



# MILITARY BUY-BACK

JUNE 2016

NOTE: Chapter 41 of the Laws of 2016, effective May 31, 2016, removes the location requirement for applying to purchase military service credit. If you previously applied and were denied based on the location of your military service, please refile NYCERS Form #244.

Federal and state laws allow you to purchase service credit for time spent on duty in one of the military branches of the Armed Forces of the U.S.A. Each law has different provisions granting service, and you are entitled to receive credit for military service under whichever law provides you with the greatest benefit.

**In all cases, military service must have been satisfactorily completed and a discharge under honorable circumstances must have been granted (a DD214 form is the most common proof of satisfactory military service; see p. 2).**

Please read the eligibility requirements under each section of law to determine if you are eligible. If you are eligible and wish to purchase credit for your military service, complete and return NYCERS' Application to Purchase Credit for Military Service Form #244.

As mentioned above, your application must be accompanied by a copy of the DD214 form issued to you when you were honorably discharged from military duty.

Upon receipt of your application and related materials, NYCERS will determine your eligibility, calculate the cost for your military service, and send you a cost letter advising you of the amount due to purchase the service claimed. Payment can be made in a lump sum by the date indicated in the cost letter, or through deductions from your paychecks. You may also roll over funds from a Deferred Compensation Plan or Individual Retirement Account to pay for your purchased military service. Complete instructions for rolling over these monies will be included in the cost letter.

If you retire before completion of the required payments to secure credit for your military service, the balance must be paid in a lump sum before retirement or you will only receive service credit for the amount already paid.

## FEDERAL LAW (USERRA)

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), military service is defined as the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority 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.

Members employed by the City of New York who are activated to military service may apply to receive service credit for the period of time spent on military duty, not to exceed five years for voluntary active duty (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.

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 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: Some agencies allow employees to return for reemployment in a timeframe greater than that allowed under USERRA.

There is no time limit for purchasing military service under USERRA. The service may be purchased during any membership, and the right to obtain the service credit does not terminate when membership in the retirement system terminates. However, you must be a member of NYCERS at the time you apply for military service credit.

## Cost under Federal Law

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 under USERRA is the equivalent of the contributions required



of the member had he or she never left for military service based on his or her Tier and retirement plan. NYCERS computes the cost as follows:

- ▶ your full contribution rate;  
**multiplied by**
- ▶ the salary you would have earned during the period of your military service

Under the provisions of USERRA, you did not need to be a member of the retirement system at the time you entered military service. However, you **must** have:

- ▶ been employed by a municipal employer within New York State immediately before entering military service
- ▶ left such employment with the intention of entering military service
- ▶ served in one of the military branches of the U.S. Armed Forces
- ▶ applied to return to your City position within 14 or 90 days (depends on the length of your military service) after termination of military duty (or release from hospitalization continuing after discharge for a period of not more than one year).

#### **ARTICLE 20 OF THE NEW YORK STATE 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 active duty (not Reserves) military service, not to exceed **three years** of such service, if the member was honorably discharged from the military.

No military time 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 this law 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 Under Article 20**

NYCERS computes the cost to purchase military service under Article 20 as follows:

- ▶ the number of years of military service being purchased (up to a maximum of three years);  
**multiplied by**
- ▶ 3% for members who joined NYCERS prior to 4/1/12; 6% for members who joined NYCERS on or after 4/1/12;  
**multiplied by**
- ▶ the member's salary earned during the 12-month period prior to the date of application for purchase of military service.

#### **REQUIRED DOCUMENTATION**

A Certificate of Release or Discharge from Active Duty (Form DD214; see below) is the most common proof of satisfactory service. Other acceptable documents of military service include a Public Health Service Certificate (PHS2893 or PH1867) or a military certificate issued pursuant to Presidential Executive Order 11519 during the United States Post Office work stoppage.

#### **OPERATION DESERT STORM**

There is an additional benefit for those who served in Operation Desert Storm. Pursuant to Chapter 469 of the Laws of 1991, 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, you must have been a member of a New York City retirement system at the time of activation. If you are eligible for this special provision, NYCERS will automatically process your military buy-back application for payment by the City of New York.

#### **REFUNDS**

In the event military service purchased does not increase your retirement allowance or death benefit, any payments made toward such purchase shall be refunded by NYCERS, with interest.

#### **SERVICE CAP FOR SPECIAL PLAN MEMBERS**

If you are a member of a special occupational plan that limits your service credit to 30 years, purchasing military service will not provide you with any service credit beyond the 30-year limit. If you feel this circumstance applies to you, please call NYCERS for further information.

#### **EXTENDED MILITARY BENEFITS PROGRAM**

The Extended Military Benefits Program (EMBP) is a voluntary program in which City employees can choose to continue all payroll deductions, benefits, etc. as if they had never entered into military service. Employees who elect this program receive a salary from the City equal to the difference between their City salary and their military pay while they are in military service. Members may initially receive a partial year of credit for this partial salary. To receive full credit, such members must file a Military Buy-Back application when they return to City service.

#### **DD 214**

If you do not have your DD214, you can request a copy from the National Personnel Records Center, Military Personnel Records, 1 Archives Drive, St. Louis, MO 63138-1002, or online at <http://www.archives.gov/veterans>. The DD214 must have the official signature of the Commanding Officer. The date of induction and date of release must match the net active service. The name, date of birth, and Social Security Number must match NYCERS' records.