified on the previous page: Any period of time within the 48 hours after the first airplane hit the towers, or a total of 40 hours accumulated any time between September 11, 2001 and September 12, 2002.

For communication and dispatcher titles (listed on the previous page): Any period of time within the 24 hours after the first airplane hit the towers.

Reclassify

To change from a service or ordinary disability retirement to a WTC accidental disability retirement as permissible under the provisions of the WTC Law.

Vested Members

- Tier 1 and Tier 2 vested members and their Eligible Beneficiaries pursuant to NYC Administrative Code §13-168
- Tier 3 vested members of the Uniformed Correction Force and their Eligible Beneficiaries pursuant to NYS Retirement and Social Security Law §507-c
- Tier 4 vested members of the Uniformed Sanitation Force and their Eligible Beneficiaries pursuant to NYS Retirement and Social Security Law §605-b
- Tier 4 & Tier 6 vested Deputy Sheriffs and their Eligible Beneficiaries pursuant to NYS Retirement and Social Security Law §605-c
- Tier 4 & Tier 6 vested Emergency Medical Technicians and their Eligible Beneficiaries pursuant to NYS Retirement and Social Security Law §607-b
- Tier 4 and Tier 6 non-uniformed vested members and their Eligible Beneficiaries pursuant to NYS Retirement and Social Security Law §605
- Tier 4 with Tier 3 Rights vested members and their Eligible Beneficiaries pursuant to NYS Retirement and Social Security Law §507

Vesting is your right to receive a retirement benefit in the future if you have met the requirements of your plan/tier even if you leave City service before you are eligible to retire. The contributions you have made remain at NYCERS, where they will continue to accrue interest at a rate determined according to your plan/tier, and it is compounded annually. View your specific vesting section according to your plan/tier type on NYCERS' website at: <https://www.nycers.org/summary-plan-descriptions>.

World Trade Center Site

The World Trade Center Site is defined as anywhere below a line starting from the Hudson River and Canal Street; east on Canal Street to Pike Street; south on Pike Street to the East River; and extending to the lower tip of Manhattan.



For more information, visit www.nycers.org for a summary of Chapter 489 of the 2008 WTC Law:

<https://www.nycers.org/post/2008-laws#--chapter-489--world-trade-center-wtc-law>

