

DA Investigators 22-Year Retirement Plan (DA-22)

This brochure describes the obligations and benefits of the District Attorney Investigators Tier 3 22-Year Plan (DA-22). This plan allows participants to retire for service after rendering at least 22 years of Credited Service, regardless of age.

Participation

Participation in the DA-22 Plan is mandated for all investigator members employed in a New York City District Attorney Office on or after April 1, 2012. Participation in the DA-22 Plan is also mandated for NYCERS Members with a membership date prior to April 1, 2012 who become DA Investigator members on or after April 1, 2012.

Contributions

As a DA-22 Plan participant, you are required to contribute 3% of gross wages until you attain 25 years of contributions, separate from City service, or retire, whichever occurs first. If you were previously in another Plan and your contributions already ceased, you will be required to make 3% contributions again upon joining the DA-22 Plan until you attain 25 years of contributions, separate from City service, or retire, whichever occurs first. Your contributions are held in the Member Contribution Accumulation Fund where they accrue interest at the rate of 5%, compounded annually. Member contributions are Federal tax-deferred, meaning that you do not pay Federal taxes on the contributions, only New York State and local taxes. Note, however, that contributions made while on Union Leave are not Federal tax-deferred.

Loans

22-Year Plan participants may not borrow against their pension contributions. If you have an outstanding loan that you took as a member of a prior plan, your loan balance must be paid in full before you retire from the DA-22 Plan.

Deficits

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

Refunds

DA-22 Plan participants who have rendered less than 10 years of Credited Service and who leave City service may apply for a refund of contributions, plus accrued interest, which effectively terminates their membership. Refunds are not possible for members with 10 or more years of Credited Service.

Withdrawal of contributions will trigger a Federal tax liability and may result in an early distribution tax penalty.

Credited Service

DA-22 Plan participants may retire for service after completing at least 22 years of Credited Service, regardless of age.

In general, Credited Service is service rendered while a NYCERS Member, previous public service or military service that was purchased, and service transferred from another public retirement system in New York City or New York State.

Buyback

DA-22 Plan participants may purchase previous public service rendered anywhere in New York City or New York State. The cost is 3% of the wages earned during the period you are buying back, plus 5% interest compounded annually from the date of your previous service until the date of payment.

Military Buyback

Federal and state laws allow members to purchase service credit for time spent in U.S. Military service – the Uniformed Services

Employment and Reemployment Rights Act (USERRA) and Article 20 of the New York State Retirement and Social Security Law (RSSL), respectively. Under Article 20, the cost is 6% *times* the number of years of military service being purchased *times* the salary you earned during the 12 months prior to the date of your application. Under USERRA, the cost is the equivalent of the contributions required if you had never left for military service. Interest is not factored into either cost.

Vested Retirement Benefit

Vesting means that you have earned the right to receive benefits in the future. DA-22 Plan participants who have **at least five years of Credited Service** may qualify for a Vested Retirement Benefit payable on the date they would have attained 20 years of Credited Service, calculated as follows:

- 2.1% *times* Final Average Salary *times* years of Credited Service; **minus**
- 50% of the member's Primary Social Security Benefit commencing at age 62, which is determined by a formula based upon wages earned from a public employer from which Social Security deductions were taken.

A 22-Year Plan member may elect to receive their Vested Retirement Benefit before the date they would have attained 20 years of Credited Service, but not earlier than age 55. In such case, the benefit will be reduced by $\frac{1}{15}$ for each year, if any, that the Early Retirement Age (the date they would have attained 20 years of Credited Service) is in excess of the age the benefit commences or age 60, whichever is higher, and by $\frac{1}{30}$ for each additional year, if any, by which the Vested Retirement Benefit commences prior to age 60.

For example, if you leave City Service and wish to collect your benefit at age 64, but you do not reach your Early Retirement Age until age 69, the benefit is reduced by 33.3% ($\frac{1}{15}$ *times* 5 to account for the years between 69 and 64).

If you wish to collect your benefit at age 57, but you do not reach Early Retirement Age until age 66, the benefit is reduced by 40% ($\frac{1}{15}$ *times* 6 to account for the years between 66 and 60); **and** the benefit is further reduced by an additional 10% ($\frac{1}{30}$ *times* 3 to account for the years between 57 and 60).

If you leave City service at age 56 but you do not reach Early Retirement Age until age 59, the benefit is reduced by 10% ($\frac{1}{30}$ *times* 3 to account for the years between 56 and 59).

Service Retirement Benefit

DA-22 Plan participants who have 22 or more years of Credited Service, including Credited Service prior to becoming a participant in the DA-22 Plan, are eligible to receive a Service Retirement Benefit without regard to age.

The Service Retirement Benefit payable upon accruing 22 years of Credited Service is calculated using the following formula:

- 50% of Final Average Salary (FAS); **minus**
- 50% of the member's Primary Social Security Benefit commencing at age 62, which is determined by a formula based upon wages earned from a public employer from which Social Security deductions were taken.

The Service Retirement Benefit formula does not provide any additional benefit increments for service rendered beyond 22 years.

Early Service Retirement: DA-22 Plan participants may retire with an Early Service Retirement Benefit after attaining at least 20 years of Credited Service. The Early Service Retirement Benefit is calculated as follows:

- 2.1% *times* FAS *times* 20 years of Credited Service; **plus**
- 0.33% *times* FAS *times* each month of service in excess of 20 years, but not more than 50% of FAS; **minus**
- 50% of the member's Primary Social Security Benefit commencing at age 62, which is determined by a formula based upon wages earned from a public employer from which Social Security deductions were taken.

Final Average Salary (FAS)

Effective April 20, 2024, FAS for DA-22 Plan participants is defined as the average of wages earned by a member during any three consecutive years which provide the highest average wage. However, due to a provision in law referred to as the Kingston Limitation, wages earned during any year used in an FAS calculation cannot exceed the average of the previous two years by more than 10 percent. Prior to April 20, 2024, the FAS was defined as the average of wages earned by a member during any five consecutive years which provided the highest average wage where wages earned during any year used in an FAS calculation cannot exceed the average of the previous four years by more than 10 percent. If you are retiring as a Vested member with less than nine years of service prior to April 20, 2024, your FAS will include projected earnings to fill in any missing years of service.

Escalation

You may be eligible for Escalation on your Service Retirement Benefit, Early Service Retirement Benefit, or Vested Retirement Benefit. Escalation is a post-retirement increase (or decrease) to your retirement benefit based on the Consumer Price Index (CPI). If the payment of benefits commences on the Full Escalation Date, which is defined as the first day of the month following the date a DA-22 Plan participant completes or would have completed 25 years of Credited Service, the Escalation is equal to the lesser of 3% or the increase in the CPI. In the event of a decrease in the CPI, the annual retirement benefit shall be decreased by the lesser of 3% or the amount of the decrease in the CPI. In no event will the member's benefit be reduced below the amount of their initial benefit at retirement.

Full Escalation Example:

Type of Retirement	Years of Service	Commencement of Benefit	Full Escalation?
Service	22	Defer to 25th year	Yes
Early Service	20	Defer to 25th year	Yes
Vested	15	Defer to 25th year	Yes

If you retire for service with 22 years of Credited Service or less, or separate from City service after attaining the minimum service requirement to vest and elect to receive your benefit between the date you would have completed 22 years and one month of Credited Service and the Full Escalation Date, you will be eligible for a Reduced Escalation. In such an event, the benefit will be 2% of FAS for each year of Credited Service, minus 50% of your Primary Social Security Benefit commencing at age 62. However, for each month that the benefit commences before the Full Escalation Date, the Escalation is reduced by $\frac{1}{36}$.

No Escalation is provided when the commencement of benefits is more than three years prior to the Full Escalation Date.

Reduced Escalation/No Escalation Example:

Type of Retirement	Years of Service	Commencement of Benefit	Escalation?
Service	22	Defer to 22 years, 8 months	Yes, reduced by $\frac{28}{36}$
Early Service	20	Defer to 23 years, 6 months	Yes, reduced by $\frac{18}{36}$
Vested	15	Defer to 24th year	Yes, reduced by $\frac{12}{36}$

Type of Retirement	Years of Service	Commencement of Benefit	Escalation?
Service	22	Immediate	No
Early Service	20	Immediate	No
Vested	15	Defer to 20th year	No

Members who elect to defer their retirement benefit until their Full Escalation Date are only eligible for Full Escalation. Members who elect to defer their retirement benefit to a date between 22 years and one month and their Full Escalation Date are eligible to get the better of the Cost-of-Living-Adjustment (COLA) or Reduced Escalation. Members who elect to commence their retirement benefit immediately or more than three years before their Full Escalation Date are eligible only for COLA (as they are not eligible for Escalation).

The COLA is an annual adjustment to a retiree's retirement allowance that is based on the CPI. The COLA calculation is based on 50% of the CPI. This figure is then multiplied by either \$18,000 or the retiree's Maximum Retirement Allowance (including any prior years' COLA), whichever is less. The result is then added to any previous permanent COLA amounts. The sum of these COLA figures equals the current year's COLA payment, which may not be less than 1% nor more than 3% in any year. See [Cost-of-Living Adjustment \(COLA\) Fact Sheet #707](#) at nycers.org for additional details about eligibility.

Escalation may be provided on Ordinary Disability Benefits, Accident Disability Benefits and Accidental Death Benefits. The Full Escalation Date for these types of benefits is the first day of the month following the date a retiree or beneficiary becomes eligible for the disability or death benefit, respectively.

Disability Retirement

DA-22 Plan 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.

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

- $\frac{1}{3}$ of FAS; **or**
- 2% *times* FAS *times* years of Credited Service, but not in excess of 22 years of such service; **minus**
- 50% of the member's Primary Social Security Disability Benefit; **and**
- 100% of any Workers' Compensation benefits payable.

You are eligible for an Accidental Disability Benefit if you are found to be disabled by the NYCERS Medical Board as the natural and proximate result of an accident not caused by your own willful negligence. The benefit is calculated as follows:

- 50% of FAS; **minus**
- 50% of the member's Primary Social Security Disability Benefit or Primary Social Security Benefit, whichever begins first; **and**
- 100% of any Workers' Compensation benefits payable.

DA-22 Plan participants are not eligible for an Accident/Performance of Duty Disability Benefit equal to three-quarters of FAS, and are also not eligible for any presumptive disability benefits.

Survivor Benefits

In the event of your death prior to retirement, your NYCERS membership entitles your beneficiary/beneficiaries to a death benefit. There are two primary types of death benefits – Ordinary Death Benefits and Accidental Death Benefits.

An Ordinary Death Benefit (ODB) is payable to your designated beneficiary/beneficiaries if you were in City service for at least 90 days and were in active service at the time of your death.

The benefit is calculated as follows:

- Three *times* your salary, **plus**
- A refund of your contributions, plus 5% interest

If you have at least 10 years of Credited Service, are awaiting payability of a Vested Retirement Benefit, and die prior to receiving such benefit, your beneficiaries will receive a lump-sum death benefit based on 50% of the ODB that would have been payable if you had died on your last day in active service, plus the refund of your contributions plus interest.

An Accidental Death Benefit (ADB) is payable to Eligible Beneficiaries, who are defined in law, if NYCERS determines that your death was the result of an accident sustained in the performance of your duty, not caused by your own negligence. The annual benefit equals 50% of your Final Average Salary (FAS).