New York State

Voluntary Defined Contribution Program

Summary Plan Description

July 2015

Table of Contents

This summary provides a description of some of the key provisions of the NYS Voluntary Defined Contribution Plan (VDC). 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

On March 16, 2012, Chapter 18 of the Laws of 2012 were 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. This legislation affected the contributions and benefits of employees who joined a New York State public retirement system on or after April 1, 2012. Beginning July 1, 2013, a Voluntary Defined Contribution (VDC) plan option was made available to all unrepresented employees of NYS public employers hired on or after July 1, 2013, and earning at the full-time rate of $75,000 or more on an annual basis.

The SUNY Optional Retirement Plan (ORP) was selected as the ideal vehicle to accomplish this, and Education Law was modified accordingly to permit this newly eligible class of employees. Vesting, investment providers, and plan rules follow the SUNY ORP Plan Document and policies.

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-CREF. In 1994, three alternate investment providers were designated: MetLife, VALIC, and Voya. In 2014, Fidelity was also authorized as an ORP investment provider. These companies will, hereinafter, be referred to as investment providers.

Eligibility

All unrepresented employees hired on or after July 1, 2013, with estimated annual full-time salary rate of $75,000 or more are eligible to join the VDC. Persons employed on a permanent full-time basis must join a retirement plan within 30 days of their date of appointment. If an employee fails to make a timely election, state law requires placement in TRS or ERS, depending on title. Once an election is made, it cannot be changed during any period of public NYS employment, and is retroactive to the date of appointment. A newly hired state employee whose immediate preceding employment was with another department, division, or agency of the state is not eligible to enroll in the VDC.

An employee for whom retirement system membership is optional, who is enrolled in another public system with the option to continue active membership, and is newly eligible for VDC election, may elect VDC within 30 days of initial eligibility.

Employees for whom retirement system membership is optional, who are not enrolled in another public system with their employer, may elect VDC at any time while in eligible part-time status (provided he/she does not elect another system).

Employees receiving pension benefits from a public retirement system in New York State are not eligible to join or continue active participation in the VDC.

Contribution Rates

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

EMPLOYER CONTRIBUTION

An Employer Contribution of 8% of salary will be made for the duration of employment.

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

VDC employee contributions are made through payroll deduction 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. All earnings on contributions are tax deferred until they are withdrawn.

All contributions are made based upon IRS compensation and contribution limits, which are determined annually.

Vesting

Upon completion of 366 days of service (waived for employees who enter service with employer-funded retirement contracts from any of the VDC investment providers) 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.

Contributions will begin upon Plan entry, but are held by the employer until completion of the vesting period. Once vested, the employer will make a single lump sum contribution of applicable employer and employee contributions plus interest to the investment provider(s) selected by the participant. A participant who does not complete the vesting period is entitled to a refund of his or her own contributions plus interest.

There is a 366-day vesting period except for:

1. The employees who come to eligible employment with vested employer funded retirement contracts from any of the VDC investment providers (Fidelity, MetLife, TIAA-CREF, VALIC, or Voya); vesting is immediate.
2. The employees who are active members of any public retirement system within NYS with at least 366 days of service credit; vesting is immediate. If less than 366 days in the system, service credit may be applied against the VDC vesting period.
3. The employees who have 366 days of service with any public employer within New York State.

Note: The VDC vesting period is on a calendar basis.

Breaks in Service & Transfers

Employees who participate in the VDC (whether vested or not) and leave NYS public service are eligible to participate upon their return to service irrespective of their appointment status at that time, and they retain their tier status. Employees who had not vested and had withdrawn their contributions must repay their contributions to be covered by this provision. If they do not repay their contributions they are treated as new employees (Once employees repay their refunded employee contribution amount, it is the responsibility of the current employing agency to contact the previous agency for service and salary information and make the employer contribution for that prior service).

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, MetLife, TIAA-CREF, VALIC, 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 members may participate in one or more of the investment providers. Each investment provider has a variety of approved investment options. Contributions are initially directed to TIAA-CREF as common remitter for the plan. At the VDC participant's election, TIAA-CREF 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 are carefully monitored and may be modified when changes are deemed necessary and appropriate. Fund reviews are conducted on a quarterly basis and any concerns are addressed with the VDC investment providers. The primary overall investment objective for the NYS VDC 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.

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 70-1/2, 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 sum payment will be made.

For VDC members with more than 90 days service, if the value of that portion of the death benefit attributable to the Employer's contributions is less than 1/2 final salary, a survivor's benefit to bring this benefit up to 1/2 of final salary (but not less than $2,000 nor more than $10,000) is payable. This survivor's benefit is provided by the Survivor's Benefit Law, which is subject to annual reenactment.

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

Loans

Employees may borrow up to 50% of the accumulated value of their contracts, subject to Internal Revenue Service regulations and rules promulgated by the investment providers. Current IRS regulations set a maximum aggregate loan balance of $50,000. Employees who wish to request a loan should contact the applicable investment provider(s).

If You are Vested and Leave NYS Public Employment

Once you are vested, your benefits cannot be taken away. The funds in your contracts continue to share investment earnings/losses, even if no further contributions are made. If you return to eligible employment at some future date, you will immediately return to plan participation without a waiting period or new vesting period, although a new retirement application may be required and you may be in a new retirement tier.

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 NYS.

When Distribution Must Begin

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

1. the calendar year in which you reach age 70-1/2, 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 NYS 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 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. As a New York State public retirement plan, distributions from the VDC 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 From Another Qualified Retirement Plan or Traditional IRA

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

Rollover Eligibility From the VDC 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 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.

A direct rollover will transfer funds from the VDC plan 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 plan, 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.

Some Other Key Points

- The investment providers offer mobility of pension benefits as annuity contracts 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 NYS public employees electing the VDC to continue their contracts if they leave NYS public employment.
- Professional guidance and investment advice services are available through all authorized investment providers within the VDC Plan at no cost to participants.
- Should you elect the VDC and at a later date elect a different retirement system for which you become newly eligible, you will not be permitted to establish credit for any service for which state contributions under the VDC were made on your behalf.
- Under the investment providers, benefits are payable in accordance with contracts issued by private insurers, and are not covered by constitutional provision.

Investment Provider Information:

TIAA-CREF
866-662-7945
www1.tiaa-cref.org/tcm/nystate/index.htm

Fidelity
800-343-0860
www.netbenefits.com/vdc

MetLife
800-560-5001 (account holders)
844-298-8899 (new enrollees)
www.metlife.com/suny

VALIC
800-448-2542
www.valic.com/suny

Voya
800-677-4636 (Participants)
800-438-1272 (Plan Information)
https://suny.prepare4myfuture.com

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

PLAN ADMINISTRATOR:

David M. Morrell
The State University of New York
Office of University-wide Benefits
State University Plaza
Albany, New York 12246
(518) 320-1430
david.morrell@suny.edu