



## **Deferred Compensation Plan**

# **401(k) Account**

## **Hardship Application**





# Office of Labor Relations Deferred Compensation Plan & NYCE IRA

22 Cortlandt Street, 28<sup>th</sup> Floor, New York, NY 10007  
Tel: 212 306-7760 / Outside NYC: 888 DCP-3113 and 888 IRA-NYCE  
nyc.gov/deferredcomp and nyc.gov/nyceira

## Board Members

Mayor of the City of New York  
Comptroller of the City of New York  
Commissioner, Office of Labor Relations  
Director, Office of Management & Budget  
Commissioner of Finance  
Commissioner, Citywide Administrative Services  
Police Commissioner  
Fire Commissioner  
Uniformed Firefighters Association  
District Council 37, AFSCME  
Counsel to the Board, Corporation Counsel

Renee Campion  
*Commissioner*  
Daniel Pollak  
*First Deputy Commissioner*  
Georgette Gestely  
*Director, Employee Benefits Program*  
Beth Kushner  
*Deputy Director, Administration*  
Sang Hong  
*Deputy Director, Operations*

## 401(k) PLAN HARDSHIP WITHDRAWAL APPLICATION

The New York City Deferred Compensation Plan (the “Plan”) understands that you are considering a request for a hardship withdrawal from your Deferred Compensation 401(k) Plan account.

Before you apply, keep in mind:

The Internal Revenue Code (the “IRC”) and Treasury regulations govern the circumstances in which funds may be withdrawn from your account. Your situation must present a heavy and immediate financial burden. The Internal Revenue Service (the “IRS”) further requires that this withdrawal be your last and final resort to alleviate your difficulties.

If your situation is deemed a heavy and immediate financial burden by the Deferred Compensation Board (the “Board”), the amount of your withdrawal request cannot exceed the current value of your account. The withdrawal will be deducted from your Pre-tax and/or Roth account, based on your request. If your hardship is met by utilizing only one account, then your hardship distribution will be taken from the account of your choice.

### How to apply for an hardship withdrawal?

Please follow each step listed below for your withdrawal to be in compliance with the requirements of the IRS.

#### Step 1

Review qualifying examples on page (ii).

#### Step 2

If you have not already done so, apply for a loan with the Plan and/or your Pension system, for which you may qualify, prior to submitting this application since this withdrawal must be your last and final resort.

#### Step 3

Complete each section of this 401(k) Application. You must include a copy of a government issued ID that is unexpired.

#### Step 4

E-mail the completed application to:

**NEWYRK@VOYAPLANS.COM** or Fax to **844-299-2362**

You must put “Hardship” in the subject line.

Please do not include your full Social Security number.

Please include the last 4 digits of your SSN or Employee ID.

### What happens after you apply?

The Plan will review your application to determine if your request might qualify for a withdrawal under Section 401(k) of the IRC. If it does not, you will be notified in writing. Otherwise, if your application is complete, your request will be processed accordingly and payment will be issued to you in the manner that you select.

You have the option to receive payment via one of the methods below:

1. Direct deposit, you must complete the attached DIRECT DEPOSIT FORM, or
2. Check sent via regular mail or express to your address on file.

## IRC DEFINITION OF A HEAVY AND IMMEDIATE FINANCIAL BURDEN WITHDRAWAL

Whether a need is immediate and heavy depends on the facts and circumstances. Certain expenses are deemed to be immediate and heavy, including: (1) certain medical expenses; (2) costs relating to the purchase of a principal residence; (3) tuition and related educational fees and expenses; (4) payments necessary to prevent eviction from, or foreclosure on, a principal residence; (5) burial or funeral expenses; and (6) certain expenses for the repair of damage to the employee’s principal residence. Expenses for the purchase of a boat or television would generally not qualify for a hardship distribution. A financial need may be immediate and heavy even if it was reasonably foreseeable or voluntarily incurred by the employee.

(Reg. §1.401(k)-1(d)(3)(iii))

A distribution is not considered necessary to satisfy an immediate and heavy financial need of an employee if the employee has other resources available to meet the need, including assets of the employee’s spouse and minor children. Whether other resources are available is determined based on facts and circumstances. (Reg. §1.401(k)-1(d)(3)(iv)(B))

### EXAMPLES OF CIRCUMSTANCES THAT MAY QUALIFY AND DO NOT QUALIFY FOR A 401(k) HARDSHIP WITHDRAWAL

Circumstances that <b>MAY</b> Qualify
<ul style="list-style-type: none"> <li>• Involuntary loss of wages resulting from an illness, accident, or other similar and extraordinary circumstances arising as a result of events beyond your or your spouse’s control</li> <li>• School tuition for you, your spouse, or dependent</li> <li>• Tax liability (payment of income tax, back taxes, or fines associated with back taxes)</li> <li>• Unreimbursed medical expenses resulting from an illness or accident for you, your spouse, a dependent who can be claimed on your tax return, or your beneficiary</li> <li>• Mortgage payment arrears or rent arrears</li> <li>• Damage to your home due to an accident or natural disaster (beyond insurance reimbursement)</li> <li>• Repair or replacement of home heating system</li> <li>• Utility shut-off notice/arrears</li> <li>• Legal expenses involving criminal charges against you, your spouse, a dependent who can be claimed on your tax return, or your beneficiary</li> <li>• Funeral expenses for your spouse, a dependent who can be claimed on your tax return, a parent/close family member, or your beneficiary</li> <li>• Relocation expenses resulting from circumstances beyond your control</li> </ul>
<p><b>NOTE:</b> The above is not a complete list of circumstances.</p>

Circumstances that <b>DO NOT</b> Qualify
<ul style="list-style-type: none"> <li>• Loss of overtime pay, including loss of overtime pay due to illness or accident</li> <li>• Wage garnishments resulting from alimony, back taxes, credit/loans, tickets/fine, etc.</li> <li>• Credit cards/loans or any other knowingly incurred expenses, such as credit card bills, personal loan payments, insurance payments, etc.</li> <li>• Purchase of an automobile, or other personal property, etc.</li> <li>• Mortgage/rent arrears of SECONDARY residence</li> <li>• Funds for living expenses that would provide a “cushion” for a period of time</li> <li>• Unreimbursed medicals expenses associated with elective (cosmetic) surgery or procedures</li> <li>• Routine maintenance or improvements related to vehicles, home, or other personal property</li> <li>• Vacation, wedding, or leisure expenses</li> <li>• Personal bankruptcy</li> <li>• Legal expenses (except in criminal cases)</li> <li>• Expenses resulting from marital separation or divorce</li> </ul>
<p><b>NOTE:</b> The above is not a complete list of circumstances.</p>

## Section I - Participant Information

SSNO/PARTICIPANT ID	DATE OF BIRTH	AGENCY NAME
<input type="text"/>	<input type="text"/>	<input type="text"/>
FIRST NAME	MI	LASTNAME
<input type="text"/>	<input type="text"/>	<input type="text"/>
HOME ADDRESS		APT
<input type="text"/>		<input type="text"/>
CITY	STATE	ZIP CODE
<input type="text"/>	<input type="text"/>	<input type="text"/>
MOBILE PHONE NUMBER	ALTERNATE PHONE NUMBER	E-MAIL ADDRESS
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Note:** The address provided on this application must match your address on the system. Please ensure that both addresses match or the hardship application will not be processed.

### Required Loan Information (PLEASE READ ENTIRE LOAN SECTION):

Did you apply for, or do you currently have, an outstanding loan with:

- Yes  No The NYC Deferred Compensation Plan  
 Yes  No A NYC Pension System (NYCERS, TRS, Police, Fire, etc.)  
If no, are you a member of a NYC Pension System?  Yes  No

If you are eligible for a loan, but do not have any active loans with the Plan and the pension system, **STOP!** Do not fill out this application since you do not qualify for a hardship withdrawal at this time. See Step 2 on Page i, "How to apply for a hardship withdrawal?"

## Section II - WITHDRAWAL INFORMATION

The amount you are requesting to meet your hardship cannot exceed the amount needed to cover the heavy and immediate financial burden expense or the total value of your account.

### Withdrawal Amount

Select all that apply:

- Total value of my 401(k) account, less applicable taxes, amount for loan collateral, and delivery fees, if applicable,\* OR  
 401(k) Pre-Tax Account: Partial withdrawal in the NET amount of \$ \_\_\_\_\_ after the withholding of mandatory federal income taxes and applicable delivery fees, if any, AND/OR  
 401(k) Roth Account: Partial withdrawal in the NET amount of \$ \_\_\_\_\_ after applicable delivery fees, if any, and in the event the distribution is deemed a non-Qualified Roth Distribution subject to the withholding of mandatory federal income taxes

### Method of Payment

Specify how you would like to receive payment. Please note that certain methods of payment charge a fee. If none of the below options are selected, funds will be issued as a check and distributed via regular U.S. mail.

- Direct Deposit/Electronic Fund Transfer (EFT) to my financial institution. You must complete the attached Direct Deposit Form.  
- Allow approximately 8 business days from Board decision date to delivery.  
 A check mailed to my home address – Allow approximately 13 business days from Board decision date to delivery.  
 A check express mailed to my home address – Allow approximately 6 business days from Board decision date to delivery. \*A \$25 fee will apply.

### Tax Withholding Amount (Optional)

Specify the percentage of federal tax withholding that you would like withheld from your hardship distribution distribution (must complete Form W-4R if selecting a percentage other than 10%). **Please note that if you do not indicate a specific percentage below, then the Plan will apply the 10% default federal tax withholding amount to your hardship distribution, if applicable.**

- Federal tax withholding % to be withheld\*\* (indicate a percentage from 0%-100%): \_\_\_\_\_ %

## **Taxation and Withdrawal Information**

### *Pre-Tax Account:*

Assets are generally taxable in the year in which they are withdrawn. The taxable amount of your withdrawal will be reported on a Form 1099-R and will need to be included in your income when you file your taxes. The 1099-R will be sent to you in January following the year of the withdrawal.

The amount of the hardship withdrawal approved by the Board is subject to a 10% mandatory withholding for federal income taxes. You will be responsible for any additional federal taxes and applicable state and local taxes. In addition to taxes, if you are younger than age 59½ you will be subject to an early withdrawal penalty of ten percent (10%) of the amount approved by the Board. Please consult with your tax advisor regarding the tax consequences of taking a hardship withdrawal.

### *Roth Account:*

A Qualified Distribution for a hardship from your Roth Account is not subject to federal, state or local income tax.

A Qualified Distribution is a distribution that is both: (1) Made after the five-taxable-year period of participation defined as beginning with the first day of the first taxable year in which the employee makes a designated Roth contribution to a designated Roth account established for the employee under the same plan and ends when five (5) consecutive taxable years have been completed; and (2) Made on or after the date the employee attains age 59½, made to a beneficiary or the estate of the employee on or after the employee's death, or attributable to the employee's being disabled.

A non-Qualified Distribution for a hardship withdrawal from your Roth Account will consist of a pro-rata share of earnings and basis. The earnings portion will be included in gross income and will be reported on a Form 1099-R. The 1099-R will be sent to you in January following the year of the withdrawal.

The taxable portion of the hardship withdrawal from your Roth account will be subject to a 10% mandatory withholding for federal income taxes, in addition to any applicable additional federal taxes and state and local taxes. In addition to taxes, if you are younger than age 59½ the taxable portion will be subject to an early withdrawal penalty of ten percent (10%) of the amount approved by the Board. Please consult with your tax advisor regarding the tax consequences of taking a hardship withdrawal.

## **Optional Tax Withholding section**

The Plan applies the 10% default federal tax withholding amount to all pre-tax hardship distributions, and 0% to Qualified Roth hardship distributions. However, you have the option to opt out of tax withholding for the hardship distribution, or request more or less than the 10% federal tax withholding by completing Form W-4R. You have the option to choose from 0%-100% tax withholding on your hardship distribution. Please consult with your tax advisor regarding the tax consequences of your selected tax withholding amount.

\* A Total account value withdrawal (maximum amount allowable withdrawal) does not close your Deferred Compensation Plan Account. Regular contributions will continue to be taken out of your paycheck unless you suspend them. In addition, if you have loan(s) outstanding and are granted this withdrawal, a small portion of your account (not to exceed \$200) will be retained in your account as collateral for your outstanding Deferred Compensation Plan loan(s).

\*\* Please note that you must also complete IRS Form W-4R indicating the percentage that you would like withheld from your hardship distribution. If you do not complete and submit this form to the Plan, then the Plan will apply the 10% default federal tax withholding amount to your hardship distribution.

**Section III – REASON FOR HARDSHIP WITHDRAWAL**

Please check the box(es) next to the “Reason” that describes your heavy and immediate financial burden. If your hardship does not fit one of the below reasons, please check “Other” and provide a short explanation of your hardship request.

**Reason**

**For all hardship requests:**

Please provide a copy of your most recent paystub, a copy of your unexpired government issued ID, and a copy of your 1040, if you are submitting a hardship on behalf of your dependent.

- Rent/Mortgage arrears
- Home Down payment
- Tuition expenses
- Relocation Expenses
- Funeral Expenses
- Heating System Repair
- Utility Shutoff (Notice/Arrears)
- Legal Fees (Criminal Charges Only)
- Involuntary Lost Wages for spouse or participant (Indicate time period of loss of income below in Other)  
Note: Loss of overtime pay does not qualify
- Medical/Dental (Out-of-pocket expenses)
- Property Damage Due to Accident or Natural Disaster (Beyond Insurance Reimbursement)
- Other: If your request does not fall inside one of the above categories, please provide a short description of your hardship below:

---

---

---

---

---

---

---

---

---

---

---

---

---

**Section V: SIGNATURE & AUTHORIZATION TO RELEASE INFORMATION**

**Participant Certification**

By signing this application, I acknowledge I have read and understand the information in the 401(k) Heavy and Immediate Financial Burden Withdrawal Application. I understand that the City of New York Deferred Compensation Plan has the last and final decision regarding all hardship requests and that any misrepresentation of facts or material omission is sufficient cause for rejection of my application.

By signing this application, I further affirm and verify that:

1. Under penalty of perjury, all information provided in this application is complete, true, and accurate to the best of my knowledge.
2. I self-certify that I meet the following conditions: I have a heavy and immediate financial need that meets the requirements as indicated in this application and that the amount requested is no more than is necessary to satisfy the need.
3. If any information or documentation submitted is false or suspected of being fraudulent, I understand that my application will be denied and may be referred to the appropriate law enforcement authorities, including the City of New York Department of Investigations.
4. The funds in my 401(k) Deferred Compensation account represent a last resort and I am unable to obtain the funds needed to pay for the heavy and immediate financial burden situation through any of the following sources:
  - Liquidating assets including cash (checking/savings/credit union accounts), personal property, investments, etc. (to the extent doing so would not cause severe financial hardship)
  - Taking a bank or conventional loan(s), or loan(s) from a pension system or other retirement plan
  - Reimbursement or compensation by insurance, etc.
5. I understand that ten percent (10%) of the amount approved by the Board will be withheld for federal taxes and that I will be responsible for any additional federal taxes and applicable state and local taxes. I also understand that in addition to taxes, if I am younger than age 59½, I will be subject to an early withdrawal penalty of ten percent (10%) of the approved amount.

**Authorization to Release Information**

By signing this application, I authorize the Plan Administrator of the New York City Deferred Compensation Plan to speak to any agent in connection with this hardship application regarding my personal information. Furthermore, this page authorizes any agent to release any and all records, information and documents concerning me personally to the Plan Administrator of the New York City Deferred Compensation Plan including, but not limited to, all doctor’s billing records, medical billing records, hospital billing records, employment records, tax records, compensation records including my present and past salary history, and any other documents needed by the New York City Deferred Compensation Plan. This authorization permits the agent to forward this information directly to the Plan Administrator of the New York City Deferred Compensation Plan.

**Participant:**

Print Name \_\_\_\_\_

Signature \_\_\_\_\_ Date\*    /    /   

\* The date you sign the application must match the date on which the signature is notarized.

Statement of Notary TO BE COMPLETED BY NOTARY (Notary seal must be visible/legible)

STATE OF NEW YORK    )

SS.:

COUNTY OF            )

On this date: \_\_\_\_\_ before me 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.

\_\_\_\_\_  
Signature and Office of Individual Taking Acknowledgment



# AUTHORIZATION AGREEMENT FOR DIRECT DEPOSIT FORM INSTRUCTIONS

Do **NOT** complete the Direct Deposit Form if you want to receive payment by check.

**Make sure to:**

1.  Complete each section of the attached Direct Deposit form.
2. Confirm your checking or savings account by providing one of the following:
  - Checking Account - Submit a preprinted voided check, OR
  - Savings Account – Submit a letter on financial institution letterhead signed by a representative of the financial institution that includes your name, your savings account number and ABA/Routing number.
3.  Check that the Direct Deposit form is signed, dated, and notarized on the same date.

**Note:** If the Direct Deposit form is not completed as indicated above, your Direct Deposit form will **NOT BE PROCESSED AND YOU WILL RECEIVE PAYMENT BY CHECK VIA REGULAR MAIL.**



DEFERRED COMPENSATION PLAN/NYCE IRA
DIRECT DEPOSIT FORM

PLEASE READ THE REVERSE SIDE OF THIS FORM FOR ADDITIONAL INFORMATION

THE TEXT OF THIS FORM CANNOT BE ALTERED



PARTICIPATION INFORMATION

Form fields for Social Security Number, Date of Birth, Area Code, Home Telephone Number, Area Code, Day Time Phone Number, Last Name, First Name, MI, Address - Street and Number, APT, City, State, Zip Code, and Email Address.

Plan Type/Description:

Check all that apply

- 01: 457 Contribution Account, 02: 457 Payout Account, 03: 401(k) Contribution Account, 04: 401(k) Payout Account, 05: 401(k) Special Rollover Account, 06: 401(a) Savings Incentive Plan, 07: Traditional NYCE IRA, 08: Roth NYCE IRA, 09: Inherited Traditional NYCE IRA, 10: Inherited Roth NYCE IRA

FINANCIAL INSTITUTION INFORMATION

- Checking Account - must attach a preprinted, voided check
Savings Account - must attach a letter on financial institution letterhead signed by a representative of the financial institution that includes payee's name, savings account number and ABA/Routing number

Form fields for Bank or Financial Institution Name, Account Number, and Routing / ABA Number.

Note: You must be a named person on the account. You may not designate a business account or an IRA. For direct rollovers to an IRA, contact the Plan for the appropriate form.

PARTICIPANT CONSENT - AUTHORIZATION AGREEMENT FOR DIRECT DEPOSIT

I hereby authorize Voya, the Plan's Service Provider, to initiate credit entries and, if necessary, debit entries and adjustments for any credit entries in error to my checking or savings account indicated above, and the financial institution, in the form of Direct Deposit (electronic fund transfer), to credit and/or debit the same to such account.

I understand that if this form is not properly completed, Voya will make payments by check directly to me at my last known mailing address on file with Voya.

Participant Signature: \_\_\_\_\_ Date\*: \_\_\_\_/\_\_\_\_/\_\_\_\_

\*The date you sign the form must match the date on which the signature is notarized.

STATEMENT OF NOTARY

State of: \_\_\_\_\_ )
) SS.: \_\_\_\_\_
County of: \_\_\_\_\_ )

On \_\_\_\_\_ DATE \* before me, the undersigned, personally appeared \_\_\_\_\_ PARTICIPANT NAME
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.

(Signature and office of individual taking acknowledgment)



**IMPORTANT**

Direct Deposit is a form of electronic funds transfer where the Plan's Service Provider, Voya, can transfer your distribution directly to your Financial Institution.

Please allow up to 30 days for your first Direct Deposit of your payouts. If the Direct Deposit is rejected by your Financial Institution, because they cannot accept the information we received from you, you will be notified, and your checks will be mailed directly to you.

If at any time in the future your Financial Institution will not accept your Direct Deposit for any reason (i.e. your account has been closed, account number or routing number have changed, etc.), your payouts will be sent directly to you via check and you will need to submit a new Authorization Agreement for Direct Deposit to begin again. Therefore, it is important that you update your address with the Deferred Compensation Plan/NYCE IRA so your checks can be mailed to the appropriate address.

---

**Form Submission Instructions:** Forms/documents can be sent via email to [NEWYRK@VOYAPLANS.com](mailto:NEWYRK@VOYAPLANS.com).  
Please only include the last 4 digits of your Social Security number, along with your name and address on all forms.  
Forms can also be faxed to 844-299-2362.

---