



New York State Teachers' Retirement System

To: Chief School Administrators
College and University Presidents
District Contacts
Employer Secure Area Contacts

Administrative Bulletin

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New Legislation Impacts NYSTRS Members

Legislation enacted as part of the state budget now allows Tier 5 and 6 members to vest with five years of service credit, makes changes to the Tier 6 member contribution rate calculation, and extends the suspension of the \$35,000 cap on earnings in retirement for retirees who return to work at a public school district or BOCES.

The legislation was enacted as Chapter 56 of the Laws of 2022. See the summaries below and refer to our [2022 Legislation](#) webpage for additional information.

Vesting for Tier 5 and 6 Members

Part TT amends the Retirement and Social Security Law (RSSL) to reduce the number of years of service credit required to vest to five years for Tier 5 and 6 members. Previously, 10 years of service credit were required for Tier 5 and 6 members to be vested for a service retirement benefit or a deferred-vested retirement benefit. The law, which took effect April 9, applies to current Tier 5 and 6 members and is not retroactive.

Note: Although members can generally retire as early as age 55, deferred vested Tier 6 members cannot retire until age 63. Members are encouraged to refer to NYSTRS' [Active Members' Handbook](#) for age factors that also might apply.

Employee Contribution Rate for Tier 6 Members; Change to Be Implemented July 1, 2022

Part SS amends the RSSL to permit 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.

As a reminder, the Tier 6 employee contribution rate for a member's first three years of membership are based on projected reportable earnings provided by the employer. Thereafter, their employee contribution rate is determined by a two-year look-back using actual salary reported. So under the new law, using the example of a Tier 6 member in the fourth school year of membership or beyond, the employee contribution rate for the school year ended June 30, 2023 would be based only on the member's base salary in the school year ended June 30, 2021. Likewise, their employee contribution rate for the school year ended June 30, 2024 would be based only on the member's base salary in the school year ended June 30, 2022.

(more)

Administrative Bulletins dating from 2005 to the present are available on our website at [NYSTRS.org](#). Select Employers and visit the Administrative Bulletins page.

Note: 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.

The updated Tier 6 member contribution rates for the 2022-23 school year will soon be added to the Employer Secure Area. NYSTRS will notify employers when they are available there.

Information regarding pay categories to use in monthly reports is available in the Employer Manual, Section 2: Employer Reporting for School Districts (pages 8-9), or Section 3: Employer Reporting for SUNY and Community Colleges (pages 9-10).

Earnings After Retirement Cap for District & BOCES Work Suspended Through June 30, 2023

Part HH amends the RSSL to extend the suspension of the \$35,000 cap on earnings in retirement to allow a NYSTRS retiree to return to work at a public school district or BOCES. Earnings received from April 9, 2022 through June 30, 2023 will not be applied to the Section 212 earnings after retirement limitation of \$35,000 in New York State public employment per calendar year. Employment with a charter school, community college, SUNY, or any other public employment is not covered by this law.

The cap on retirement earnings has been suspended several times by executive order since March 2020 to assist retired workers returning to work during the COVID-19 pandemic. The suspension for all public sector retirees in any form of state or local public employment was in effect through April 30, at the time the legislation was passed.

Different rules apply to disability retirees. All retirees are encouraged to learn more about the rules and reporting requirements for earnings after retirement by reading our brochure [*Working in Retirement*](#).