Membership & Registration

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Benefits

Membership in the New York State and Local Retirement System (NYSLRS) provides many benefits. The advantages of membership include:

- Death benefits;
- Service retirement;
- Disability retirement for both on-the-job and non-job-related disabilities;
- Transfer of membership from other public retirement systems in New York State; and
- Crediting of service from other public retirement systems in New York State.

Once an individual becomes an employee of an employer that participates in NYSLRS, he or she has the opportunity to join the system. One of the most important responsibilities of a participating employer is to ensure that each new employee is provided the opportunity to join NYSLRS at the time of his or her initial employment. Once an employee joins, membership must continue even if the member changes to another participating employer, or changes from full- to part-time employment.

Except for persons receiving a benefit from a public retirement system administered by the State of New York or a political subdivision, public employees fall into one of two categories:

- Those for whom membership in NYSLRS is mandatory and who, therefore, must join; or
- Those for whom membership in NYSLRS is optional and who, therefore, may elect to decline membership, or may join by filing a membership application with NYSLRS.
Mandatory

Membership is mandatory in ERS for full-time, permanent 12-month positions, and for all police officers and paid firefighters (including part-time positions).

Prior to July 27, 1976, membership was mandatory for:

- Jobs with competitive classification. The date of membership is the date of permanent appointment.
- Jobs with non-competitive classification. The date of membership is the date of hire.

From July 27, 1976, to the present, membership is mandatory for:

- Full-time permanent 12-month positions. The date of membership is the date of full-time, permanent appointment.
- Employees eligible to join PFRS.

There were required minimum earnings for mandatory membership for Tiers 1 and 2. Prior to April 1, 1967, the member had to earn at least $1,000; on or after April 1, 1967, the member had to earn at least $1,500.
Optional

Prior to July 27, 1976, membership was optional for jobs with:

- Exempt or labor classification; or
- Competitive classification where the member is appointed temporarily or provisionally.

From July 27, 1976, to the present, membership is optional for:

- Temporary or provisional positions (under Civil Service Law);
- Employment of less than 30 hours per week, or less than the standard number of hours for full-time employment as established by the employer for this position;
- Duration of employment for less than one year, or employment on less than a 12-month per year basis; or
- Annual compensation less than the state's minimum hourly wage — currently $10.40 — multiplied by 2,000 hours.

Optional membership does not begin until the member is registered. The date of membership for optional members is the date we receive the application, or the date the employer registers the member through the fax registration process.

All employees of the State or of a participating employer, who are not mandatory members of NYSLRS, have the right to join NYSLRS. The employer must advise these individuals of this right at the time of hire. **The privilege of membership cannot be withheld by an employer.**

Section 45 (RSSL), effective 1986, imposes requirements on employers hiring people whose NYSLRS membership is optional. Employers must, at the time of hiring, notify new employees **in writing** of the right to membership in the ERS.

The law also requires that each employee acknowledge having been given such notice by signing an acknowledgment and filing it with the employer. Here is a [sample Section 45 document](#) that you may use. Employers must keep these documents on file.

**Note:** Although membership is not compulsory for optional members, once they join, they can only terminate membership by terminating their public employment, provided they have less than ten years of service credit.
Failure to Join

NYSLRS membership for employees who were required to join NYSLRS, but failed to do so, will be retroactive to the date the membership became mandatory. Their tier will be based on their retroactive membership date.

You will be asked to submit adjustments, either online using Retirement Adjustment Reporting (RAR) or by mailing us an Adjustment Report form (RS2050), for all unreported service and salary from the date of membership to the date you first began reporting the member on your monthly reports.

Once these adjustments are posted to the member’s account, we will calculate any arrears due and advise the member of the amount. If the member does not elect to make a single lump sum payment for the arrears, we will instruct you to begin deducting mandatory arrears from the member’s salary. In addition, you will receive a prior year’s billing adjustment (including interest) for the salaries included on the adjustments.
Contractors or Consultants

The majority of people who provide services to the State or participating employers are considered public employees. However, there are those who provide services not as employees, but as independent contractors or consultants. These individuals may not join NYSLRS or receive service credit for consultant or independent contractor services.

To determine if a person you hired is an employee or an independent contractor, you should first determine if an employer/employee relationship exists. Regulations to help you make this determination are available on our Classifying an Employee or Independent Contractor page.

The regulations identify factors that could indicate an individual is an employee rather than an independent contractor. Some of these factors include:

- The employer controls, supervises or directs the individual as to how assigned tasks are to be performed;
- The employer sets hours to be worked and maintains time records;
- The employer prepares performance evaluations;
- The employer provides permanent workspace and facilities;
- Taxes and employee benefits are deducted from the individual’s paycheck; and
- The individual is entitled to fringe benefits such as vacation, sick leave, personal leave, health insurance and grievance procedures.

The regulations also identify factors that may indicate an individual should be considered an independent contractor, including, but not limited to:

- The individual has a personal employment contract with the employer;
- The employer pays for the individual’s services through the submission of a voucher;
- The individual concurrently performs substantially the same service for other public employers; and
- The individual is also employed or associated with another entity that provides services to the employer by contract, retainer or other agreement.

These are just some of the factors you should take into consideration when classifying an individual.
The regulations require that you send us a completed Certification for Individuals Engaged in Certain Professions (RS2414) for each person you hire as an attorney, physician, engineer, architect, accountant or auditor on or after April 1, 2008. The form must be signed by your primary chief fiscal officer (CFO), alternate chief fiscal officer or chief executive officer (CEO). You can designate an alternate CFO by:

- Completing a Designation of Alternate CFO form signed by the CFO or CEO; or

- Sending a letter to our ICE Unit. The letter must be on your letterhead and signed by either your CFO or CEO. You can fax the letter to us at 518-486-9577.

You must mail a certification form to our Pension Integrity Bureau by the first of the month after an individual is hired, so it reaches us before you file the first monthly report containing the employee’s earnings and service.

In addition to the completed certification form, you must send us documentation supporting the individual’s appointment as an employee and your decision to report the individual to NYSLRS, as well as acceptance of the appointment by the local Civil Service Commission, where necessary. If the appointment was made by a governing board, you must submit copies of the minutes from the meeting when the appointment was made.

For individuals hired prior to April 1, 2008, you would complete a Certification for Determining Independent Contractor or Employee Status (RS2415) for persons you hired as an attorney, physician, engineer, architect, accountant or auditor. You would also complete an RS2415 for other job titles if you need to determine if an individual is an Independent Contractor or at the request of NYSLRS.

All forms and documentation you submit will be reviewed by NYSLRS.

If you determine an individual providing services is a public employee, that individual must be paid on your payroll, regardless of whether payment is made on a salary or a fee basis. Conversely, independent contractors or consultants should not be paid on the payroll, but in some other manner.

If a public employee becomes a NYSLRS member, days worked, earnings, and contributions must be included on your retirement monthly report. Contractors and consultants should never be included on the monthly report.

If you have questions or need further assistance determining an individual’s status, you can email our Pension Integrity Bureau.
Public Officers

Public officers are eligible for membership in NYSLRS. This applies regardless of whether individuals are elected or appointed as public officers. You must give them the opportunity to join NYSLRS.

A public officer is a person either elected or appointed to a governmental position with the following general characteristics:

- The position is authorized by statute, resolution or charter to exercise part of the sovereign power of the governmental entity.
- The duties of the position involve the exercise of discretion on behalf of the governmental entity. If the duties of the position are routine, subordinate, advisory, or directed, then the position is more likely to be a position of employment, rather than a public office.
- The State or local enactment creating the position refers to it as an “office.”
- The position has a fixed or definite term.
- The person holding the position files an oath of office.
- The compensation for the position does not depend on the number of hours worked.
- Incumbents of the position may be compensated either through the employer’s payroll system or by voucher.
- Incumbents of the position generally must reside in the jurisdiction they are serving.

Section 10 of the Public Officer’s Law requires every public officer to take and file an oath or affirmation prior to the discharge of any of their official duties. Public officers are authorized to act in their capacity as an officer for their established term. Any public officer who is re-appointed should take and file an oath or affirmation at the beginning of each new term. In addition, these oaths of office shall be provided to the Office of the State Comptroller if requested as part of an employee/independent contractor review.

Some positions considered public offices are members of planning boards, Town or Village Justice, County Attorney and District Attorney. Other positions that may be considered public offices are Town, Village and City Attorney.

If you determine that an individual is an appointed public officer, you will need to supply as many of the four documents listed on the Certification for Individuals Engaged in Certain Professions (RS2414) and Certification for Determining Independent Contractor or Employee Status (RS2415) as possible to justify this classification. If a resolution creating the position is not available, please submit a job description and any other documents in support of the position being a public office.

If you need assistance determining if a position is a public office, please email us at pensionintegrity@osc.state.ny.us.
Membership Registration

Individuals joining NYSLRS must complete a Membership Registration Application for the appropriate system, either form RS5420 for the Employees’ Retirement System (ERS) or PF5022 for the New York State Police and Fire Retirement System (PFRS).

Individuals who are already members should complete a new application when they change employers, and Tier 6 members must complete a new application whenever they change employers. You may register members through the fax registration process (see next page).

Please note, if you are registering a new member of PFRS who intends to elect coverage in either a 25-year retirement plan (Section 384) or a 20-year retirement plan (Section 384-e) your employee only has one year to do so. The election forms for both the 25-year and 20-year retirement plans are on our Forms page under Special Retirement Plans.

PFRS members who join on or after January 1, 2015, are automatically covered under Section 384-d if their employer offers the plan. To choose a different special plan, a member must withdraw from the 384-d plan and elect another special plan within one year of appointment.

1Updated 10/18
FAX REGISTRATION

We provide a fax registration service to register new members. The service is available 24 hours a day, Monday through Friday, by dialing 518-486-4382. If you have a programmable fax, you can transmit the information anytime — even when you’re not at work! Here’s how:

1. Your employee completes the Membership Registration Application:
   - RS5420 for ERS; or
   - PF5022 for PFRS.

   Please have your employee complete the form in black ink, and ensure that the application is legible.

2. Fax the complete ERS application or the complete PFRS application with a cover sheet containing the date, the employer name, the sender’s name and phone number, and the fax number. You need only one cover sheet no matter how many applications you’re faxing at the time.

We cannot complete the fax registration process until we receive the entire original membership application. If you have any questions, call us at 518-474-3081.

Part-time, seasonal, substitute, on-call and per diem employees are required to be on your payroll, in paid status and physically at work, the day we receive their faxed registration application. If faxed registrations are received prior to 11:59 pm the day employees are physically working in paid status, they are guaranteed a date of membership for that day.

The only exception is if the employee does not work the normal business hours of 9:00 am – 5:00 pm, but does work the afternoon shift or the weekend shift. In that case, you are required to fax us the application on the very next business day after the employee worked.

**Example:** The employee worked on Thursday, October 8, 2015, from 6:00 pm – 8:00 pm. The registration form should be faxed on Friday, October 9, 2015, stating this employee worked on Thursday, October 8, 2015, from 6:00 pm – 8:00 pm. The employee’s date of membership would then be October 8, 2015.

The member must complete a membership application form prior to being registered and you must file it with us after fax registration has occurred.

**Note:** Membership applications must be filed with the Office of the State Comptroller. This can only be done by submitting applications to our office in Albany, to one of our Information Representatives at a regional consultation site or to another Office of the State Comptroller. A document submitted to you, the employer, is not considered “filed with the Comptroller” until it is received by the Comptroller. An employee’s rights and benefits depend upon prompt filing.
MULTIPLE EMPLOYERS

Members must be reported to us for all their public employment, including work with more than one participating employer. Even if a member only works part-time, if he or she is already a member of NYSLRS, each participating employer is required to report salary and service information to us.

For example, if a member who is a full-time county employee begins an additional part-time job as an employee of a participating village, the employee’s days worked and salary earned with the village must be reported to NYSLRS by the village. If the member is in Tier 3, 4 or 5 and is making 3 percent contributions, these contributions must be deducted from his or her earnings for each position and submitted to NYSLRS by each employer. For Tier 6 ERS members and most Tier 6 PFRS members, employers must deduct the appropriate percentage based on the member’s reportable gross earnings and submit them to NYSLRS. Individuals who are hired as independent contractors should never be reported, even if they have a membership through another participating employer.

To determine if your employee is a member of NYSLRS, call our automated information line toll-free at 1-866-805-0990, (518-474-7736 in the Albany, New York area), to confirm your new employee’s membership status in the system. This service is available every business day from 8:00 am – 4:00 pm.

Before you call, you will need your:

- Five-digit employer location code;
- Three-digit employer report code;
- New employee’s Social Security number; and
- New employee’s birth date.

If the individual is already a member, the automated information line will indicate the system in which the member is enrolled, the first three letters of the member’s last name, his or her registration number, membership date, tier and contribution rate. We will follow up with written confirmation within seven business days.
CHANGES IN PFRS EMPLOYMENT

When a police officer or firefighter transfers or is promoted to a departmental position, the new service may **not** be creditable toward benefits in the 20- or 25-year special plans in PFRS. Members of PFRS should be made aware of this whenever they are offered a civilian or administrative job change which may affect their status as members of this system.

If a PFRS member accepts employment that is **not applicable** to that membership, but makes the member eligible for ERS membership, he or she may join ERS and transfer membership and service credit from PFRS. Keep in mind that if the member’s date of membership is from July 26, 1976, through January 8, 2010, he or she must also begin to make mandatory 3 percent contributions if the individual has been a member for less than ten years or has less than ten years of service credit. If the member wants to transfer membership, the ERS employer should contact our Member and Employer Services Bureau.