



## **Section 1: Membership**

### **Membership Eligibility**

Membership in the System is restricted to teachers as defined by Education Law Article 11 Section 501. Teachers must also be employed by one of our participating employers in “unclassified service” pursuant to Section 35 of the Civil Service Law. These are educational positions, generally considered to be professional in nature.

Individuals employed as teachers, substitute teachers, superintendents, business administrators, guidance counselors, nurse teachers and teaching assistants are considered unclassified and are only eligible for membership in NYSTRS. Individuals employed as business managers, school nurses, teacher aides and other non-instructional positions are considered classified and are only eligible for membership in the New York State and Local Retirement System (NYSLRS).

Questions pertaining to whether a position is “unclassified” or “classified” service should be directed to your local Civil Service Office. **Please Note:** Not all “unclassified” positions are reportable to NYSTRS. If questions remain after reaching out to Civil Service, contact the state Education Department for additional guidance. In cases that are not clear to either Civil Service or the Education Department, the NYSTRS Retirement Board will determine whether a person is a teacher as defined by Education Law. For more details, please see ***Administrative Bulletin 2021-6 Titles Reportable to NYSTRS***.

Participating employers include public schools, **charter schools** and community colleges outside of New York City; components of the State University; the Education Department; the New York State School for the Blind in Batavia; the New York State School for the Deaf in Rome; and Fashion Institute of Technology.

Effective Sept. 1, 1986, employees of the state Education Department are only eligible for membership in NYSTRS if they were members of the System within a year prior to their appointment. Employees of both the School for the Blind in Batavia and the School for the Deaf in Rome engaged in instructional services are only eligible for membership in NYSTRS.

Any person receiving a retirement allowance for other than disability from a New York State public retirement system is not eligible for membership in NYSTRS. However, people receiving a service retirement allowance from a public retirement system may join if they suspend their allowance. This prohibition also applies to SUNY and community college employees who are retirees of the Optional Retirement Program.

### **Membership Eligibility for SUNY Campuses**

Eligible staff employed by SUNY, including community colleges, may elect the New York State Teachers' Retirement System (NYSTRS), the New York State and Local Retirement System (NYSLRS) or the Optional Retirement Program (ORP).



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When appointed to an unclassified position under a new employer, the employee must elect a retirement system within 30 days from the date of appointment. Failure of a full-time teacher to make an election within 30 days will result in one of the following actions:

1. Continuance in the New York State Teachers' Retirement System if currently a NYSTRS member.
2. Continuance in the New York State and Local Retirement System if currently a NYSLRS member.
3. Automatic registration in the New York State Teachers' Retirement System if not previously registered.

**If the employee leaves the employer and then returns to an unclassified position with the same employer before 13 months** have elapsed, then they remain covered by the retirement system under which the employee was previously enrolled. The only exception is if the NYSTRS member withdraws from membership in this System; then the 30-day election (described above) is permitted.

**Employees who elect ORP coverage and simultaneously teach part time** at a New York State public school are eligible to join NYSTRS and receive credit with NYSTRS to cover their public school service. Additionally, a SUNY or community college employee participating in ORP would be mandated into membership in the System upon any subsequent employment as a **full-time** public school teacher, but would receive credit in the System for their public school service only and not for their employment at a SUNY or community college.

### Membership Verification & Registration

To determine if an individual is a member of this System, you can access the Membership Verification application through the **Employer Secure Area (ESA)**.

The next step is to register any eligible employees selecting or mandated to NYSTRS membership via ESA. Registration instructions and information can be found in **Section 6** of this Manual. Once the process is complete, you will receive an EmplID and the required contribution rate for the new member(s).

### Membership Application

Eligible employees joining the System must complete and have notarized an **Application for Membership (NET-2)** and return it to your business office. You, as the employer, are required to fill out Part 2 of the application and mail us the complete, original application. Please mail completed membership applications to NYSTRS promptly when registering a new member in the Employer Secure Area (ESA).

Your continued efforts in seeing that all parts of the application are completed accurately will help minimize follow-up questions and future problems.



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When you register a new member in ESA after mailing us the membership application, you will receive the new member's assigned EmplID right away via ESA. For membership applications mailed in without registration through ESA, we will assign and inform you of the new EmplID by return correspondence as soon as possible (usually within two weeks).

### Mandatory Membership

Under certain conditions, membership in our System is mandatory as required by Section 503-1 of the Education Law. Membership is mandatory if an employee meets conditions 1, 2 and 3:

1. **Full-time** employment (i.e., they will be employed for the full day, every day school is in session).
2. **Contractual relationship** between employee and employer.
3. Employment will be on a **per annum basis** (i.e. through the end of school year) regardless of the date employment commences.

**NOTE:** In the case of SUNY and community college employees, membership in this System is mandatory if the employee meets conditions 1, 2, and 3, **and** did not elect membership in the Optional Retirement Program or the New York State and Local Retirement System (NYSLRS) within the first 30 days of employment.

**Tier 6:** Certain employees hired on or after July 1, 2013 have the option of joining either NYSTRS or the Voluntary Defined Contribution Plan (VDC) administered by the State University of New York (SUNY) Optional Retirement Program.

To be eligible to join the VDC instead of NYSTRS, **all** of the following criteria must apply:

1. Hired on or after July 1, 2013.
2. Employed in a non-unionized position.
3. Hired at a salary where anticipated earnings exceed \$75,000.

Additional information regarding the VDC can be found at <https://definedcontribution.ny.gov>. Eligible Tier 6 members wishing to join the VDC must enroll online through this website.

If an eligible Tier 6 employee fails to elect the VDC within the first 30 days of employment, that employee will automatically become a member of NYSTRS, provided the duties being performed are those that would normally be eligible for a NYSTRS membership.

Additional important factors to consider:

1. New York State public employment after joining the VDC with said employer is **not** eligible for credit in NYSTRS.
2. NYSTRS and VDC memberships may **not** be combined at a later date.

New staff whose employment mandates membership in NYSTRS should complete an **Application for Membership (NET-2)** as soon as possible. The completed application is necessary to ensure the member's beneficiary information is recorded.



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The **date of membership** for an individual whose membership is mandatory is the first day the conditions noted previously are satisfied. This is also the date you should begin the mandatory **employee pension deduction**.

Questions regarding membership in the System should be directed to our Membership Unit at (800) 348-7298, Ext. 6190.

### Optional Membership

Individuals who are not employed in a full-time contractual position or are not employed on a per annum basis are not required to join the System. However, they may elect to establish a membership by completing an **Application for Membership (NET-2)**, signing it in the presence of a notary and forwarding it to your business office for completion of Part 2. You are then required to mail the complete, original membership application to NYSTRS. The first day of membership will be the earlier of the first day of the month in which both service was rendered and the application was notarized, or member contributions were taken. (Service can be rendered after the month of notarization.)

**Chapter 636 of the Laws of 1985 requires you to inform, in writing, all optional membership employees of their right to join the System.** If they decide not to join, you should secure and retain a written acknowledgement from each person stating that they have been advised of the right to membership. A sample acknowledgment letter may be found [here](#).

Eligible employees who opt not to join the System should be included on your Employer Report. You will be billed only on salaries of NYSTRS members.

If you wish to know if an individual is a member of NYSTRS, please access the Member Verification page via the Employer Secure Area. For questions regarding optional/mandatory membership, call the Membership Unit at (800) 348-7298, Ext. 6190.

### Teaching Assistants

Membership was extended to school district teaching assistants beginning Feb. 1, 1971. Subsequent to that date, they are only eligible for membership in NYSTRS.

Membership is **mandatory** for this group if they are employed under a **per annum contract** for the lesser of: (a) the regular teacher workday, or (b) the teaching assistant workday, as long as the regular teacher workday is at least six hours and the teaching assistant workday is at least six hours.

Teacher aides are only eligible for membership in NYSLRS. However, teacher aides who are reclassified to teaching assistants **MUST** join NYSTRS if their position mandates membership. If a reclassified position does not meet the conditions for mandatory membership in NYSTRS (e.g., it is a part-time teaching assistant position), it is optional for the employee to join NYSTRS.

Teacher aides who are reclassified as teaching assistants and establish a new membership in NYSTRS may elect to transfer their NYSLRS membership to NYSTRS. (Please review Section 13: Transfers for further information on transfers.) Employees electing to transfer should apply for a transfer as soon as their NYSTRS membership is established. During the transfer process,



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the district should deduct member contributions. Once the transfer is complete, the member will be assigned their earliest date of membership and tier status based on when the employee first joined a public retirement system. If appropriate, based on the member’s tier and membership date, the member may be refunded contributions collected during the transfer process. If applicable, to be eligible for a refund of these contributions, the member must apply for a transfer in the same school year that their NYSTRS membership is established. Employees who may be eligible for contribution refunds include Tier 5 or 6 members transferring-in a non-contributory Tier 1-4 membership, or Tier 6 members transferring-in a Tier 5 membership with a lower contribution rate.

Please note: SUNY teaching assistants, graduate assistants, and clinical assistant instructors are eligible for membership in **NYSLRS only**, not NYSTRS.

**Tiers of Membership**

The Teachers’ Retirement System is divided into six tiers, which are distinguished by dates of membership. Tier 1 members may continue to make voluntary contributions to their Annuity Savings Fund through payroll deduction only if they have continually been contributing. Tier 2 members are not permitted to contribute to the System. The law required Tier 3 and 4 members to contribute 3% of salary toward retirement until they had reached either 10 years of service credit or 10 years of membership. Under the law, Tier 5 members must contribute 3.5% of their salary, and Tier 6 must contribute 3-6% of their salary based on annual wages.

**Membership Tiers by Date**

<b>Tier</b>	<b>Date of Membership</b>
1	Prior to 7/01/73
2	7/01/73 - 7/26/76
3	7/27/76 - 8/31/83
4	9/01/83 - 12/31/09
5	1/1/10 - 3/31/12
6	On or after 4/1/12

**Please note:** If contributions are reported to NYSTRS for any employee, we will automatically make them a member of NYSTRS. New members must submit a **Membership Application (NET-2)**.

**Mandatory Contribution Rates**

Tier 6 members contributed 3.5% from April 1, 2012 through March 31, 2013, and 3% from April 1, 2013 through June 30, 2013.



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Beginning July 1, 2013, during any Tier 6 member's first three school years of membership, the Tier 6 member will contribute a percentage based on a *projection*, by the employer, of annual wages during those school years in accordance with the schedule below.

<b>Tier 6 Contribution Chart</b>	
<b>Salaries</b>	<b>Contribution Rate</b>
\$45,000 and less	3.0%
More than \$45,000 to \$55,000	3.5%
More than \$55,000 to \$75,000	4.5%
More than \$75,000 to \$100,000	5.75%
More than \$100,000 to a maximum of the Governor's salary	6.0%

Beginning the fourth school year of membership, a Tier 6 member's contribution rate is based on regular compensation received two school years prior. Beginning in year 4 of membership and continuing from that point forward, it is NYSTRS' responsibility to determine the applicable employee contribution rate for each Tier 6 member. The rate applicable to the next school year will be provided to districts in April of the current school year, via ESA.

For example:

<b>PROJECTED WAGE METHOD (FIRST 3 SCHOOL YEARS ONLY)</b>			
	<b>1<sup>st</sup> School Year</b>	<b>2<sup>nd</sup> School Year</b>	<b>3<sup>rd</sup> School Year</b>
Projected Annual Salary	\$43,000	\$45,000	\$48,000
Contribution Rate Based on Projected Annual Salary	3.5% (7/1/12 - 3/31/13) 3.0% (4/1/13 - 6/30/13)	3.0%	3.5%
Actual Wages Earned in School Year	\$43,000	\$49,000	\$51,000
Contributions Made in School Year	\$1,440.50 (3.5% (7/1/12 - 3/31/13); 3.0% (4/1/13 - 6/30/13) of \$43,000)	\$1,470 (3.0% of \$49,000)	\$1,785 (3.5% of \$51,000)

<b>ACTUAL WAGE METHOD (4<sup>TH</sup> SCHOOL YEAR AND THEREAFTER)</b>		
	<b>4<sup>TH</sup> School Year</b>	<b>5<sup>TH</sup> School Year</b>
Actual Wages Earned in School Year	\$50,000	\$53,000
Contribution Rate Based on Actual Wages Earned Two School Years Prior to Current School Year (See Tier 6 Contribution Chart Above)	3.5% (See Year 2 Wages)	3.5% (See Year 3 Wages)
Contributions Made in School Year	\$1,750 (3.5% of \$50,000)	\$1,855 (3.5% of \$53,000)





## **2022 Legislation Regarding Tier 6 Contribution Rates**

New legislation permits the employee contribution rate for Tier 6 members to be determined using only a member's annual base wages for contributions made during the two fiscal years ending June 30, 2023 and June 30, 2024. Compensation earned for extracurricular programs or any other pensionable earnings paid in addition to the annual base wages will not be included in the calculation as it ordinarily would. This change will be implemented with the school year beginning July 1, 2022.

Although the contribution percentage rate for those years will be calculated only on annual base wages, Tier 6 members must pay the applicable contribution rate on all of their pensionable earnings in those years. See ***Administrative Bulletin 2022-4 New Legislation Impacts NYSTRS Members*** for details.

## **Article 19 – Elimination of 3% Contributions**

Article 19 of the Retirement and Social Security Law in 2000 eliminated the required 3% contributions for current Tier 3 and 4 members of this System when they reached 10 years of credited service or had been a member for 10 years.

Members can also become eligible to have contributions ceased under Article 19 as a result of a tier reinstatement, purchase of prior service, or transfer of service from another public retirement system.

## **Change of Beneficiary**

Members may change their designation of beneficiary at any time by completing the ***Designation of Beneficiary For In-Service or Post-Retirement Paragraph 2 Death Benefit (NET-11.4)*** form.

The form must be signed in the presence of a notary and received by the System in order to effect a change. Both primary and contingent beneficiaries can be designated on the same form; however, at least one primary beneficiary must be designated.

## **Cessation of Membership**

Membership in the New York State Teachers' Retirement System will cease if a member has been out of service for seven consecutive school years, has less than five years of service credit and is not eligible for a retirement allowance. Teachers are considered to be in service if they render at least 20 full days of service in a school year with one or more of our participating employers. Once a membership has ceased, the member's contributions no longer earn interest and should be withdrawn. In addition, the former member forfeits all pension and death benefit rights associated with that membership. **Section 17: Refunds** will provide additional information on withdrawal from membership.

Should the former member rejoin the System at a later date, it is possible for the earlier membership to be reinstated. Following is the information regarding membership reinstatement.



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#### Membership Reinstatement

Section 645 of the Retirement and Social Security Law allows current and future active members of this System, who held a former membership in any NYS public retirement system, to be reinstated to their earliest date of membership.

**There is no deadline or window to file for reinstatement.** This election can be made by completing an ***Election to Reinstatement (RIS-1)*** form with the System or by checking **Yes** to Question #3 on the ***Application for Membership (NET-2)*** to initiate the process.

- Current members reinstated to a former Tier 3, 4 or 5 membership are required to repay, in a lump sum with interest, the amount refunded from the previous membership. There is no cost to be reinstated to a former Tier 1 or 2 membership.
- All Tier 3-6 members who are eligible for reinstatement to a former Tier 1 or Tier 2 date of membership must fully repay and satisfy any outstanding loan before they will be allowed to request reinstatement.
- Any Tier 3-4 member who is being reinstated to a Tier 1 or Tier 2 membership will not be entitled to a refund of their current contributions balance. Members may only be eligible for a refund of current school year contributions. Since Tier 3 and 4 members are no longer contributing, no refund is available.
- Mandatory contributions for Tier 5 and 6 members reinstating to a Tier 1-4 membership will cease only after the election for reinstatement is filed, eligibility for reinstatement is confirmed, and any payment due for the reinstatement has been received and processed. You will be notified in writing by the Retirement System when the contributions should stop. If the payment for reinstatement is processed prior to June 30, the member may be eligible for a refund of the contributions paid in that school year. For example, reinstatement to Tier 1-4 paid by June 30, 2022, would result in a refund of the contributions withheld for the 2021-2022 school year. Mandatory contributions paid in prior school years are not refundable under this statute.

There are some situations where reinstatement may not be to a member's advantage. Any questions regarding membership reinstatement should be directed to the System at (800) 348-7298, Ext. 6070.