



# Disability Retirement

Tier 1 and 2

July 2017

## TIER MEMBERSHIP INFORMATION:

1. Employees who became members of NYCERS prior to July 1, 1973 are members of Tier 1.
2. Employees who became members of NYCERS on or after July 1, 1973 and before July 27, 1976 are members of Tier 2.

## WHAT IS ORDINARY DISABILITY AND ACCIDENTAL DISABILITY?

An ordinary disability is defined as an injury or illness that prevents an employee from performing the routine duties of his or her job title.

An accidental disability can only result from an accident occurring in the performance of duty. The courts have defined the term accident as a "sudden, fortuitous mischance, unexpected, out of the ordinary, and injurious in impact." Not every line of duty injury results in the award of an accident disability retirement benefit.

**The eligibility tables on the back page explain the filing requirements for ordinary and accidental disability.**

## WHAT INFORMATION MUST I SUBMIT TO NYCERS IN ORDER TO BE PROCESSED FOR DISABILITY RETIREMENT?

You must complete and submit the following NYCERS forms:

- Application for Ordinary Disability Retirement or Accidental Disability Retirement (Form #601 for Tier 1 members; Form # 602 for Tier 2 members)
- Your Personal Report of Disability (Form # 605)
- Your Physician's Report of Disability (Form # 606)
- General Authorization for Medical Information (Form # 608)
- Questionnaire to Be Completed by Applicant for Disability Retirement. (Form # 609)

Before you complete any of the above forms, read the instructions in Form # 801 which comes with the application.

If your disability was the result of an accident on the job, your agency must submit an Accident or Incident Report prepared by you and your manager or supervisor, completely describing all the injuries and the events surrounding them. This report is most valuable if it is written at the time of the accident.

Submit your own medical evidence if you are being treated by a private physician. This includes any medical information not otherwise reportable on Form # 606.

Submit all X-rays, CT Scans, MRI films, and reports before your scheduled appointment date with NYCERS' Medical Board.

## HOW DO I APPLY FOR A DISABILITY RETIREMENT?

Here are the steps for your initial application:

- Submit your application (completed and notarized).
- Authorize NYCERS to request information from your hospital or health care facility, AND/OR submit any and all medical evidence from a private physician to support your claim for disability.

NYCERS' will not process your disability retirement application until the Medical Division receives the items above and determines your eligibility. If you are not eligible, you will be notified in writing of the reason.

### Disqualifying Conditions:

You are no longer on payroll, with or without pay, when you appear before the Medical Board.

You did not apply for Accident Disability within two years from the date of the accident (except members of the uniformed forces of the departments of Correction and Sanitation).

You do not have sufficient *Credited Service* required by your Plan and Tier.

You vested, retired, or received a refund of your contributions which terminated your membership.

## WHAT HAPPENS ONCE NYCERS RECEIVES MY APPLICATION, AND HOW IS IT PROCESSED?

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

1. Verify your eligibility to make application or ask your employing agency to verify your employment status.
2. Ask hospitals and health centers to provide a medical history, if you have completed Form # 608.
3. Verify that your case file, including medical records, is complete. (The processing of your case will be suspended or closed, if medical evidence is insufficient.)
4. Schedule you to appear before NYCERS' Medical Board for a medical interview and/or examination. (Confirm your appointment at least 7 days in advance by calling (347) 643-3000, press 8, then 1)

*(continued on page 2)*



**Note:** Failure to appear for your appointment before NYCERS' Medical Board, without medical proof that you were unable to do so, will result in official suspension of your disability retirement application. Depending on your employment status, you may not be eligible to reapply for disability retirement.

- NYCERS' Medical Board will review your medical file, conduct an interview and examination, and make its determination.

#### WHAT HAPPENS AFTER I AM INTERVIEWED AND/OR EXAMINED BY THE MEDICAL BOARD?

NYCERS' Medical Board will make a recommendation to approve, deny, or defer a decision on your application.

You will receive notification of the Medical Board's recommendation in writing within 30 days from your appointment.

#### WHAT HAPPENS IF THE MEDICAL BOARD RECOMMENDS APPROVAL OF MY DISABILITY APPLICATION?

NYCERS will ask your agency to verify the last day you worked and the last day you were paid, if not previously provided. Upon receipt, NYCERS will establish a retirement date, calculate your advance payment, and send you a letter advising you of the amount.

#### IF THE MEDICAL BOARD DETERMINES I AM DISABLED, WHEN DO I RECEIVE A BENEFIT CHECK?

NYCERS normally issues an advance payment between 60 and 90 days from the time you are notified of the Medical Board's approval of your application.

Approximately 90 days after you receive your first advance payment, you will receive a letter advising you of the final amount payable to you under the various options, and a description of your benefit options.

#### WHAT HAPPENS IF THE MEDICAL BOARD DENIES MY APPLICATION FOR DISABILITY RETIREMENT?

After NYCERS' Board of Trustees accepts the Medical Board's recommendation to deny your application, you may elect a review by a Special Medical Review Committee of three independent doctors. (Uniformed Correction Officers are not eligible for Medical Review.)

**Note:** Your union or employer must make a request, to the Executive Director of NYCERS, for you to appear before the Special Medical Review Committee. This election binds you to the Committee's decision. You also waive your rights to reapply for a disability retirement, and to challenge the decision in court (Article 78 relief).

Members who do not elect final medical review may reapply for disability retirement by filing another application and submitting current medical evidence not previously reviewed by the Medical Board.

Members must remain on their agency's payroll (with or without pay) in order to maintain their eligibility to refile.

You also have the right to appeal non-medical issues relating to a denial of your disability retirement application. Requests to appeal must be in writing.

NYCERS' Board of Trustees does not have the authority to make medical decisions, or to overrule medical decisions of the Medical Board. NYCERS' Trustees do make decisions about whether a disability is caused by an accident, or whether an incident is an accident.

#### WHAT HAPPENS IF THE MEDICAL BOARD DEFERS ITS DECISION?

NYCERS will notify you of the deferral and ask you to provide additional information or appear for an evaluation before an independent medical consultant.

You are required to provide all information or appear for evaluation, within 45 days of the date of the NYCERS' Medical Board letter. If you do not, your application will be suspended.

#### CAN AN APPLICATION FOR ORDINARY OR ACCIDENT DISABILITY RETIREMENT BE WITHDRAWN?

If NYCERS Medical Board has not finalized its findings, you may withdraw your application for a disability retirement benefit upon written request to NYCERS and approval of the Medical Board.

#### ARE THERE ANY LIMITATIONS ON INCOME EARNED WHILE I COLLECT A DISABILITY RETIREMENT BENEFIT?

Pensioners are subject to limits on the income they earn while collecting disability retirement benefits.

For disability retirees who have reached normal retirement age, there are no limitations on earnings from:

- Private sector employment
- Federal government employment
- Any public service employment outside the State of New York

Limitations apply at certain income thresholds. In addition to the limitations on your income, other rules may apply to your employment while you are disabled. Before accepting employment, you should write or visit NYCERS to determine whether you are subject to income limitations.



## AM I REQUIRED TO REPORT TO NYCERS ANY INCOME I EARN WHILE COLLECTING MY DISABILITY RETIREMENT BENEFIT?

Yes. Once each year, (until you reach normal retirement age) you will be required to complete and return to NYCERS, the New York City Employees' Retirement Safeguards Information Affidavit disclosing your income during the preceding calendar year.

## WHAT HAPPENS IF I AM NO LONGER DISABLED AND WANT TO RETURN TO WORK?

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

In some cases, the Medical Board may approve a disability retirement application contingent on re-examination at a later date. By law, each year, until you reach normal retirement age, you may be required to be re-examined by NYCERS Medical Board.

If, upon re-examination, the Medical Board determines that you are no longer disabled, the Department of Citywide Administrative Services will place your name on a list of preferred eligible candidates for appointment to a position in a salary grade not exceeding that from which you retired. Disability benefits will continue to be paid until you are offered a job. If you return to work, or fail to return to work when called, NYCERS will discontinue payment of your disability benefit.

**Note:** To be restored to active NYCERS' membership, please notify NYCERS' Pension Payroll Division immediately upon your return to work. Failure to do so may jeopardize your rights to future retirement benefits.

## ARE THERE TAX CONSEQUENCES ON DISABILITY RETIREMENT BENEFITS I RECEIVE?

Ordinary and accident disability retirement benefits are not subject to New York State and local income taxes. Ordinary disability retirement benefits are subject to Federal income tax.

Members who receive a  $\frac{3}{4}$  accidental disability retirement benefit are not subject to Federal tax on their benefit.

## WILL I GET A REDUCTION IN BENEFIT BECAUSE OF OTHER GOVERNMENT BENEFITS I MAY RECEIVE?

There is no reduction in benefit because of any Social Security payments.

Accident disability retirement benefits are reduced by 100% of any workers' compensation payments you receive.

## WHO ADMINISTERS MY HEALTH INSURANCE COVERAGE?

**NYCERS does not administer health insurance benefits.**

Ask your agency's personnel or human resources department about active employees' health insurance.

Questions regarding retirees' health insurance benefits and deductions should be directed to the following:

<b>NYC Office of Labor Relations:</b>	<b>(212) 513-0470</b>
<b>NYC Transit Authority:</b>	<b>(646) 376-0123</b>
<b>TBTA:</b>	<b>(646) 252-7935</b>



# Disability Retirement Tier 1 & Tier 2 Eligibility Requirements

PLAN	ORDINARY DISABILITY ELIGIBILITY BY YEARS OF SERVICE
Tier 1 Plans A & B Tier 2 Plans C & D Tier 1 Fractional	Ten or more years of <i>Membership Service</i> <b>and</b> while a member on payroll (with or without pay)
Tiers 1 & 2 Uniformed Sanitation Force	Five or more years of <i>Allowable Sanitation Service</i> <b>and</b> while a member on payroll (with or without pay)
Tiers 1 & 2 Transit Operating	Ten or more years of <i>Membership Service</i> <b>and</b> while a member on payroll (with or without pay)
Tiers 1 & 2 Uniformed Correction Force	No minimum service requirement, provided a member is on payroll (with or without pay)

**There are no minimum service requirements for Accidental Disability Retirement**

**Note:** Terms in italics are defined in the Summary Plan Description for your Tier and Program. Terms which sound alike may have different definitions in the various Tiers and Programs.

## Ordinary Disability Retirement Effective Date & Filing Requirements

PLAN	EFFECTIVE DATE	FILING REQUIREMENTS
Tier 1 Plans A & B Tier 2 Plans C & D Tiers 1 & 2 Uniformed Sanitation Force Tiers 1 & 2 Transit Operating Force	Day after last day paid on employer's payroll, but not less than 30 days, or more than 90 days after the date application was filed with NYCERS.	You or another person acting on your behalf <b>or</b> A committee or conservator duly appointed by a court of competent jurisdiction <b>or</b> The head of the agency where you are employed  You must be on your agency's payroll (with or without pay) when your application is filed and while it is pending.
Tiers 1 & 2 Uniformed Correction Force	Day after last day paid on your employer's payroll.	

## Accidental Disability Retirement Effective Date & Filing Requirements

PLAN	EFFECTIVE DATE	FILING REQUIREMENTS
Tier 1 Plans A & B Tier 2 Plans C & D Tiers 1 & 2 Uniformed Sanitation Force Tiers 1 & 2 Transit Operating Force	<b><u>Later of:</u></b>  The date the application is filed <b>or</b> The date immediately following the date you were last paid on your employer's payroll.	You or another person acting on your behalf <b>or</b> A committee or conservator duly appointed by a court of competent jurisdiction <b>or</b> The head of the agency where you are employed  You must be on your agency's payroll (with or without pay) when your application is filed and pending.  <b>Additional requirement for Tier 1 Plans A&amp;B, Tier 2 Plans C&amp;D, and Tiers 1 and 2 Transit Operating Force:</b> Application must be filed within 2 years from date of accidental injury in City service. If application is denied because you were not incapacitated for performance of regular job duties at time of examination, you may reapply for reconsideration at any time within 5 years of accidental injury in City service, provided you have not attained age 55 for Tier 1 members, age 62 for Tier 2 members, or age 50 for Tiers 1 and 2 Transit Operating Force members.
Tiers 1 & 2 Uniformed Correction Force	The day after last day paid on employer's payroll.	You or another person acting on your behalf <b>or</b> A committee or conservator duly appointed by a court of competent jurisdiction <b>or</b> The head of the agency where you are employed. You must be on your agency's payroll (with or without pay) when your application is filed and while it is pending.