

Life Changes

What if I Leave Public Employment?



Office of the New York State Comptroller
Thomas P. DiNapoli



NYSLRS

New York State and Local Retirement System

Legislation Changes Vesting Requirements for Tier 5 and 6 Members

As of April 9, 2022, Tier 5 and 6 members only need five years of service credit to be vested. Previously, Tier 5 and 6 members needed ten years of service to be vested.

Once you're vested, you've earned the right to receive a retirement benefit, even if you leave public employment before retirement.

Tier 5 and 6 members who leave public employment with more than five years of service but less than ten years now have the option to either apply for a retirement benefit once you reach retirement age or withdraw your contributions. If you withdraw your contributions, you end your membership with NYSLRS and are no longer eligible for a retirement benefit. You cannot withdraw your contributions once you have ten years of service.

The new legislation did not change benefit rules such as how long members must contribute, pension benefit calculations, the full retirement age, reductions to retire early or the cost to purchase previous service.

For more information about vesting, visit our website at www.bit.ly/are-you-vested.

A Message from Comptroller Thomas P. DiNapoli

At one time or another, almost all of us have changed jobs. The new job usually brings great expectations and hope for the future, but change can also be stressful.



In fact, your life may even become a bit chaotic, causing you to overlook important issues that could affect you and your loved ones in the future. That's the reason for this publication. It outlines what you need to know as a Retirement System member if you leave public employment or go on an extended leave of absence.

I encourage you to take the time to read this guide carefully so you thoroughly understand all of your rights and obligations. If you still have any questions or concerns, please be sure to contact us. We're here to help.

Sincerely,

A handwritten signature in black ink that reads "Tom DiNapoli". The signature is fluid and cursive, with a prominent flourish at the end.

Thomas P. DiNapoli
State Comptroller

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If you leave public employment

When you stop working for a public employer in New York State, you need to know your rights as a member of the New York State & Local Retirement System (NYSLRS). Specific rights depend on your tier and the number of years of service credit you have.

Public employment in New York State means working for:

- The State of New York;
- One of its political subdivisions (county, city, town, village);
- A school district or Board of Cooperative Educational Services (BOCES);
- A public authority or public benefit corporation; or
- Any other entity that participates in the Retirement System.

What happens to my membership if I leave public employment?

If you are not vested, you may end your membership and request a refund of your contributions. You become vested when you have enough years of service credit to qualify for a retirement benefit, even if you leave public employment before you are old enough to retire. The amount of service required for vesting varies by tier. Members who are **not** vested include Tier 1, 2, 3 and 4 members with less than five years of service credit, and Tier 5 and 6 members with less than ten years of service credit.

Ending Your Membership

If you are not vested, you may end your membership and request a refund of your contributions by filing a Withdrawal Application (RS5014), available on our website (www.osc.state.ny.us/retire/forms/rs5014.pdf) or from our Call Center. You must be off the payroll at least 15 days before submitting the application. You can receive the refund directly or roll your contributions over to an Individual Retirement Account (IRA) or other qualified retirement plan.

If you do not withdraw your contributions, they will continue to earn 5 percent interest for seven years. After seven years, if you are still off the public payroll, your membership will automatically end and your contributions will be deposited into a non-interest-bearing account. Your contributions will not be automatically refunded. At this point, you should withdraw your contributions by filing a Withdrawal Application (RS5014). **Note:** The Internal Revenue Service (IRS) requires you to take your contributions by age 70½.

For vested Tier 1, 2, 3 and 4 members with less than ten years of service credit

If you have at least five years of service credit when you leave the public payroll, you are vested and can choose one of two options:

- At age 55, you can file an application for retirement and receive a benefit based on your service and salary earned in public employment.
- If you are a Tier 3 or 4 member, or a Tier 1 or 2 member with mandatory contributions on deposit, you can withdraw your contributions and accumulated interest.* **However, withdrawing your contributions will end your Retirement System membership and you will no longer be eligible to receive retirement benefits.**

For all members with ten or more years of service credit

You cannot withdraw from the Retirement System once you have ten years of service credit. When you reach the minimum age for retirement, you may file a retirement application with us to receive your benefit.

* If you are a Tier 1 or 2 member who has made voluntary contributions, you may apply to receive a refund of these contributions. To apply, file an Application for Refund of Excess Contributions (RS5195), available on our website at www.osc.state.ny.us/retire/forms/rs5195.pdf. This will not end your membership and you still would be eligible for a retirement benefit when you turn 55.

Is there an advantage to leaving my contributions on deposit?

There could be an advantage to leaving your contributions on deposit. If you return to public service and your new employer participates in NYSLRS, your service and salary with your new employer will be added to your current membership, as long as it's still active (i.e., it has not been withdrawn or automatically terminated). If your new employer participates in another New York State or New York City public retirement system, you can transfer your active NYSLRS membership to your new retirement system. Even if you are going to work in the private sector, you might return to public service in the future.

Note: If you have previous public service for which you do not have credit and you wish to request credit to become vested, you must submit your request while you are still on the payroll of a participating employer. If there is a cost for this credit and you receive a statement of the cost after you leave the payroll, you must make payment within 30 days to receive the credit and become vested.

Do I continue to receive service credit?

Once you leave public employment, you will no longer receive service credit.

Are there any tax implications if I withdraw my contributions?

If you withdraw your membership and receive a refund of your contributions, the payment is reportable for federal income tax purposes and we are required to withhold 20 percent of the taxable amount. In addition, if you receive a payment before age 55 and you do not roll it over, you may have to pay a penalty tax equal to 10 percent of the taxable portion of the payment.

You can continue to defer federal income tax on your contributions if you transfer the taxable portion of the refund directly into an IRA or another qualified retirement plan. Your contributions are not subject to the income tax of New York State or its municipalities. You may wish to consult a tax advisor before withdrawing your contributions.

What happens to my Retirement System loan?

If you have any outstanding loans with the Retirement System when you leave the public payroll, you must make payments directly to us, since we will no longer be able to receive payroll deductions.

You must make a loan payment at least once every three months and your loan must be repaid within five years of the date it was issued, otherwise you will default on your loan. The law requires us to report any outstanding loan balance at the time of the default to the IRS as an early distribution from a qualified pension plan. The amount reported could be considered taxable income and you may incur a 10 percent tax penalty in addition to any regular income tax due on the distribution. At the time of the default, you will be advised of the taxable amount.

You will not be eligible for a loan once you are off the public payroll.

What services are available to me if I'm not on a public payroll?

If you remain a member of NYSLRS after leaving the public payroll, you will still:

- Receive a Member Annual Statement each year;
- Be able to request an estimate of your pension; and
- Be able to meet with one of our Information Representatives at any of our consultation sites.

Am I still eligible for a death benefit?

If you are a vested member with at least ten years of *credited* service, you 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. Your family or employer should notify us of your death as soon as possible so we can send the appropriate forms to your beneficiary.

What responsibilities do I have if I'm not on a public payroll?

As a member, it is your responsibility to:

- Keep your beneficiary information current;
- Notify us of all name and address changes (for you and your beneficiaries);
- File an Application for Service Retirement (RS6037) when you are eligible to retire and want to receive your retirement benefit (you must claim your benefit — it will not be paid automatically).

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 resources to help you understand your benefits and stay informed.

- Connect with us on social media.
 - Subscribe to our blog, *New York Retirement News* (www.nyretirementnews.com), where you'll find tools to help you understand your benefits, as well as important Retirement System news.
 - You can also like us on Facebook (www.facebook.com/nyslrs) and follow us on Twitter (www.twitter.com/nyslrs) for quick tips and updates on a variety of retirement topics.
- Sign up for *E-News*, our free email newsletter, for the latest retirement news and information dedicated to pre-retirement planning.
- Read your member newsletter for current retirement information and updates on your benefits.
- Review your Member Annual Statement carefully and notify us of any errors promptly.
- 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, know 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.
- Make an appointment to visit any of our consultation sites, where you can meet with an Information Representative to discuss special concerns or request specific information.

How to Contact Us

If you have any questions or you need more information, you can:

- Email us from our Contact Us page at www.osc.state.ny.us/retire/contact_us/index.php;
- Phone our Call Center toll-free at 1-866-805-0990, or 518-474-7736 in the Albany, New York area; or
- Write to us at:
New York State and Local Retirement System
110 State Street
Albany, NY 12244-0001.

This publication provides 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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