



OFFICE OF LABOR RELATIONS

Deferred Compensation Plan

40 Rector Street, Third Floor, New York, N.Y. 10006
Tel: (212) 306-7760 / 1(888) DCP-3113 (Outside NYC)
TTY: (212) 306-7707 / Fax: (212) 306-7376
nyc.gov/deferredcomp

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Comptroller of the City of New York

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Director, Tax-Favored & Citywide Programs

Re: Emergency Withdrawal Request from Your 457 Account

Dear Participant:

Attached is the Emergency Withdrawal Application for the Deferred Compensation Plan's 457 Plan. We suggest that you read carefully page 7 of the application, which describes the applicable Internal Revenue Code (IRC) regulations, before submitting an application. You must complete the application and submit documentation showing that your request meets the IRC definition of an unforeseeable emergency before the Deferred Compensation Board can review your case.

Initially, your application will be reviewed and you will be notified in writing if your circumstances clearly match cases which did not meet the IRC definition of an unforeseeable emergency, as determined by the Board, in the past. Otherwise, your request for a withdrawal will be reviewed by the Board at the next regularly scheduled meeting. You should note that only complete applications with adequate documentation are presented to the Board for a determination.

If upon reading the enclosed application you feel your circumstances do not meet the IRC definition of an unforeseeable emergency, you can still reduce or stop your payroll deductions by accessing KeyTalk through the Plan's automated telephone voice response system at (212) 306-7760, or through the Plan's Web site at nyc.gov/deferredcomp. This may help alleviate any financial burden you are experiencing. You may reinstate your Deferred Compensation contributions at any time either through KeyTalk® or through the Web site.

IMPORTANT: Deferred Compensation Plan assets are your final resort. Your application will not be presented to the Board if you fail to document that you have exhausted all possible alternative sources for funds. You are required to document the unforeseeable event that caused your hardship.

Very truly yours,

The Deferred Compensation Plan

Attachment

WARNING

2 CORRECTION OFFICERS, 2 OTHERS CHARGED WITH DEFERRED COMP FRAUD

According to a press release issued by the Department of Investigation on June 28, 2000, four individuals were arrested for filing fraudulent claims of hardship for infertility treatments, dental implants, and funeral and medical expenses, in an unlawful effort to prematurely withdraw funds ranging from \$4,900 to \$25,000 from their Deferred Compensation Plan accounts.

If convicted these employees face up to 7 years in prison.

**THE CITY OF NEW YORK DEFERRED COMPENSATION PLAN
40 RECTOR STREET, 3rd Fl., NEW YORK, NY 10006**

**EMERGENCY WITHDRAWAL APPLICATION
FOR THE 457 PLAN**

IMPORTANT: Deferred Compensation Plan assets are your final resort! Your application will not be presented to the Board if you fail to document that you have exhausted all possible alternative sources for funds. You are required to document the unforeseeable event that caused your hardship.

The Deferred Compensation Plan for Employees of the City of New York and Related Agencies and Instrumentalities permits withdrawal of funds for an unforeseeable emergency. This provision is explained in Section 6 of the Plan Document which is reproduced on page 7 of this application.

Generally, an unforeseeable financial emergency is considered a circumstance for which you could not logically have planned or budgeted, yet is so compelling as to present a justifiable reason for taking all or part of your money out of the Plan, even though you continue employment with the City. This might be extremely high medical costs from a sudden illness, a disabling injury, or property damage from a natural catastrophe. However, if such costs are covered by insurance or other compensation, or if other assets could be used for payment of such expenses, they are not grounds for an emergency withdrawal.

The Internal Revenue Service has set down guidelines which provide that normally budgetable expenses do not qualify as hardships (see page 7). These might be an auto payment or repairs, a down payment on a house, college tuition, or major appliance repairs or replacement. Under normal circumstances, these can be expected from time to time and should be provided for in ways other than a Deferred Compensation withdrawal. (Note: Divorce, job changes, mortgage/rent payments etc., do not in themselves qualify as reasons for release of these funds. Consideration is made on the basis of the employee's total circumstances.)

In addition, emergency withdrawals will not be allowed in cases where the participant had significant control and failed to exercise prudent judgment as to the cause of the emergency. Examples of this are an inordinately expensive or extensive vacation, the need to make additional payments for federal or state taxes or property taxes, the cost of remodeling a home, abuse of the use of credit cards or other credit devices, or any other situation over which the employee had significant control and failed to exercise proper judgment.

Should you find yourself in a situation which you believe qualifies for an emergency withdrawal, the first thing to do is suspend contributions to the Plan as soon as possible. Immediately determine what other sources can be used to offset the expenses. If you still find that the situation warrants an emergency withdrawal of Deferred Compensation funds, you can complete this application.

Remember that the entire Deferred Compensation Plan is administered under the authority of the Internal Revenue Service (see page 7). The Board, which is charged with the responsibility of evaluating unforeseeable emergencies, is bound by the Internal Revenue Code to consider an application from a financial standpoint only. No exceptions will be made.

Now, please read page 7 so you will be generally familiar with how this provision works. If after reading page 7 you feel that you qualify for an emergency withdrawal, please complete pages 2 - 6 fully, supplying a copy of last year's tax return and documentation where indicated, correctly sign the affirmation and have your signature notarized, and return the pages to the Deferred Compensation Plan's Administrative Office.

(Last Name)	(First Name)	(MI)
(Social Security Number)	(Agency Name)	
(Street Address)		
(City)	(State)	(Zip Code)
()	()	
Telephone - home	Telephone - work	

Is this the mailing address the Plan has on file for you? Yes No

Did you apply for or do you currently have an outstanding Deferred Compensation Plan loan? Yes No

In accordance with the provisions of Section 6 of the Plan Document, based on my answers to the following questions, I hereby request withdrawal from my account as follows:

- Full withdrawal of my 457 account
- Partial withdrawal in the amount of \$ _____

Please note: Your contributions to the City of New York 457 Deferred Compensation Plan will automatically be suspended while your application is being processed. However, if you are in the Plan in lieu of FICA, your contributions will remain at or be reduced to 7.5%. You may reinstate your contributions in the future by accessing KeyTalk® through the Plan's telephone voice response system at (212) 306-7760.

FOR ADMINISTRATIVE USE ONLY

Received for the Board's review on _____, 200_____

by _____ Title _____

Total deferred: \$ _____ through _____ pay period

Value of the account on _____, 200_____ was \$ _____

Suspension effective _____ pay period

Approved \$ _____ Denied _____

Date unforeseeable emergency occurred: / /

Please describe the unforeseeable event which caused this emergency: _____

Please list the documentation you are attaching to this application to support your claim. Attach official verification: Police or Fire report, adjuster's statement, doctor's or other bills, or any other necessary proof. You may be required to submit additional documents. Original documentation may be required.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

Have you exhausted all insurance, other restitution and conventional sources of funds? _____

Explain: _____

Are other parties responsible for any part of the expense incurred? _____

Explain the extent of others' involvement: _____

Was this a normally budgeted expense? _____

Explain: _____

FINANCIAL SUMMARY

I. UNSECURED LIABILITIES

	<u>Personal Notes</u>		<u>Credit Cards</u>		<u>Open Accounts</u>		<u>Other (specify)*</u>	
	Self	Spouse	Self	Spouse	Self	Spouse	Self	Spouse
Net Owed:	_____	_____	_____	_____	_____	_____	_____	_____
Monthly Payments:	_____	_____	_____	_____	_____	_____	_____	_____

* Include medical and legal, liens, garnishments, student loans, amounts payable in any unincorporated business or professional activity, child or spousal support.

II. SECURED LIABILITIES

	<u>Property Mortgages*</u>		<u>Auto and Appliance Loans</u>		<u>Insurance Loans</u>		<u>Other (Specify)**</u>	
	Self	Spouse	Self	Spouse	Self	Spouse	Self	Spouse
Net Owed:	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Monthly Payments:	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

* Specify first and second separately; Specify if more than one occupied residence.

** Any other pledged assets.

OTHER REGULAR MONTHLY OBLIGATIONS (averaged on a monthly basis, if not paid monthly)

Rent \$ _____	Heating \$ _____	Property & Casualty Insurance \$ _____
Other obligations \$ _____	Utilities \$ _____	Life Insurance \$ _____

Is anyone else liable on the above liabilities? _____

If yes, do they make regular contributions to reduce these liabilities? _____

Give persons' names, liability and amount contributed: _____

III. ASSETS

<u>Checking Accounts</u>		<u>Savings Account</u>		<u>Real Estate</u>		<u>Other Liquid*</u>	
Self	Spouse	Self	Spouse	Self	Spouse	Self	Spouse
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

* Include stocks, bonds, T-bills, CD's, money market certificates, mutual funds, savings bonds, other marketable securities, saleable commodities.

IV. GROSS INCOME — MONTHLY

<u>All Salary</u>		<u>All Securities</u>		<u>Rental</u>	
Self	Spouse	Self	Spouse	Self	Spouse
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

If your spouse's income, assets, and/or liabilities should not be considered for purposes of this application, please explain basis for that opinion:

V. CHECK LIST

Please review this check list to be sure that you have completed and enclosed the following items. If all the requested information is not provided, this will result in a delay in processing your application.

Have you:

- Enclosed a copy of last year's tax return?
- Enclosed a copy of last year's Form W-2?
- Completed and notarized your application (page 6)?
- Enclosed a signed and notarized Authorization to Release Information and Documentation (attached)
- Enclosed copies of MCU, Pension, and Bank loan approvals/denials?
- Enclosed all necessary documentation supporting your application?
- Enclosed a copy of your most recent paystub?

IMPORTANT: 457 Deferred Compensation Plan assets are your final resort. Your application will not be presented to the Board if you fail to document that you have exhausted all possible alternative sources for funds. You are required to document the unforeseeable event that caused your hardship.

Please Note: Original documents may be required.

I hereby affirm, under penalty of perjury, that the foregoing information is complete, true and correct. In addition, I authorize access to any and all records and information necessary to verify my application. If any information or documentation submitted is false or suspicious, I understand that my application may be referred to appropriate law enforcement authorities, including the City of New York Department of Investigation.

Signature

Date

Sworn to before me

this _____ day of _____, 200_

Notary Public

SECTION 6. WITHDRAWALS FOR UNFORESEEABLE EMERGENCIES

6.1 Upon a showing by a Participant, Beneficiary or Alternate Payee of an unforeseeable emergency the Board may, in its sole discretion, permit a payment to be made to such Participant, Beneficiary or Alternate Payee in an amount which does not exceed the lesser of (i) the amount reasonably needed to meet the financial need created by such unforeseeable emergency or (ii) an amount which, together with any prior distribution or withdrawal, does not exceed the value of such Participant's, Beneficiary's or Alternate Payee's Account determined as of the most recent Valuation Date. Any such payment shall be made pro-rata from the Participant's, Beneficiary's, or Alternate Payee's interest, if any, in each of the Investment Funds, unless the Participant, Beneficiary or Alternate Payee specifies in the request for such a payment the portion of the total amount to be paid from each Investment Fund. Such payment shall be charged to the Account of the Participant, Beneficiary or Alternate Payee and shall be made in one lump cash sum within 60 days after approval of the request. Such payment shall have added to it an amount determined by the Plan Administrator allowing for any applicable federal, state and local taxes to be withheld, providing that such addition does not cause the payment to exceed the amount as determined in (ii) above.

6.2 (a) For purposes of this Section 6, an unforeseeable emergency is defined, as required by the Treasury Regulations promulgated under Section 457 of the Code, as a severe financial hardship to a Participant, Beneficiary or Alternate Payee resulting from a sudden and unexpected illness or accident of the Participant, Beneficiary or Alternate Payee or of a dependent, as defined in Section 152(a) of the Code, of the Participant, Beneficiary or Alternate Payee, loss of the Participant's, Beneficiary's or Alternate Payee's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant, Beneficiary or Alternate Payee. In accordance with the Treasury Regulations, the need to send a child to college or the desire to purchase a home does not constitute an unforeseeable emergency.

(b) For purposes of this Section 6, an amount will not be considered to be reasonably needed to meet the financial need created by an unforeseeable emergency to the extent that such need is or may be relieved (i) through reimbursement or compensation by insurance or otherwise, (ii) by liquidation of the Participant's, Beneficiary's or Alternate Payee's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or (iii) by cessation of deferrals under the Plan.

From Final Regulations for Section 457 of the Internal Revenue Code:

§1.457-6(c) Payments under the plan - (1) *In general.* The plan may not provide that amounts payable under the plan will be paid or made available to a participant or beneficiary before the participant separates from service with the State, or, if the plan provides for payment in the case of an unforeseeable emergency, before the participant incurs an unforeseeable emergency.

* * *

§1.457-6(c)2(i) *Unforeseeable emergency.* For purposes of this paragraph (c), an unforeseeable emergency is, and if the plan provides for payment in the case of an unforeseeable emergency must be defined in the plan as, severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent (as defined in section 152(a)) of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

§1.457-6(c)2(ii) A distribution of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise by the liquidation of the participant's assets to the extent the liquidation of such assets would not itself cause severe financial hardship or by cessation of deferrals under the plan.

Examples of what are not considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

§1.457-6(c)2(iii) *Emergency withdrawals.* Withdrawals of amounts because of an unforeseeable emergency must only be permitted to the extent reasonably needed to satisfy the emergency need.

AUTHORIZATION TO RELEASE INFORMATION
AND DOCUMENTATION

To:

Re: Name of Participant _____

Social Security Number _____

This form will authorize you to release any and all records, information and documents concerning me personally to the New York City Deferred Compensation Plan including, but not limited to, all doctor reports, medical records, hospital records, employment records, tax records, compensation records including my present and past salary history, benefit records, credit reports and any other documents needed by the New York City Deferred Compensation Plan. This authorization permits you to forward this information directly to:

New York City Deferred Compensation Plan
40 Rector Street, 3rd Floor
New York, New York 10006
Attn: Hardship Withdrawal

Dated: _____

Signed: _____

STATE OF NEW YORK)

:ss.:

COUNTY OF)

On the ____ day of _____, in the year _____ before me, the undersigned, the undersigned Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public