



Disability Retirement Tier 3 and 4 Members

Tier 3 and 4

April 2018

TIER MEMBERSHIP INFORMATION:

Members of Uniformed Correction Force who joined NYCERS after 07/27/76 are members of Tier 3. All other employees (except District Attorney Investigators) who became members after that date but prior to 04/01/12 are members of Tier 4.

Note: Non-Uniformed employees who became members between 07/27/76 and 08/31/83, are Tier 4 members with Tier 3 rights.

WHAT IS DISABILITY RETIREMENT?

Disability is defined as an injury or illness that prevents an employee from performing the routine duties of his or her job title. Members are eligible for a benefit for disability retirement not based on a service retirement benefit formula if they have 10 or more years of *Credited Service*, of which 5 years must be *Membership Service*.

Members with less than 10 years of *Credited Service* may be eligible to apply for disability retirement based on a service connected accident which occurred in the performance of City service.

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 is determined to be an accident.

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 # 603 for Tier 3 members; Form # 604 for Tier 4 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.

Tier 3 Members And Tier 4 Members With Tier 3 Rights:

You must submit proof of filing for a Primary Social Security Disability Award within 60 days of applying for disability retirement with NYCERS. In order to receive your payment, you must submit your Social Security Administration Award letter within 60 days of its receipt.

Disqualifying Conditions:

You did not submit your application for disability retirement on a timely basis (see back page).

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

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

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 Unit receives the items above and determines your eligibility. If you are not eligible, you will be notified in writing of the reason.

The eligibility tables on the back page explain the filing requirements for disability retirement.



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

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

1. Verify your eligibility to make application and 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.)

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.

5. Provide for a Medical Board review of your current files, and an interview and examination. The Medical Board will then 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, process 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 processes your case for an advance payment within 60 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 amounts

payable to you under various options, and a description of your benefit under the options available to you.

WHAT HAPPENS IF THE MEDICAL BOARD RECOMMENDS DENIAL OF MY APPLICATION FOR DISABILITY RETIREMENT?

After the Board of Trustees accepts the recommendation of the Medical Board to deny your application, you may request a review by a Special Medical Review Committee of three independent doctors. (Members of Uniformed Correction Force 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 are still eligible may reapply for disability retirement by filing another application and submitting current medical evidence not previously reviewed by the Medical Board.

If a member is beyond the one-year-termination limit, he/she must refile within 60 days of the Trustees' determination, in order to maintain their eligibility.

A member also has the right to appeal non-medical issues relating to denial of their 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 may ask you to provide additional information, or appear for an evaluation before an independent medical specialist.

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.

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

Yes. Once each year, you will be required to complete, and return to NYCERS, an Affidavit of Personal Service Income for Tier 3 or Tier 4 Disability Retirees disclosing your income during the preceding calendar year.



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

Most pensioners are subject to limits on the income they earn while collecting disability retirement benefits. The extent to which income is limited depends on the specific disability law the member retired under.

In addition to the limitations on your income, other rules may apply to your employment while you are disabled. Before accepting employment, you should consult with a NYCERS' representative to determine whether you are subject to earnings limitations.

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

Members retired by reason of disability for more than one year 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, every retiree receiving a disability retirement benefit from NYCERS 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 retirement benefits will 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 retirement benefit.

Note: You should 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?

Disability retirement benefits for Tier 3 and Tier 4 members are not subject to New York State and local income taxes. They are, however, subject to Federal income tax.

The only exceptions are members of Uniformed Correction Force, Emergency Medical Service employees, Uniformed Sanitation employees, and NYC Deputy Sheriffs who receive a 3/4 accident disability retirement benefit, or line-of-duty disability retirement benefit, which is free of Federal income tax.

ARE THERE ANY OFFSETS TO MY DISABILITY RETIREMENT BENEFITS (I.E. SOCIAL SECURITY & WORKERS' COMPENSATION)?

Offsets are applied to some disability retirement benefits but the rules vary according to your Tier, and the type of disability you retired on. Check with NYCERS' Medical Unit staff for more information.

WHO ADMINISTERS MY HEALTH INSURANCE COVERAGE?

NYCERS does not administer health benefits.

Ask your agency's personnel or human resources department about active employees' health insurance. Questions regarding retiree health insurance, and deductions, should be directed to the following:

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

CAN AN APPLICATION FOR DISABILITY RETIREMENT BE WITHDRAWN?

If NYCERS' Medical Board has not yet finalized its findings, you may withdraw your application for a disability retirement benefit by filing Withdrawal of Disability Retirement Application (Form #619) with NYCERS or upon written request from your employer to NYCERS.



Disability Retirement Tier 3 and Tier 4

PLAN & SECTION OF LAW	DISABILITY ELIGIBILITY REQUIREMENTS
Tier 4 with Tier 3 Rights (Non-Uniformed Members) §506, §507	Five or more years of <i>Credited Service</i> . You must be found disabled, and awarded Primary Social Security Disability Benefits by the Social Security Administration.
Tier 4 §605	Ten or more years of <i>Credited Service</i> .
Basic Tier 3 Uniformed Correction Force	Five or more years of <i>Credited Service</i> . You must be found disabled and awarded Primary Social Security Benefits by the Social Security Administration.
Special Tier 3 Uniformed Correction Force §507-a, §507-c, §207-o	Ten or more years of <i>Credited Service</i> .

There are no minimum service requirements for Disability Retirement due to an accident.

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.

Disability Retirement Effective Date & Filing Requirements

PLAN	EFFECTIVE DATE	FILING REQUIREMENTS
Basic Tier 4 with Tier 3 Rights, and Tier 3 Uniformed Correction Force	Same as effective date of Social Security Disability Award date or Six months from the date the application is filed, if ineligible for Primary Social Security Disability Benefits, and NYCERS Medical Board determines you are disabled.	You or another person acting on your behalf or A committee or conservator duly appointed by a court of competent jurisdiction or The head of the agency where you are employed and must be filed While in active pay status or While on an authorized leave of absence without pay and <ul style="list-style-type: none"> • Leave was granted for medical reasons; • Has been in effect continuously since you were last paid on the payroll, and • Two years have not elapsed from the date you were being paid on the payroll
Tier 4	Later of: 30 days after the date the application is filed with NYCERS or Day after last day you were paid on your employer's payroll.	You or another person acting on your behalf or A committee or conservator duly appointed by a court of competent jurisdiction or The head of the agency where you are employed and must be filed Within three months after last date you were paid on your employer's payroll or Within 12 months after receipt of notice that your employment was terminated, if you were on a medical leave of absence without pay prior to your termination.
Special Tier 3 Uniformed Correction Force Plan	Later of: 30 days after the date the application is filed with NYCERS or Day after last day you were paid on your employer's payroll.	You or another person acting on your behalf or Committee or conservator duly appointed by court of competent jurisdiction or The head of the agency where you are employed and must be filed While you are employed in a Uniformed Correction Force title or Within 3 months from the last date you were being paid on the payroll or Within 12 months from the last date you were paid on the payroll while on leave of absence for medical reasons.