

# Your Retirement Plan

## Coordinated Plan

For ERS Tier 3 and 4 Members  
(Articles 14 and 15)

New York State Office of the State Comptroller  
**Thomas P. DiNapoli**



New York State and Local  
Employees' Retirement System



## A Message From Comptroller Thomas P. DiNapoli

As a member of the Retirement System, you are covered by a plan that provides important benefits. This presentation explains some of those benefits and the services available to you as a member of our system, including:



- Benefits you will receive at retirement if you meet the service and age requirements (service retirement benefits);
- Benefits you may receive if you become permanently disabled (disability retirement benefits);
- Benefits your beneficiary may receive if you die while working for a public employer or, if eligible, after you leave public employment (death benefits); and
- Benefits you may receive at a later date, even if you leave public service before you become eligible to retire (vested benefits).

I am joined by a staff of dedicated professionals in my commitment to helping you make informed decisions about your future. I encourage you to contact us with any questions or suggestions you might have.

Sincerely,

A handwritten signature in black ink that reads "Tom DiNapoli". The signature is written in a cursive, flowing style.

Thomas P. DiNapoli  
State Comptroller

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## About Your Membership

### RETIREMENT SYSTEM MEMBERSHIP

Permanent, full-time employees of employers that participate in the New York State and Local Employees' Retirement System (ERS) must become members of the Retirement System.

Under any of the following four scenarios, however, membership is optional:

- You are appointed to a temporary or provisional position;
- You work less than 30 hours per week, or less than the standard number of hours for full-time employment as established by your employer for your position;
- Your job is supposed to last for less than one year, or you work on a less than 12 months per year basis; or
- Your annual salary is less than New York State's minimum wage, multiplied by 2,000 hours.

When you become a Retirement System member, you must complete and file a membership application with the Office of the State Comptroller.

### TIER STATUS

When you join the Retirement System, you are assigned to a tier depending on your date of membership.

If you joined the Employees' Retirement System on or after July 27, 1976 but before September 1, 1983, you are in Tier 3.

If you joined on or after September 1, 1983 up to and including December 31, 2009, you are in Tier 4.

Members who joined January 1, 2010 or after are in Tier 5 and should refer to the publication that describes Tier 5 benefits.

## **CONTRIBUTING TOWARD YOUR RETIREMENT**

Effective October 1, 2000, until you either accrue ten years of service credit or have been a member of the Retirement System for ten years after your date of membership, you are required to contribute 3 percent of your gross earnings toward your retirement benefits. If you are employed by more than one participating employer, once you join the Retirement System, all salary and service earned in connection with all employment must be reported to this System, even if your membership is only mandatory with one.

Under Internal Revenue Code Section 414(h) (as of July 1, 1989), your required 3 percent contributions are tax-deferred until they are distributed to you. These contributions are reportable for federal income tax only when you withdraw or retire from the Retirement System. Therefore, your 3 percent contributions are:

- Not reported as wages for federal income tax;
- Reported as wages for New York State and local income taxes;
- Reported as wages for Social Security;
- Reported as wages to the New York State and Local Employees' Retirement System, and used in the calculation of all benefits paid by the Retirement System; and
- Calculated on your full gross salary, before any salary reductions for any other tax-deferred plan.

## **BECOMING ELIGIBLE FOR A BENEFIT**

Once you have accrued five years of credited service, you will be vested. This means you have earned the right to receive a retirement benefit, even if you leave public employment.

You can begin receiving your vested retirement benefit when you reach age 55. The amount of your vested benefit is based on your service, age at retirement and the salary you earned when you were an active member.

Vesting is automatic — you do not have to fill out any paperwork or file an application to become vested. However, you will need to file an application to begin receiving your vested benefit.

## **WITHDRAWING YOUR CONTRIBUTIONS AND/OR YOUR MEMBERSHIP**

If you leave public employment with at least five, but less than ten years of credited service, you may choose to:

- End your membership and withdraw your accumulated contributions (with interest compounded at 5 percent per year); or
- Leave your contributions in your account and qualify for a retirement benefit when you are 55.

To help you decide which would be more beneficial, use our benefit calculator to project your pension using the “vested retirement” choice, or you can contact our Call Center to request a benefit projection. This is especially helpful if you have an outstanding loan balance, because you will receive a projection and the amount your benefit would be reduced if you choose not to pay off the balance.

If you choose to withdraw, or you have less than five years of service and do not qualify for a retirement benefit, you should file the Withdrawal Application (RS5014) no earlier than 15 days after you leave public employment.

If you have at least five years of credited service, and you do not withdraw your membership, make sure to apply for a retirement benefit when you reach 55.

Once you have ten or more years of credited service, you cannot withdraw from the Retirement System.

## **ENDING YOUR MEMBERSHIP**

Once you join, there are five ways your membership can end:

- If you do not have at least five years of credited service and seven years have elapsed since you last worked for a participating public employer;
- If you leave public employment before you have ten years of credited service and voluntarily withdraw your contributions;
- If you transfer your membership to another New York State public retirement system;
- If you retire; or
- If you die.

“Public employment” means paid service as an officer or employee with an employer that participates in the New York State and Local Retirement System.

## Service Credit

### **FULL- AND PART-TIME SERVICE CREDIT**

#### **Full-Time Employment**

If you join the Retirement System on the day you begin employment with a participating employer, we calculate your retirement service credit by subtracting your beginning date of employment from the date you actually leave paid employment, as long as:

- You work on a full-time continuous basis; and
- You earn at least the annual equivalent of New York State's annual minimum wage for your full career in public service.

"Full-time" is defined by your employer, but must be at least six hours per day, for a five-day week.

Institutional teachers, teachers working at schools for the deaf and blind, school district and Board of Cooperative Educational Services (BOCES) employees, and college employees in both classified and unclassified positions who work full-time for the school year receive a full year of service credit. "School year" refers to employment during the months of September through June.

### **Part-Time Employment**

Part-time employment, except as noted below, is credited as the lesser of:

$$\begin{aligned} & \text{number of days worked} \div 260 \text{ days} \\ & \text{or} \\ & \text{annual salary reported} \div \\ & (\text{State's hourly minimum wage} \times 2,000) \end{aligned}$$

#### **For institutional teachers:**

$$\text{number of days worked} \div 200 \text{ days}$$

#### **For teachers working at New York State schools for the deaf and blind, BOCES and school district employees:**

$$\text{number of days worked} \div 180 \text{ days}$$

#### **For college employees:**

$$\text{number of days worked} \div 170 \text{ days}$$

Employers report your days worked and salary to us.

### **LEAVES OF ABSENCE**

Half credit is given for sick leave at half pay. Since service is usually not credited for any period of time you do not receive a salary, credit is not given for:

- Leaves of absence without pay;
- Authorized, unpaid medical leaves of absence; or
- Unpaid leave under the federal Family and Medical Leave Act.

### **Workers' Compensation**

State employees will receive up to one year of service credit per incident for time spent on Workers' Compensation leave.

Non-State employees may be able to receive credit for some or all of your Workers' Compensation leave. To determine your eligibility and the cost (if any), please send a request to the Retirement System for review.

### **CREDIT FOR PREVIOUS OR MILITARY SERVICE**

You may be able to obtain credit for your previous public employment or military service. It is very important that you claim all the service credit you are entitled to receive as early as possible, because records documenting your previous service may be lost or destroyed with the passage of time.

#### **Prior Service**

Prior service is any period of time you received salary from a participating employer before that employer elected to participate in the Retirement System. Tier 4 members must earn at least two years of credited service as a Retirement System member to receive credit for this service.

#### **Example:**

You worked for a municipality for six years before that municipality began participating and now you have joined the System. You can request credit for those six years, but for Tier 4 members, there would be a cost.

### **Service Before Your Date of Membership**

You may receive credit for working for a participating employer before you joined the Retirement System. To obtain the credit, you must earn at least two years of credited service as a Retirement System member.

#### **Example:**

You worked at the town library while going to school and, as a part-time employee, you chose not to join the System. When you graduated and took a full-time job at the town supervisor's office, you were required to join. You can choose to claim the part-time service, but there is a cost.

### **Military Service**

You may be able to receive credit for some or all of your military service. To determine your eligibility and the cost, if any, please send us a copy of your Certificate of Release or Discharge from Active Duty (DD-214).

### **Service From a Previous Membership**

If you previously were a member of this System, or another public retirement system in New York State, your service may be recredited and your date of membership and tier restored. We will initiate reinstatement to Tier 3 or an earlier date within Tier 3 or 4 by sending you information about your eligibility and giving you the opportunity to purchase credit for your withdrawn service. If your previous Tier 3 or 4 membership was with another retirement system, please write to our Member & Employer Services Bureau.

For reinstatement to Tier 1 or Tier 2, send us a completed Application to Reinstate a Former Tier 1 or 2 Membership (RS5506).

## **PAYMENT FOR SERVICE CREDIT**

As a Tier 3 or 4 member, you will usually be required to pay for service currently not credited to you. There are two kinds of past service costs — mandatory and optional.

Mandatory costs are required for service credit you earned as a member but for which you made no (or insufficient) contributions.

### **Example of Mandatory Past Service Costs:**

You joined the Retirement System on January 14, 2002, but your employer did not begin taking contributions from your paycheck until February 1, 2002. You would then need to make payments for January 14th through January 31st.

Optional costs are payments you choose to make to purchase credit for a period of previous or military service. Once you have made payment and have accrued two years of service credit as a member, you can receive that credit. Before you purchase optional past service credit, you must pay for any outstanding mandatory costs.

## **APPLYING FOR PREVIOUS OR MILITARY SERVICE CREDIT**

To receive credit for any type of previous or military service, send a written request (which must be received before your effective date of retirement) to our Member & Employer Services Bureau. Please include as much information as you can about the period of employment for which you are seeking credit. We will determine your eligibility to receive the credit and any cost involved.

Requesting credit for your previous public employment as early in your career as possible ensures that:

- It will be less expensive than if you wait to purchase it at a later date.
- Your retirement benefit will be processed more quickly if your service credit is in order.

If you are requesting previous service credit to establish eligibility for a vested retirement benefit, you should request credit while you are on the payroll of a participating employer. If you receive a statement of the cost after you leave the payroll, you must make payment within 30 days of notification. You can request credit for previous service after you leave the payroll, but you must pay the cost (if any) and return to the payroll of a participating employer for the service to be credited and for you to become vested.

**Please note that if your purchased service brings your total credited service to ten or more years, you will no longer be eligible to withdraw your contributions and end your membership.**

### **ADDITIONAL SERVICE CREDIT FOR SICK LEAVE (SECTION 41[j])**

Section 41(j) of the Retirement and Social Security Law (RSSL) provides an optional sick leave benefit. If your employer has chosen to offer this benefit, you may receive service credit for your unused, unpaid sick leave days at retirement. To be eligible for this benefit, you must retire directly from public employment or within a year after separating from service. The additional credit is determined by dividing the total unused, unpaid sick leave days, which cannot exceed 165 (200 days for some members), by 260.

Contact your employer or refer to your Member Annual Statement to determine if this benefit is available to you.

Credit for your unused sick leave at retirement cannot be used to:

- Qualify for vesting. For example, if you have four-and-one-half years of service credit and you need five to be vested, your sick leave credit cannot be used to reach the five years.
- Qualify for a better retirement benefit calculation. For example, if you have 19½ years of service credit but your pension will improve substantially if you have 20 years, your sick leave credit cannot be used to reach the 20 years.
- Increase your pension beyond the maximum amount payable under your retirement plan.
- Meet the service credit requirement to retire under a special 20- or 25-year plan.

## Final Average Salary (FAS)

Your pension is based on your years of credited service, your age at retirement and your final average salary (FAS). FAS is the average of the wages you earned during any 36 consecutive months of service when your earnings were highest. This is usually the last three years of employment.

If the wages in any year included in the period exceed the average of the previous two years by more than 10 percent, the amount in excess of 10 percent is excluded from the computation of your FAS.

The calculation of your FAS can include, but is not limited to, the following types of payments. In some cases, certain restrictions may apply.

- Regular salary;
- Overtime earned in the period used in the FAS;
- Holiday pay;
- Noncompensatory overtime earned for each year in the FAS period;
- Longevity payments (maximum of three), if earned in the years used in the FAS calculation; and
- Up to 30 days vacation, if the FAS is based on the 36 months immediately preceding retirement.

The following types of payments are **not** considered regular compensation and, in most cases, will not be included in your FAS calculation.

- Unused sick leave;
- Payments made as a result of working your vacation;
- Any form of termination pay;
- Payments made in anticipation of retirement;
- Lump sum payments for deferred compensation; and
- Any payments made for time not worked.

## Service Retirement Benefits

### ELIGIBILITY, THE BENEFIT AND FILING

#### Eligibility

You will be eligible for a service retirement benefit when you reach age 55 and have five or more years of credited member service. If you are a Tier 3 member, you may retire under Article 14 or Article 15. However, your pension, in most cases, will be greater under Article 15.

For the full retirement benefit, you must be 62 years old at retirement or, if you have 30 years of credited service, you may retire as early as age 55. With less than 30 years of service, you may retire as early as age 55, but you will receive a reduced benefit.

#### The Benefit

- If you retire with less than 20 years of service credit, your pension will equal 1/60th (1.66 percent) of your FAS for each year of service.
- With 20–30 years of service credit, your benefit will equal 1/50th (2 percent) of your FAS, multiplied by your years of credited service.
- For each year of credited service beyond 30 years, you will receive 3/200ths (1.5 percent) of your FAS.

#### Examples:

**At age 62, with 19 years of service and an FAS of \$35,000**

$$\frac{19 \text{ years} \times \$35,000}{60} = \$ 11,083 \text{ per year}$$
$$\qquad \qquad \qquad \$ \quad 924 \text{ per month}$$

**At age 62, with 20 years of service and an FAS of \$35,000**

$$\frac{20 \text{ years} \times \$35,000}{50} = \$14,000 \text{ per year}$$
$$\qquad \qquad \qquad \$1,167 \text{ per month}$$

**At age 62, with 31 years of service and an FAS of \$35,000**

$$\frac{30 \text{ years} \times \$35,000}{50} = \$21,000 \text{ per year}$$

**plus**

$$(1 \text{ year} \times .015) \times \$35,000 = \$525 \text{ per year}$$
$$\qquad \qquad \qquad \$21,525 \text{ per year}$$
$$\qquad \qquad \qquad \$1,794 \text{ per month}$$

**Filing**

Your Application for Service Retirement (RS6037) must be on file with the Office of the State Comptroller at least 15 days but not more than 90 days before the date on which your retirement will occur. The 15-day filing requirement is waived if you are over age 70 at retirement.

**RETIRING BEFORE AGE 62**

If you retire with 30 or more years of service, your benefit will not be reduced as a result of retiring before age 62. With less than 30 years of service, your benefit will be reduced by the percentages shown below. The percentage of the benefit reduction is prorated based on your exact age at retirement.

Age at Retirement	Percentage of Reduction
55	27
56	24
57	21
58	18
59	15
60	12
61	6
62	0



## Choosing a Payment Option

### **RECEIVING YOUR BENEFIT AND FILING YOUR OPTION ELECTION**

#### **Receiving Your Benefit**

At retirement, you must decide how you want your retirement benefit paid. You can choose from several options, all of which will provide you with a monthly benefit for life. For example, you may elect the Single Life Allowance, which provides the maximum amount payable during your lifetime, with nothing payable to a beneficiary upon your death. Or, you may elect to receive a smaller monthly benefit to provide for a possible payment to a designated beneficiary after your death.

#### **Filing Your Option Election**

You must file your Option Election form (unless notified otherwise, as in the case of disability retirement) before the first day of the month following your retirement date. You have up to 30 days after your pension benefit becomes payable to change your selection. If you are a disability retiree, you may change your option selection up to 30 days after your disability application is approved, or up to 30 days after your retirement date, whichever is later.

If your election is not timely, by law, we must process your retirement as if you had selected the Single Life Allowance (Option 0).

## **AVAILABLE OPTIONS**

### **Single Life Allowance (Option 0)**

This is the basic retirement benefit. It provides the maximum benefit payment to you each month for the rest of your life. Under this selection, all payments cease upon your death. When you die (even if it is only one year, or sooner, after retiring), nothing will be paid to any beneficiary.

### **Joint Allowance — Full\***

This option will provide you with a reduced monthly benefit for your lifetime, and is based on your birth date and that of your beneficiary. After your death, your beneficiary will receive the same monthly amount (without COLA) for life. If your beneficiary dies before you, all payments will cease upon your death.

### **Joint Allowance — Partial\***

This option will provide you with a reduced monthly benefit for your lifetime, and is based on your birth date and that of your beneficiary. After your death, your beneficiary will receive a specific percentage of your benefit (without COLA) which you select (75, 50, or 25 percent) for life. If your beneficiary dies before you, all payments will cease upon your death.

### **Pop-Up/Joint Allowance — Full or Half\***

These options will provide you with a reduced monthly benefit for your lifetime. If you die before your beneficiary, we will continue paying the same monthly amount or one-half that amount (without COLA), depending on which option you elect, to your beneficiary for life. If your beneficiary dies first, your benefit will be increased to the amount you would have received if you had selected the Single Life Allowance at retirement, and all payments will cease upon your death.

### **Five Year Certain and Ten Year Certain**

These options will provide you with a reduced monthly benefit for your lifetime, with the additional guarantee that if you live for less than five years or ten years after retirement, depending upon which option you elect, payments in the same amount you were receiving (without COLA) will be made to your beneficiary for the balance of the five- or ten-year period. You may change your beneficiary within the five- or ten-year period.

### **Alternative Options**

If the options described here do not meet your needs, we will consider written requests for other payment methods. These requests must be outlined in detail by you and then approved by us for legal and actuarial soundness.

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\* If you elect this option, you must submit proof of your beneficiary's birth date. You can designate only one beneficiary and you cannot change your designation after your retirement. If your beneficiary is your spouse at the time of your death, he or she will be eligible for 50 percent of your COLA.

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## Items That May Affect Your Pension

### **IRS PENSION LIMITATION**

Internal Revenue Code Section 401(a)(17) limits the amount of salary that qualified pension plans, including the New York State and Local Retirement System, may use in calculating benefits. It affects members who join on or after April 1, 1996, and currently excludes earnings over \$245,000 (effective April 1, 2011) in the State's fiscal year (April 1st – March 31st). The amount is set by federal law and is periodically adjusted for inflation.

### **BORROWING AGAINST YOUR CONTRIBUTIONS**

If you meet eligibility requirements, you may take a loan from the Retirement System. To apply, you must file a Loan Application (RS5025-A) with us.

Before you apply, you should be aware of the federal tax laws pertaining to Retirement System loans. **Your loan will be taxable if:**

- The loan amount exceeds federal limits.
- You have a loan with a deferred compensation (457) or tax-sheltered annuity (403-b) plan through your current employer that causes your loan to exceed the federal limits for nontaxable loans. Exceeding these limits could result in significant tax consequences for you.
- You do not make the required payments on your loan at least once every three months or do not complete payment within five years from the date the loan was issued.

- You retire or withdraw from the Retirement System and have one or more outstanding loan balances.

If your loan is taxable, or becomes taxable as described above, you must include it on your federal income tax return for the year the loan is granted or becomes taxable. If you are under 59½ at the time, you may be required to pay a 10 percent penalty tax in addition to any ordinary federal income tax you owe. Please consider consulting a tax advisor before applying for a taxable loan from the Retirement System.

The following rules apply when borrowing against your contributions:

- You must be in active service and have one year of member service credit.
- Each loan must be for a minimum of \$1,000, so you must have an account balance of at least \$1,334. The total of all your loans may not be more than 75 percent of your contribution balance.
- You repay each outstanding loan through payroll deductions in an amount sufficient to repay the loan, interest and insurance premium within five years. The minimum deduction to repay your outstanding loan balances must be at least 2 percent of your salary.
- You may borrow only once in any 12-month period.
- Prior to retirement, and 30 days after issuance, loans are fully insured in case you die before repaying them.

If you retire with an outstanding balance, your retirement benefit will be **permanently reduced**. You cannot pay off your loan once you retire. The amount of your pension reduction will be based on your age, the loan balance at retirement, and type of retirement (regular service or disability).

These are examples of how your service retirement benefit will be permanently reduced by an outstanding loan balance at retirement. The approximate reductions are for calendar year 2012. The amount of the reduction changes annually.

Age at Retirement	Outstanding Loan Balance	Annual Pension Reduction
55	\$5,000	\$271
	\$10,000	\$542
62	\$5,000	\$317
	\$10,000	\$633

If you already have an outstanding loan with us and want to take a new loan, please contact our Call Center and connect with our automated information line to determine if refinancing your current loan or carrying multiple loans would be better for you. Although the repayment amount may be larger if you choose multiple loans, the taxable amount of a refinanced loan is always higher, unless the entire refinanced loan is nontaxable.

**Example**

Contribution Balance: \$ 18,630  
 Previous Loan Balance: \$ 8,760  
 New Loan Requested: \$ 3,000

	Refinanced Loans	Multiple Loans
Taxable Amount	\$ 5,190	\$ 0
Minimum Payroll Deduction (Repayment Amount)	\$ 112	\$ 236

In this example, if the member chooses to refinance, the taxable amount of the loan is greater than the loan requested. But, if the member chooses multiple loans, the new loan is not taxable.

## **COST-OF-LIVING ADJUSTMENT**

Once you meet the eligibility requirements, including age and number of years retired, your retirement benefit will permanently increase each year. This adjustment, subject to pension caps and limitations, is 50 percent of the previous year's annual rate of inflation, but never less than 1 percent or more than 3 percent of your benefit. The adjustment percentage is applied only to the first \$18,000 of your Single Life Allowance, even if you selected a different option at retirement.

You will begin receiving cost-of-living adjustments (COLAs) when you are:

- Age 62 or older and retired for five or more years;
- Age 55 or older and retired for ten or more years (generally applies to members in special plans that allow for retirement, regardless of age, after a specific number of years); or
- Receiving a disability pension for five or more years.

When you die, if you selected an option that pays a lifetime benefit to your beneficiary, and the beneficiary is your spouse at the time of death, he or she will be eligible to receive half of the COLA amount you would have been entitled to receive.

## **DIVORCE**

The New York State Court of Appeals has determined that retirement benefits are marital property and subject to equitable distribution. "Equitable distribution" is the division of marital assets between spouses after the marriage has ended. This division must be stated in the form of a Domestic Relations Order (DRO) if we are to pay a portion of your pension to your ex-spouse.

A DRO gives us specific direction on how your retirement benefits should be divided. However, it does not allow for a distribution of your pension until you actually retire, die or terminate membership.

If you are divorced, it is especially important to review your beneficiary designations to ensure your benefits will be distributed according to your wishes. Effective July 7, 2008, beneficiary designations for certain benefits are revoked when a divorce, annulment or judicial separation becomes final. An exception applies if the terms of a DRO specify otherwise. Beneficiary designations may be revoked for the Ordinary Death Benefit, Cash Refund Initial Value option (Tier 1), Cash Refund Contributions option (Tiers 1 & 2) and the Five and Ten Year Certain options. The Survivor Benefit beneficiary designations made by retirees who chose the Single Life Allowance option or certain alternative options may also be revoked.

For more information on how your pension benefits may be affected by divorce, consult your attorney, contact our Matrimonial Bureau, read our guide to Domestic Relations Orders and review our Divorce FAQs.

## Vested Retirement Benefit

### **ELIGIBILITY**

You are eligible for a vested retirement benefit if you leave public employment before age 55 and you have five or more years of credited service. This means that when you reach age 55, you will be entitled to a retirement benefit based on your service and the salary earned when you were an active member.

Under Article 15, if you retire between age 55 and 62 with less than 30 years of service credit, you will receive a reduced pension. With at least 30 years of service, or if you are 62 or older at retirement, there is no reduction in your pension.

### **YOUR VESTED BENEFIT**

This benefit is calculated the same way as your service retirement benefit. However, it cannot be less than the value of your accumulated contributions with interest. For an explanation of your benefit, please refer to Service Retirement Benefits.

The vested retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

## **FILING**

To receive your vested retirement benefit at the earliest possible date, file a retirement application within 90 days before your 55th birthday. If we receive your retirement application after your 55th birthday, your vested retirement will be effective the date the application is received.

**Remember, it is up to you to file a retirement application when you become eligible and wish to receive your benefit.**

# Disability Retirement Benefits

## OVERVIEW

If you become unable to perform your duties because of a permanent physical or mental incapacity, you may be eligible for a disability retirement benefit. There are a variety of disability benefits with different requirements. If you are eligible, applications for disability and regular service retirement benefits may be submitted simultaneously.

You must select an option for the payment of your disability benefits.

## TIER 4 — ARTICLE 15 DISABILITY RETIREMENT BENEFIT

### Eligibility

To qualify for this disability retirement benefit, you must have at least ten years of credited service, unless your disability results from an accident you sustain on the job. If your disability results from an on-the-job accident, not due to your own willful negligence, there is no minimum service requirement.

### The Benefit

If approved, this is a benefit equal to the greater of:

- 1/60th (1.66 percent) of your FAS for each year of credited service; **or**
- 1/60th (1.66 percent) of your FAS for each year of credited service, plus 1/60th of your FAS for each year of service you might have earned before age 60, but not more than one-third of your FAS.

**Example:**

Member is age 57 with 19 years of service  
Three possible years of additional service to age 60  
FAS = \$30,000

$$19 \text{ years} \times \$30,000 \div 60 = \$ 9,500$$

or

$$22 \text{ years (19 years + 3 additional)} \times \$30,000 \div 60 = \$ 11,000$$

$$\text{Maximum benefit} = 1/3 \text{ of FAS: } 1/3 \times \$30,000 = \$ 10,000$$

**Benefit payable is \$ 10,000**

**Example:**

Member is age 57 with 12 years of service  
Three possible additional years of service to age 60  
FAS = \$30,000

$$15 \text{ years (12 years + 3 additional)} \times \$30,000 \div 60 = \$ 7,500$$

$$\text{Maximum benefit} = 1/3 \text{ of FAS: } 1/3 \times \$30,000 = \$ 10,000$$

**Benefit payable is \$ 7,500**

If your disability is the result of an on-the-job accident, the minimum benefit payable is at least one-third of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have less than 20 years of credited service, your disability benefit would be equal to the benefit payable to you at the normal retirement age of 62, not to exceed one-third of your FAS.

If you are 60 or older at the effective date of your disability retirement and you have 20 or more years of credited service, your disability benefit would be equal to 1/60th (1.66 percent) of your FAS for each year of credited service.

### **Filing**

You, your employer, or someone authorized with your power of attorney may file your Article 15 Disability Retirement Application (RS6340). The application must be filed while you are still on the payroll, or within:

- Three months of the last date you were paid on the payroll; or
- Twelve months after receiving notification of termination of employment, provided you were on an authorized medical leave of absence or receiving Workers' Compensation or other similar employer-funded benefits.

### **TIER 3 — ARTICLE 14 ORDINARY DISABILITY RETIREMENT BENEFIT**

If you are a Tier 3 member, you may qualify for disability retirement benefits under either Article 14 or Article 15. The Article 15 benefit is usually greater than the disability retirement benefit you would receive under Article 14, as the Article 15 benefit is not offset by any Social Security disability or Workers' Compensation benefits. However, to qualify for the Article 15 benefit, you must have at least ten years of service credit, unless you are found permanently disabled as a result of an on-the-job accident not caused by your own willful negligence.

### **Eligibility**

You may be eligible for an Article 14 ordinary disability retirement benefit if you have accrued at least five years of service credit, and have been awarded primary Social Security disability benefits.

### **The Benefit**

This is a pension equal to the greater of:

- One-third of your FAS; or
- Two percent of your FAS for each year of credited service, up to a maximum of 30 years.

This benefit is reduced by 50 percent of your CO-ESC Social Security disability benefit and by the amount of any Workers' Compensation benefit that may be payable.

In addition, this benefit is subject to full escalation on the first day of the month following the date you become eligible for the disability benefit. "Full escalation" is the annual increase or decrease of your pension benefit based on the Consumer Price Index, or 3 percent, whichever is less. The percentage of escalation may rise or fall each April, and is calculated on the annual gross amount of the pension you received the previous fiscal year (April 1 – March 31).

### **Filing**

You, your employer or someone authorized with your power of attorney may file your Article 14 Disability Retirement Application (RS6411). The application for ordinary disability retirement must be filed while you are still in active service. If you are no longer in active service, you may be eligible if your Social Security disability benefit is awarded retroactively to a time when you were in active service. When filing for this benefit, "active service" is defined as while you are:

- Being paid on the payroll;
- On an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or

- Receiving Workers' Compensation, or other similar employer-funded benefits for up to two years since last being paid on the payroll as long as you have not resigned or been terminated from employment while receiving those benefits.

### **TIER 3 — ARTICLE 14 ACCIDENTAL DISABILITY RETIREMENT BENEFIT**

#### **Eligibility**

You may be eligible for an Article 14 accidental disability retirement benefit if you are awarded primary Social Security disability benefits for a disability that is the natural and proximate result of an accident sustained in the performance of your duties, not caused by your own willful negligence.

#### **The Benefit**

The accidental disability retirement benefit is a pension equal to 2 percent of your FAS for each year of service credit you would have earned if you had been able to work until age 65 (not to exceed 30 years of service).

This benefit is reduced by 50 percent of your CO-ESC Social Security disability benefit and by the amount of your Workers' Compensation benefit. In addition, this benefit is subject to full escalation on the first day of the month following the date you become eligible for the disability benefit. "Full escalation" is the annual increase or decrease of your pension benefit based on the Consumer Price Index, or 3 percent, whichever is less. The percentage of escalation may rise or fall each April, and is calculated on the annual gross amount of the pension you received the previous fiscal year (April 1 – March 31).

## Filing

You, your employer or someone authorized with your power of attorney may file your Article 14 Disability Retirement Application (RS6411). The application for accidental disability retirement must be filed while you are still in active service. If you are no longer in active service, you may be eligible if your Social Security disability benefit is awarded retroactively to a time when you were in active service. When filing for this benefit, “active service” is defined as:

- Being paid on the payroll;
- On an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or
- Receiving Workers’ Compensation, or other similar employer-funded benefits for up to two years since last being paid on the payroll as long as you have not resigned or been terminated from employment while receiving those benefits.

The award of this benefit is dependent on your being approved for the primary Social Security disability benefit. If you have not been awarded the primary Social Security disability benefit when we receive your application, we will hold it pending the Social Security Administration’s decision.

## Death Benefits

### **ORDINARY DEATH BENEFIT**

Your beneficiary may be entitled to an ordinary death benefit if you meet the eligibility requirements and your death is not attributable to an on-the-job accident. The first \$50,000 of this benefit is paid in the form of group term life insurance, which is currently exempt from federal income tax. Your accumulated contributions are also payable to your beneficiary.

#### **Eligibility**

An ordinary death benefit may be payable to your designated beneficiary if you have completed at least one year of service since last joining the Retirement System and your death occurs:

- While you are on the payroll; or
- While you are on an authorized medical leave of absence without pay for up to two years (which may be extended for an additional two years); or
- While you are receiving Workers' Compensation, or other employer-funded benefits, for up to two years following the last date you were paid on the payroll, provided your employment has not been terminated by resignation, employer action or any other means while receiving those benefits; or
- Within 12 months of the last date you were receiving salary, on an authorized medical leave of absence, or receiving Workers' Compensation or other employer-funded benefits, provided you were not otherwise gainfully employed during that period.

### **Prior to Retirement**

The death benefit is equal to your salary multiplied by your years of service, not to exceed three years of salary. For example, if you die after one year of service, your beneficiary would receive a benefit equal to one year of your salary; if you die after two years, your beneficiary would receive a benefit equal to two years of your salary; and if you die after three or more years of service, your beneficiary would receive a benefit equal to three years of your salary. The salary is limited by Section 130 of the Civil Service Law.

If you are in service at age 61, your death benefit will be reduced by 4 percent and will be further reduced by 4 percent each year you continue to be in service, up to age 70. It will not be reduced below 60 percent of the ordinary death benefit payable.

If you joined before January 1, 2001, chose a different death benefit, and die while in active service, your beneficiary will be paid the greater of the two death benefits.

If you are a vested member with at least ten years of credited service, have not retired and you die more than one year after leaving public employment, 50 percent of the death benefit may still be payable. This benefit is also payable if you die within one year of leaving covered service but were gainfully employed during that time.

### **After Retirement**

There is a post-retirement death benefit if you:

- Retire directly from service; or
- Are a vested member and file for retirement within one year of leaving public employment in New York State.

The post-retirement death benefit is calculated at your retirement. During your first year of retirement, the benefit is 50 percent of the ordinary death benefit payable at retirement; during your second year of retirement, the benefit is 25 percent. During your third year and thereafter, the benefit will be 10 percent of the ordinary death benefit that would have been payable at age 60, if any, or at retirement, whichever was earlier.

**Example:**

**Retirement at age 62 with a salary of \$30,000**

\$30,000 × 3 =	\$ 90,000
(reduction for working until age 62)	<u>      - 7,200</u>
(ordinary death benefit at retirement) =	\$ 82,800
1st year of retirement (50 percent of ordinary death benefit):	\$ 41,400
2nd year of retirement (25 percent of ordinary death benefit):	\$ 20,700
After 2nd year of retirement (10 percent of benefit at age 60):	\$ 9,000

**Filing**

Your family or employer should notify us of your death as soon as possible so we can send the appropriate forms to your beneficiary.

**TIER 4 — ARTICLE 15  
ACCIDENTAL DEATH BENEFIT**

**Eligibility**

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be paid on your behalf.

### **The Benefit**

The Article 15 accidental death benefit is a pension equal to one-half (50 percent) of your salary during your last year of active service.

The benefit can only be paid to the following family beneficiaries, in this order:\*

- To your surviving spouse, provided he/she has not renounced survivorship rights in a separation agreement, until remarriage; or
- To your surviving children, until they reach age 25; or
- To your dependent parent or parents, as determined under regulations established by the Comptroller; or
- To any other person who qualified as a dependent on your final federal income tax return for the year preceding death, until that person reaches age 21.

The benefit will be divided equally among the beneficiaries in any one category if you have more than one child, parent or other dependent.

If the total of all the accidental death benefit payments is not more than the amount of the ordinary death benefit, the difference will be paid to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will.

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\* All beneficiaries would be eligible for annual COLAs after receiving the accidental death benefit for five years.

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### **Filing**

The application for the Article 15 accidental death benefit must be filed within 60 days of your date of death. The head of the Retirement System may accept an application after 60 days, but only if an ordinary death benefit has not been paid. Your family or employer should notify us when you die so we can forward the appropriate forms to your beneficiary.

## **TIER 3 — ARTICLE 14 ACCIDENTAL DEATH BENEFIT**

### **Eligibility**

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be paid on your behalf.

### **The Benefit**

This is a pension equal to one-half (50 percent) of your FAS. Each April, the benefit may change based on the amount of the increase or decrease in the Consumer Price Index, or by 3 percent, whichever is less. The benefit will never be reduced below the amount initially paid.

The benefit can only be paid to the following family beneficiaries, in this order:\*

- To your surviving spouse, provided he/she has not renounced survivorship rights in a separation agreement, until remarriage; or
- To your surviving children, until they reach age 25; or

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\* All beneficiaries would be eligible for annual COLAs after receiving the accidental death benefit for five years.

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- To your dependent parent or parents, as determined under regulations established by the Comptroller; or
- To any other person who qualified as a dependent on your final federal income tax return, or the return filed in the year immediately preceding the year of your death, until this person reaches age 21.

If the total of all the accidental death benefit payments is not more than the amount of the ordinary death benefit, the difference will be paid to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will.

### **Filing**

The application for the Article 14 accidental death benefit must be filed within two years of your date of death. Your family or employer should notify us when you die so we can forward the appropriate forms to your beneficiary.

## World Trade Center Presumption

If you participated in the World Trade Center rescue, recovery or clean up efforts, and you were a member of the Retirement System at that time, you should be aware of the benefits provided by the World Trade Center Presumption law.

- You may be eligible for an accidental disability retirement benefit if you become permanently disabled and unable to perform your job due to a qualifying condition.
- You may be eligible to reclassify your service or disability retirement benefit to an accidental disability retirement benefit if you develop a qualifying condition after you retire.
- Certain family beneficiaries may be eligible to receive an accidental death benefit if you die from a qualifying condition.

There are specific eligibility requirements and filing deadlines that must be met for these benefits. For more information, visit our World Trade Center Presumption page.

## Receiving Your Benefits

### APPLYING FOR BENEFITS

To apply for all Retirement System benefits, you must file the appropriate application form with the Office of the State Comptroller in a timely manner. Forms are available from our website, our Call Center or your employer. Specific filing instructions are detailed in each benefit description. If you need help, you can call or write us, or speak with an Information Representative at one of our consultation sites throughout New York State.

#### Filing with the Office of the State Comptroller

Many retirement benefit applications and other documents are required by law to be filed with the Office of the State Comptroller within specific time limits. For a form to be considered as “filed with the Comptroller,” it must be received by our Albany office, one of our consultation sites, or another office of the State Comptroller. **Giving your employer the form does not mean that you have “filed with the Comptroller.”**

As an alternative to visiting our offices to file these time-sensitive documents personally, you can fulfill the filing requirements by mailing the document to us. We will consider it filed when it is delivered to us by the Post Office. If you are concerned about meeting a filing deadline, you can mail the document via “Certified Mail — Return Receipt Requested.” When we receive the document, it will be considered as having been filed on the same date it was mailed.

To meet a filing deadline (such as an application for retirement benefits or an option election form), you can also send the document to us via fax. Although we will consider the form as filed on the date the transmission is received, you must still mail us the original document to continue the process and properly complete the filing requirement.

### **Filing Multiple Applications**

Should you become ill or disabled and unable to perform your duties, depending on the circumstances, you may be eligible to file applications “without prejudice” for disability and regular service retirement benefits simultaneously. “Filed without prejudice” means we will process all filed applications and, if more than one benefit is approved, you will be given the opportunity to choose your pension from the approved benefits.

### **CHALLENGING A DETERMINATION**

We can pay only those benefits authorized by law, and cannot pay you any benefits if you do not meet all the eligibility requirements established by law. If you believe that your benefit has been incorrectly denied or improperly calculated, you may request a hearing and redetermination to be held before a hearing officer.

Your request must be in writing and filed with the Hearing Administration Bureau within four months of the determination. We will send you an acknowledgment letter with an explanation of the hearing process when we receive your written request. If you have questions regarding the hearing process, please review our Administrative Hearing FAQs, email the Hearing Administration Bureau at [Hearings@osc.state.ny.us](mailto:Hearings@osc.state.ny.us) or call us at 1-866-805-0990 or 518-474-7736 in the Albany, New York area.

## How to Stay Informed

Your retirement benefits are an important part of a solid financial plan. They can help you and your beneficiaries achieve financial security in retirement or in the event of disability or death. Use these tips to help you understand your benefits and stay informed.

- Enroll in *Retirement Online*, and access your personal retirement-related information quickly, easily and securely on our website.
- Sign up for *E-News*, our free email newsletter, for the latest retirement news. It includes a special section dedicated to pre-retirement planning.
- Read the member newsletters we publish for current retirement information and updates on your benefits.
- Review your Member Annual Statement carefully and correct any errors quickly.
- Visit our website frequently to learn about your benefits, download forms, read informative booklets and brochures, and get tips on preparing for retirement.
- Attend a pre-retirement presentation to learn about the retirement process, find out what you can expect and discuss post-retirement issues. At your employer's request, we offer these presentations designed for members within five years of retirement eligibility.
- Visit any of our consultation sites where you can meet with an Information Representative to discuss special concerns or request specific information.

- Notify us if your mailing address changes, so you can stay up-to-date about benefits. This is especially important if you leave public employment before you are eligible to retire.
- Contact us with any questions you have about your benefits.

**Email:** Visit our website at  
**[www.osc.state.ny.us/retire](http://www.osc.state.ny.us/retire)**  
and click on “Contact Us”

**Phone:** 1-866-805-0990 or  
518-474-7736 if you live in  
the Albany, New York area

**Fax:** 518-402-4433  
(Please include your name,  
retirement registration number,  
phone number and the person or  
department you wish to reach.)

**Mail:** New York State and  
Local Retirement System  
110 State Street  
Albany, NY 12244-0001

## About This Publication

This publication describes benefits available to Tier 3 and 4 members provided by the Coordinated Retirement Plans (Articles 14 and 15) of the New York State Retirement and Social Security Law (RSSL) as enacted by the New York State Legislature. Although most Tier 3 members choose to retire under Article 15 because it provides a greater benefit for them, certain Article 14 benefits, available only to eligible Tier 3 members, are also described here. Members covered by a 20- or 25-year plan that allows retirement regardless of age should refer to the information that covers their special plan.

Throughout this publication, you will find references to “Sections” and “Articles” that refer to the RSSL. The New York State and Local Retirement System, headed by the Comptroller of the State of New York, administers this plan. Our main office is in Albany, New York.

This is a general summary of membership benefits, rights and responsibilities, and is not a substitute for any New York State or federal law. For specific information about your benefits, please contact us.

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