

# Accident Disability Retirement



**This brochure summarizes the eligibility requirements and benefits of accident disability retirement for Tiers IV and VI. Please consult the *Ordinary Disability Retirement* brochure for more information on ordinary disability retirement.**

## Eligibility and Filing Requirements

You may be eligible for accident disability retirement if you meet all of the following requirements:

- **Conditions:** You are physically and/or mentally incapable of performing your job duties as the result of an on-the-job accident not caused by your own willful negligence.
- **Timely Filing:** You file for disability retirement within three months of the last date you were on active payroll; or, if you were on a leave of absence without pay for medical reasons, you file within 12 months of the date you receive notice that you have been terminated.
- **Complete Filing:** You file the Accident Disability Retirement Application for your tier, along with all of the following:
  - The “Applicant’s Personal Report of Disability”
  - The “Report of Applicant’s Physician” (code DI32) with accompanying treatment notes
  - An “Authorization for Release of Health-Related Information” (code DI47)
  - Your employer’s accident report and any other official records concerning how your accident occurred, such as police or fire department reports
  - Medical records supporting your claim that you are disabled (200-page limit)
- **Examination:** The TRS Medical Board examines you and determines that you qualify for accident disability retirement.

## Injury or Accident?

Not all line-of-duty injuries are considered accidents for the purpose of the accident disability retirement benefit.

- Injuries caused by the applicant’s own negligence or missteps are generally not considered accidents.
- Injuries that occur due to an ordinary workplace risk or activity rather than a sudden and unexpected event are generally not considered accidents.

In reviewing an application for Accident Disability Retirement, the TRS Medical Board will evaluate whether a qualifying on-the-job accident occurred.

## Application Process

To apply for accident disability retirement, you must make a complete and timely filing, as described in the **Eligibility and Filing Requirements** section. Please note that your medical records, employer’s report, and other documentation may be submitted separately. But if TRS does not receive all documentation within three months after you file your Accident Disability Retirement Application, your application will be canceled.

It is your responsibility to submit documentation supporting your claim that you experienced an accident, that you are disabled, and that the accident caused your disability. If records necessary to evaluate your application are missing, your claim could be denied. You should keep a copy of your application and all supporting documentation for your records.

**NOTE:** If you are in Tier I, II, or III, please contact TRS for disability retirement information specific to your tier. Tier I and II members have special disability eligibility and benefit rules. Most Tier III members choose to file under Tier IV, in which case the Tier IV rules described in this brochure would apply.

Upon receipt of your retirement application, TRS will review your service credit records and notify you by mail if you have any membership service deficits and/or optional service credit eligible for purchase. Before retirement, all deficits must be resolved and any optional service purchases must be completed.

In general, TRS' review of the completed application will take six to eight weeks. TRS will then notify you by mail of the date and time of your examination by the doctors on TRS' Medical Board. After your examination, you will be notified of the Medical Board's decision by mail.

## **Retirement Date**

If the TRS Medical Board approves your application, your retirement date will generally be the later of a) the date you filed your accident disability retirement application or b) the day after the last day you were paid on payroll. However, you may choose a different retirement date that is within 90 days of the approval date.

You may not continue working or be on payroll for more than 30 days after you are approved for disability retirement. If you plan to continue to work, you must withdraw your disability retirement application.

## **Retirement Payments**

After your accident retirement disability application is approved, you will begin receiving monthly advance payments of your retirement allowance. Payment of your full retirement allowance should begin approximately three to five months after your application is approved. You will receive your retirement allowance payments for life, provided the Medical Board continues to deem you to be disabled or you do not return to active service.

## **Benefit Calculation**

The benefit calculation under accident disability retirement depends on your job title.

- If the position on which your TRS membership is based is eligible for Workers' Compensation, your accident disability retirement pension will be based on 1/3 of your Final Average Salary.
- If your position is not eligible for Workers' Compensation, the pension will be based on 2/3 of your Final Average Salary.

Please check with your employer about whether your job title is eligible for Workers' Compensation. In general, paraprofessional titles are covered by Workers' Compensation, but most other New York City pedagogical titles are not.

In all cases, if the service retirement allowance calculation would provide a greater benefit, then that calculation would be used. In addition, if you have an Annuity Savings Accumulation Fund (ASAF), your retirement allowance would include an annuity based on your ASAF balance.

## **Denial of an Application**

Your accident disability retirement application may be denied because the Medical Board 1) does not find that you are physically or mentally disabled; or 2) does not find that your claimed physical or mental disability was caused by an accident.

As an appeal, you may request that a Special Medical Committee review the conclusions and recommendations of the Medical Board by filing a "Special Medical Committee Request and Waiver of Rights" (code DI13) with TRS. TRS must receive your form within 30 days of the date you receive the transcript of your exam. You would then be responsible for paying half of the Committee's examination fees. In requesting this review, you would also waive your rights to pursue your case in any other forum, including an Article 78 Petition. The Special Medical Committee would have complete and final authority over your case.

The only other option for appealing a Medical Board determination is filing an Article 78 Petition against TRS. You would need to consult your own attorney for more information about this option, including its four-month filing deadline.

If your application is denied because the Medical Board determined that you are not disabled, but your condition later worsens, you may reapply if your new application satisfies the eligibility criteria described on page one and you submit new medical records that document the change to your medical condition. If the Medical Board denied your application because you did not experience an accident, you may consider applying for ordinary disability retirement if you meet the eligibility requirements.

## Restrictions

Please note the following restrictions that apply to members who are granted accident disability retirement.

**Re-Examination**—You may be required to be re-examined at the discretion of the TRS Medical Board until you reach age 65. **Failure to report for re-examination will result in the discontinuance of your disability retirement.**

**Restoration to Active Service**—If you wish to return to active service voluntarily, you should first find employment in a TRS-eligible position. You must file an “Application for Voluntary Restoration from Disability Retirement” (code DI30) with TRS, as well as a letter with your former employer requesting re-employment in a TRS-eligible position.

### **Employment While on Disability Retirement**

Any employment, public or private, before age 65 may lead the Medical Board to determine that a disability retiree is no longer disabled.

*This publication should not be solely relied upon, as it is based on currently available information that is subject to change. In all cases, the specific provisions of the governing laws, rules, and regulations prevail.*



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