

Correction 22-Year Plan Enhanced Disability Benefit Fact Sheet



NYC EMPLOYEES'
RETIREMENT SYSTEM

Tier 3

October 2021

This fact sheet describes the benefits and obligations of the Enhanced Disability Benefit program (EDB), available to participants in the Uniformed Correction Force Tier 3 22-Year Plan (CF-22 Plan).

PARTICIPATION

Participation in the EDB program may be **voluntary or mandatory**.

Voluntary Participation

Only Uniformed Correction Force members who participated in the CF-22 Plan between April 1, 2012 and December 31, 2016 had an option to voluntarily join the EDB program by filing an election form with NYCERS.

The filing deadline for anyone in the Uniformed Correction Force in a title other than a Correction Officer was June 30, 2017. The filing deadline for Correction Officers was September 30, 2017. **THESE OPTIONS HAVE EXPIRED.**

ONCE AN ELECTION TO PARTICIPATE IN THE EDB PROGRAM IS FILED WITH NYCERS, IT MAY NOT BE REVOKED.

Mandatory Participation

Uniformed Correction Force members who become participants in the CF-22 Plan on or after January 1, 2017 are mandated into participation in the EDB.

CONTRIBUTIONS

In addition to Basic Member Contributions (BMCs) of 3% of gross wages, participants in the EDB are required to pay Additional Member Contributions (AMCs) from the plan effective date (January 1, 2017) until retirement at the following rates:

- ▶ 0.8% of gross wages through June 30, 2019
- ▶ 0.9% of gross wages effective July 1, 2019

The new AMC rate will expire on June 30, 2022. Prior to its expiration, the Actuary will review the AMC rate to determine if this rate fully funds the benefit. Should it be determined that an increase in contributions is needed to fund the benefit, the changes will be prospective.

AMCs are maintained in the Retirement Reserve Fund (RRF). AMCs are Federal tax-deferred for **mandatory** participants of the EDB (Uniformed Correction Force members who become participants in the CF-22 Plan on or after January 1, 2017), meaning that you do not pay Federal taxes on the contributions, only New York State and local taxes. AMCs are **NOT Federal tax-deferred** for CF-22 Plan participants who voluntarily ELECT the EDB. AMCs are not refundable or transferable to another public retirement system within New York State. **Note:** Contributions made while on Union Leave are not Federal tax-deferred for either voluntary or mandatory participants in the EDB.

DEFICITS

Failure to pay any of the required contributions will result in a deficit. Members in this plan are not permitted to retire for disability with a deficit. If a deficit is identified prior to retirement, steps will be taken to resolve it. Unpaid deficits will also impact death benefits.

ENHANCED DISABILITY RETIREMENT BENEFIT

EDB participants who become physically or mentally incapacitated and can no longer perform the duties of their job may be eligible for either an Ordinary Disability Benefit or an Accidental Disability Benefit.

Ordinary Disability Benefit: You are eligible for an Ordinary Disability Benefit if you have at least five years of Credited Service and have been found to be disabled by the Social Security Administration. The benefit is equal to the greater of:

- ▶ 1/3 of Final Average Salary (FAS) or
- ▶ 2% times FAS times years of Credited Service, but not in excess of 22 years of such service



Disability Retirement RSSL §507-a: You are eligible for a disability retirement benefit if you either have 10 or more years of Credited Service or if your injury is caused by a “line of duty accident”. If you have less than 10 years of service and are awarded an accident disability benefit under RSSL §507-a, this benefit is tax free. The benefit is equal to the greater of:

- ▶ 1/3 of Final Average Salary (FAS) **or**
- ▶ 1.67% times FAS times years of Credited Service, **or**
- ▶ If eligible to retire for service, the service retirement benefit if greater than the aforementioned calculations.

Accidental Disability Benefit RSSL §507*: You are eligible for an Accidental Disability Benefit if you are awarded Primary Social Security Disability Benefits or are found to be disabled by the NYCERS Medical Board, and the Board of Trustees determines that the disability (as determined by the Social Security Administration or the NYCERS Medical Board) is the natural and proximate result of an accident not caused by your own willful negligence. The benefit is equal to:

- ▶ 60% of the member’s Final Average Salary (FAS) less:
- ▶ 50% of the Primary Social Security Disability Benefit, if any, and
- ▶ 100% of any Workers’ Compensation benefits payable.

*If you have less than 10 years of service and are awarded an accident disability benefit under RSSL §507, this benefit is tax free.

PERFORMANCE OF DUTY DISABILITY RETIREMENT:

Act of an Inmate: You are eligible for an Accidental Disability Benefit if you become physically or mentally incapacitated for the performance of duties as a natural and proximate result of an act of an inmate. EDB participants who are approved for disability under this law are entitled to a disability benefit equal to 75% of FAS.

World Trade Center Law: If you qualify for an Accidental Disability Benefit pursuant to the World Trade Center Law, your benefit will be equal to 75% of Final Average Salary. **Note:** To qualify for an Accidental Disability Benefit under the World Trade Center Law, you must have been a member of NYCERS or another public retirement system within New York State on or before September 11, 2001, **OR** become a member of NYCERS after the qualifying period, but were an employee of a public employer during the covered time period and purchased some or all of that pre-membership period, and filed a Notice of Participation with NYCERS by September 11, 2022.

Once you have filed a WTC Notice of Participation (Form #622, available at www.nycers.org), you can track the status of your application in your secure MyNYCERS account. Log in (or register) at www.nycers.org and look for the link labeled “WTC Notice of Participation.”

Note: If you have not already filed Form #622, you can complete and notarize the paper form and upload it to MyNYCERS. Look for the “Upload a Form or Document” link.

Heart Law: All EDB participants are entitled to the Heart Law presumption. This law provides a presumption that certain diseases of the heart were incurred in the performance of duty. CF-22 Plan participants in the EDB who are approved for disability under the Heart Law are entitled to a disability benefit equal to 75% of FAS. This presumption may be rebutted by competent medical evidence.

Hepatitis, AIDS and Tuberculosis (HAT) Law: All participants in the EDB are entitled to the HAT Law presumption. The HAT Law provides that a participant who contracts HIV (where they may have been exposed to bodily fluids of an inmate or a person confined to an institution under the jurisdiction of the NYC Department of Correction or Department of Health), tuberculosis, or hepatitis, will be presumed to have contracted such disease in the performance and discharge of duty. CF-22 Plan participants in the EDB who are approved for disability under this law are entitled to a disability benefit equal to 75% of FAS. The presumption may be rebutted by competent medical evidence.

NOTE: ALL PERFORMANCE OF DUTY DISABILITY BENEFITS are reduced by 100% of the annual payment from the Workers’ Compensation Board for the same disability. Performance of Duty Disability benefits are not reduced by any Social Security benefits received for the same disability. Disability retirees who have been retired for at least five years are eligible for an annual Cost-of-Living Adjustment (COLA) pursuant to New York City Administrative Code §13-696, not the escalation pursuant to Retirement and Social Security Law §510.

FINAL AVERAGE SALARY (FAS)

FAS is defined as the average of wages earned by a member during any five consecutive years which provide the highest average wage. However, wages earned during any year used in an FAS calculation cannot exceed the average of the previous four years by more than 10 percent.

COST-OF-LIVING ADJUSTMENT (COLA)

Disability retirees who have been retired for at least five years are eligible for an annual Cost-of-Living Adjustment (COLA) pursuant to New York City Administrative Code §13-696, not the escalation pursuant to Retirement and Social Security Law §510.

