Summary Plan Description

New York State
Voluntary Defined Contribution Program
For Eligible City of New York Employees and Employees of Public Employers

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This summary provides a description of some of the key provisions of the NYS Voluntary Defined Contribution (VDC) Program for City of New York Employees and Employees of Public Employers.

The State of New York reserves the right to modify, terminate or suspend the program at any time in accordance with applicable legislation or program guidelines. The State will provide appropriate advance notice of any change, discontinuance or reduction in benefits.

Establishment

Pursuant to Article 8-B of the New York State Education Law, the State University of New York (SUNY) Optional Retirement Program (ORP) was established in 1964 as an alternative to the New York State Employees' Retirement System (ERS) and the New York State Teachers' Retirement System (TRS). Beginning in 1990, the ORP became qualified under Section 401(a) of the Internal Revenue Code. Since that time, SUNY's contributions have been made under Section 401(a) and employee contributions have been "picked-up" under Section 414(h)(2) of the Code. The plan year for the ORP is the calendar year. The original funding choice was TIAA. In 1994, three alternate investment providers were designated: MetLife, AIG, and Voya. In 2014, Fidelity was also authorized as an ORP investment provider. MetLife was removed in 2017. These companies will, hereinafter, be referred to as investment providers.

On March 16, 2012, Chapter 18 of the Laws of 2012 was signed into law, which amended portions of the Retirement and Social Security Law, Education Law, and the Administrative Code of the City of New York. Among other things, this legislation amended Article 8-B of the Education Law to authorize the participation in the SUNY ORP of all unrepresented (non-unionized) employees of the City of New York and other public employers hired on or after July 1, 2013, and earning at the full-time rate of $75,000 or more on an annualized basis. This new retirement-benefit option is known as the Voluntary Defined Contribution (VDC) program.

Beginning October 1, 2020, the City of New York will be offering the VDC program to this newly eligible class of employees. Vesting, investment providers, and plan rules follow the SUNY ORP Plan Document and policies.

Eligibility

All unrepresented and non-civil servant employees hired into or appointed to a full-time and/or part-time position on or after July 1, 2013 with an estimated annualized full-time salary of $75,000 or more at the date of hire are eligible to join the VDC program within 30 days of their date of hire.

Employees eligible to join the VDC program include:

- Employees of the City of New York, and
- Employees of the following public employers (“Public Employers”):
    - New York City Housing Authority (NYCHA)
    - School Construction Authority (SCA)
    - Health + Hospitals (H+H)

In order for an employee to participate in the VDC program, the employee must enroll in the program:

- Within 30 days of the employee’s hire date.

Once an election to join the VDC program is made, the employee’s enrollment is irrevocable.

If the eligible employee decides not to participate in the VDC program, the employee must complete the “VDC Declination Form” and provide it to their employee’s agency Human Resources representative. Failure by employees, who were eligible and/or previously notified via e-mail by their Human Resources representative regarding their eligibility for the VDC program to timely enroll or submit a VDC declination form will be deemed as having declined participation in the VDC program.

If an employee fails to make a timely election to join the VDC program, the employee is ineligible to join the VDC program but is still eligible to join the defined-benefit NYC retirement system available for the employee’s title.

An employee hired after July 1, 2013 who is a member of a City defined benefit pension system is not eligible to participate in the VDC program as of its rollout.

Contribution Rates

The VDC program is a defined contribution retirement program. Benefits are determined by the amount contributed each year and investment returns. The contribution rates to the VDC program are as follows:

EMPLOYER CONTRIBUTION

Employer contributions for the first year of employment are not made until the employee has fulfilled the vesting requirement discussed below. An employer contribution of 8% of salary will be made for the duration of employment thereafter.

EMPLOYEE CONTRIBUTION

An employee contribution will be required for the duration of employment based upon estimated gross annual wages in a given calendar year, as follows:

Wages of $55,000.01 to $75,000	4.5%
Wages of $75,000.01 to $100,000	5.75%
Wages of more than $100,000	6%

If an employee's annualized full-time salary falls below $75,000 at any time during the employee's participation in the VDC program, the employee retains membership in the program subject to the following required employee contribution percentage rates:

Wages of $45,000 or less	3%
Wages of $45,000.01 to $55,000	3.5%
Wages of $55,000.01 to $75,000	4.5%

VDC program employee contributions are made through payroll deductions on a pre-tax basis. Contributions are not subject to federal income tax until withdrawn but are subject to state and local income taxes in the year in which they are made. Employee contributions must be reported on the employee's state and local income tax return. All earnings on contributions are tax deferred until they are withdrawn.

All contributions are made based upon Internal Revenue Service (IRS) compensation and contribution limits, which are determined annually and may affect the employee's voluntary contributions to the NYC Deferred Compensation 401(k) Plan.

Social Security (FICA)

The City of New York and Public Employers will deduct Social Security taxes from the employee's pay during VDC program participation. Employees are advised that if the Social Security Administration (SSA) and the IRS determine that the VDC program is an alternative to Social Security and not otherwise subject to mandatory Social Security coverage, then VDC program participants will be ineligible for Social Security benefits for the period of their participation. In that event the Social Security tax deductions made from an employee's pay during VDC program participation may be refundable from the IRS to the extent permitted by federal law.

Vesting

Contributions will begin upon an employee's enrollment in the VDC program, but are held by the City of New York in escrow until completion of the vesting period. A participant is vested upon completion of 366 days of service from enrollment in the VDC program.

If a participant is on leave without pay at any time during the vesting period, then the vesting period will be extended by the length of the leave without pay, in order to meet the required contributions.

A participant who does not complete the vesting period is entitled to a distribution of participant's contributions plus interest.

Once vested, the City of New York or Public Employer will make a single lump sum contribution of applicable escrowed employee contributions, employer contributions and interest to TIAA, as common remitter for the VDC program, who will in turn allocate the funds to the participant's selected VDC investment provider(s).

Upon completion of the vesting period, the participant has full and immediate vesting in all retirement and death benefits provided by the retirement annuities purchased through the employee and the employer contributions.

The vesting period does not apply to the following employees, who are considered immediately vested in the VDC program:

- Employees who come to eligible employment with vested employer funded retirement contracts from any of the VDC investment providers (Fidelity, TIAA, AIG, or Voya)

- Employees with at least 366 days of service with any public employer within New York State
- Employees of the City of New York and Public Employers who were hired on or after July 1, 2013, and have already completed 366 days of service.

Eligibility for City Retiree Health Benefits

An employee of the City of New York or Participating Employers who elects to enroll in the VDC program is not eligible to receive NYC retiree health benefits on the basis of employment during which the employee participates in the VDC program, even if the employee remains employed for 10 years of longer, unless the employee has a previously vested membership with any NYC defined benefit pension fund or retirement system with sufficient duration to independently render the employee eligible to receive retiree health benefits.

Eligibility for Management Benefits Fund (MBF) Retiree Benefits

An employee of the City of New York or Participating Employers who elects to enroll in the VDC program is not eligible to receive MBF retiree benefits on the basis of employment during which the employee participates in the VDC program, even if the employee remains employed for 10 years of longer, unless the employee has a previously vested membership with any NYC defined benefit pension fund or retirement system with sufficient duration to independently render the employee eligible to receive MBF retiree benefits.

Breaks in Service & Transfers

An employees who participate in the VDC program (whether vested or not) and leave NYC public service is eligible to participate upon return to City service subject to the VDC program requirements. A break in City service is defined as retirement or being off City payroll for 45 or more days and does not include leaves of absence such as terminal leave, child care leave, sick leave, unpaid leave, paid family leave, FFCRA, or Workers' Compensation leave.

An employee currently participating in the VDC program becomes ineligible for continued participation in the VDC program upon the following:

- taking a position in a represented title,
- being appointed into a permanent civil service title.

An employee is not eligible to buy back service credit in a City defined benefit pension system for the time period the employee participated in the VDC Program.

Funding

This is a defined contribution retirement program under which individual contracts, providing retirement and death benefits for or on behalf of electing employees, are purchased from any of the approved investment providers (Fidelity, TIAA, AIG, and Voya). Contracts are issued to and become the property of the electing employee. Payments are made in accordance with the contracts, and the employer is not liable for the payment of benefits provided under such contracts.

VDC participants may elect one or more of the investment providers. Each investment provider has a variety of approved investment options. Contributions are initially directed to TIAA as common remitter for the program. At the VDC participant's election, TIAA will automatically transfer all (100%) or a specified percentage of contributions to any of the other approved investment providers selected each pay period. Participants may also transfer assets between authorized investment providers, subject to investment provider policies and any restrictions applicable to the specific investment funds selected. There is no charge for in-plan transfers.

Investment Policy

Funds available for investment through the New York State Voluntary Defined Contribution Program are carefully monitored and may be modified when changes are deemed necessary and appropriate by the SUNY ORP. Fund reviews are conducted on a quarterly basis by SUNY ORP and any concerns are addressed with the VDC investment providers. The primary overall investment objective for the NYS VDC program is that the investment options offered include funds having diverse risk and return expectations so that each participant may construct a portfolio that can be expected to meet his or her individual needs. The funds offered through the NYS VDC program were not selected or approved by the City of New York or the Public Employers, and the City of New York cannot advise employees who participate in the VDC program on investment options and/or decisions.

Death Benefits

If you are vested and die before you have annuitized all funds in your contracts, any unannuitized balance is available to your beneficiary in a lump sum, unless you have chosen another payment option for your beneficiary, as described in your annuity contract. Your beneficiary may also contact the investment providers for additional options. Your entire balance must normally be distributed to your beneficiary by December 31 of the 5th calendar year after your death. If elected, death benefits may be payable over the life expectancy of the beneficiary, if the distribution of benefits begins no later than December 31 of the calendar year, immediately following the calendar year of your death. If the designated beneficiary is your spouse, the commencement of benefits may be deferred until December 31 of the calendar year when you would have attained age 72, had you lived. If you die after all funds have been annuitized, any additional payments will be determined by the annuity option you selected at retirement. There is no death benefit if you are not vested. If a beneficiary is a corporation, association or an estate, a single lump-sum payment will be made.

If you are not vested and you die, your contributions plus interest will be paid to your beneficiary.

Loans

City employees are not eligible for a loan from the VDC program.

Benefit Payments From Vested Contracts

Your investment provider(s) will provide you with assistance in selecting an annuity option(s) in settlement of annuity contracts. You can receive a distribution at any age from your contracts following termination from employment with the City of New York or Public Employer.

When Distribution Must Begin

Federal tax law requires that minimum distribution of retirement income begin by April 1 of the calendar year following the latter of:

1. the calendar year in which you reach age 72 and if you are severed from service, or
2. the calendar year in which you terminate employment.

If the required minimum amount is not distributed, the IRS applies a tax penalty equal to 50% of the difference between the amount that should have been distributed and the amount actually distributed.

An annuity is based on the accumulated value of employee and employer contributions. At the age of retirement, you may receive either a fixed or variable annuity or both.

Making a Cash Withdrawal and Tax Implications

When your NYC public employment ends, you may surrender your contracts for the cash value, subject to IRS regulations. Cash distributions are subject to ordinary federal income taxes and may be subject to an additional IRS 10% early withdrawal tax penalty. The investment provider must withhold 20% from any single lump-sum benefit paid to you, and send it to the IRS for federal income tax. The IRS will apply the amount toward income taxes due. An IRS 10% tax penalty will generally apply to cash withdrawals made before age 59 1/2, unless you have medical expenses exceeding the tax-deductible limit or you become disabled, die or retire after attaining age 55. There is no applicable IRS 10% tax penalty applied to payments made to children or to a divorced spouse in accordance with a qualified domestic relations order. Distributions from the VDC program are generally exempt from New York State Income taxes. This information is not intended to be relied upon as tax advice. You are encouraged to consult a tax advisor.

Rollover to Another Qualified Retirement Plan or Traditional IRA

Since 2002, the IRS has allowed the rollover of distributions between different types of retirement plans (e.g., to or from 401(a), 401(k), 403(a), 403(b), 457(b) and Traditional IRA plans). In order to rollover an amount to an employer sponsored plan, you must be separated from service and that plan must permit the rollover into the plan. You should contact the investment providers for more information on eligibility and taxation of rollovers.

Rollover Eligibility to the VDC Program from Another Qualified Retirement Plan or Traditional IRA

The VDC program does not accept rollovers from other retirement plan(s), Traditional IRAs or Roth IRAs.

Rollover Eligibility from the VDC Program to an Alternative Retirement Plan

A rollover is a tax-free transfer of assets from a retirement plan to either a Traditional IRA or another employer's retirement plan. You are not eligible to roll money out of the VDC program until after separation from service. Careful consideration of outside investment fees and the tax consequences of both transfers and ultimate distributions should be discussed with your tax advisor prior to completing any rollovers from the VDC program.

A direct rollover will transfer funds from the VDC program directly to an IRA trustee or to the trustee of the retirement plan of the new employer (if the plan permits this type of rollover). You do not take receipt of the funds and are not subject to any required income tax withholding.

An indirect rollover is a payment made to you, not directly to the recipient of the plan or IRA. A 20% statutory tax withholding is required. In order to qualify as a rollover, the funds must be deposited into another qualified retirement plan or to a Traditional IRA account within 60 days of receipt.
Failure to deposit the investment into an IRA or qualified plan will result in a taxable distribution. Early distribution penalties may also apply.

You cannot roll over to a Roth IRA. However, you may be able to convert the assets to a Roth IRA from a Traditional IRA based on IRA guidelines. Contact the investment provider for more information.

Your Retirement Benefits if You Become Divorced or Separated

In the event that a judgment, decree or court order establishes the rights of another person to your benefits under the VDC program, and where there is a qualified domestic relations order, payments will be made by the investment providers in accordance with that order. A court order may preempt the usual requirement that your spouse be considered your primary beneficiary for a portion of the accumulation. Additional information can be obtained from the applicable investment provider. All qualified domestic relations orders for a VDC contract should be sent to your investment provider(s).

Some Other Key Points

- The investment providers offer mobility of retirement benefits as annuity contracts and are fully vested with the individual immediately upon issue. This, coupled with the coordination with the defined contribution plans of many other employers throughout the nation, permits NYC public employees electing the VDC program to continue their contracts if they leave NYC public employment.
- Professional guidance and investment advice services are available through all authorized investment providers within the VDC program at no cost to participants.
- Should you elect the VDC program and at a later date elect a different retirement system for which you become newly eligible, you will not be permitted to establish credit in that retirement system for any service for which employer contributions under the VDC program were made on your behalf.
- Benefits are payable in accordance with contracts issued by private insurers, and are not protected against impairment under the New York State Constitution.

Investment Provider Information:

TIAA
800-842-2252

Fidelity
800-343-0860

AIG
Richard Grofsick, Advisor 518-783-6464

Voya
800-438-1272

Additional program information and resources are available on the NYS VDC web site at: http://www.vdc.ny.gov

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