PROGRAM Q&A

New York State Voluntary Defined Contribution Program

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Voluntary Defined Contribution Program

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QUESTIONS AND ANSWERS

The State University of New York has assembled a list of questions that were asked during webinars introducing the Voluntary Defined Contribution [VDC] Program to state agencies and public employers. These questions address a variety of areas such as eligibility, vesting and administration. Each question is accompanied by a brief answer.

Visit **www.vdc.ny.gov**, the retirement plan website for the VDC Program.

PROGRAM FEATURES

Eligibility

CATEGORY	QUESTION	ANSWER
Eligibility **Definition**	What is a newly eligible employee?	An employee hired July 1, 2013, or later, who will earn at the salary rate* of at least $75,000 and is unrepresented (not associated with a union) whether paying dues or not, and whose immediately preceding employment was not with another state agency/employer. *Salary rate will be considered in reaching the $75,000 threshold. For example, if a part-time employee makes $45,000 working 60% of a full-time schedule, then the salary rate would be $75,000, and would qualify the employee to enroll in the VDC Program.
Eligibility **Determination**	Who determines eligibility? Will TIAA establish what documents/ proofs are needed for an eligible employee to establish that they participated in an agency/employer retirement plan through prior employers?	The employer/agency determines eligibility (including vesting) based on the rules of the plan and the information provided by the employee in Retirement Plan History (entered into the retirement plan election (RPE) system by the employee). **Note:** If an employee is unable to use the RPE system for any reason, please call **Retirement@Work** at **866-271-0960** for assistance.
Eligibility **Defined benefit participant moves to a NYC or NYS agency/ employer**	Is an ERS member from a local municipality who transfers to a state agency/employer eligible to join the VDC?	Yes, so long as the immediate prior employment was not with a state agency, the employee is able to join (assuming they meet requirements). If an employee goes from one state agency to another state agency and is enrolled in or a member of any defined benefit program, they are not eligible for the VDC Program. All state agencies classified as New York State agencies are considered under the same employer except public/private employers (e.g., authorities and corporations). If they move from one non-state, local municipality to another, they are eligible to enroll in the VDC Program.

CATEGORY	QUESTION	ANSWER
Eligibility **Switching jobs**	If an employee was in the defined benefit plan at one organization and then starts a new job in a different organization, can they switch to the VDC Program?	Yes, so long as the immediate prior employment was not with a state agency, the employee is able to join (assuming they meet requirements). If an employee goes from one state agency to another state agency and is enrolled in or a member of any defined benefit program, they are not eligible for the VDC Program. All state agencies classified as New York State agencies are considered under the same employer, except public/private employers (e.g., authorities and corporations). If they move from one non-state, local municipality to another, they are eligible to enroll in the VDC.
Eligibility **Temporary employee hired before July 1, 2013**	Will temporary employees hired before July 1, 2013, and who chose not to participate in ERS, be qualified to participate in the VDC Program on or after July 1, 2013? What if they move from a temporary to a permanent position on or after July 1, 2013?	No. They will not be eligible to participate. New York State legislation defines eligibility as hired on or after July 1, 2013. Moving from a part-time to a full-time position does not change the original hire date.
Eligibility **Move from unrepresented to represented position**	What about employees who move from an unrepresented to a represented position one or more times?	• Represented = Covered by a union (both paying and non-paying members). • Unrepresented = Not covered by a union. If an employee is in an unrepresented position and in the VDC Program, then moves to a represented position, the employee would **not** be allowed to remain in the Program.
Eligibility **Existing employee hired before July 1, 2013**	Will a current Tier VI employee hired before July 1, 2013, whose salary is greater than $75,000, be allowed to participate in the VDC Program?	No. Only employees hired on or after July 1, 2013, who have a subsequent qualifying status change would be eligible to switch to the VDC Program. An employee who has a qualifying status change (e.g., moving from an ineligible position to an eligible position and hired on or after July 1, 2013) has a one-time opportunity to change plans **within 30 days of the qualifying change**.

CATEGORY	QUESTION	ANSWER
Eligibility **Types of ineligible positions**	What types of positions are considered ineligible (not eligible) to enroll?	Positions ineligible (not eligible) to enroll in the VDC Program include: • Employees who were hired into positions represented by a union (both paying and not paying dues). • Employees who were hired before July 1, 2013. • Employees whose Tier is between I and V.
Eligibility **Qualifying status change**	What are the qualifying status changes that would make an employee eligible to enroll in the VDC Program?	Qualifying status changes that make an employee eligible to enroll in the VDC Program include: • A part-time employee who is not required to enroll in a plan, does not currently participate in a plan, and later becomes a full-time employee and decides to enroll in the VDC Program. • A non-NYS/NYC employee who was a member of ERS, had a break in service from state employment, and is rehired by a state/city agency. • Going from a represented to an unrepresented position. • An employee who terminates employment with an agency and is hired by an authority or other non-state agency employer. • An employee who terminates employment with a NY *State* agency and is hired by a NY *City* agency.
Eligibility **Next step after approval**	Once the employer/agency approves the employee's participation in the VDC Program, what's next?	**For vested employees:** Contributions must be submitted on the Census Remittance (CR) file as soon as administratively feasible. If there is any delay, both employer and employee contributions should be record-kept by the employer/agency until those contributions can be added to the CR file and then remit all retroactive contributions. **For unvested employees:** Contributions should be record-kept in a separate account. Required employer contributions and employee salary reduction must begin and be held by the employer in escrow. The employer must also begin to accrue the 8% employer contribution amount. For state agencies whose payroll is administered by OSC, please see Payroll Bulletin 1256.

CATEGORY	QUESTION	ANSWER
Eligibility **Qualifying status change**	If an employee has a qualifying status change (e.g., moving from an ineligible position to an unrepresented one earning at the annual rate of at least $75,000), will the employee have a one-time opportunity to change?	Yes, if hired on or after July 1, 2013. The legislation is intended to cover employees newly hired on or after July 1, 2013. So, an existing employee hired prior to July 1, 2013, is not eligible unless he or she has a qualifying change (e.g. leaves employment and returns to public employment under qualifying circumstances on or after July 1, 2013). Otherwise, the employee must maintain membership with their current retirement program with no option to switch. Unrepresented = Not covered by a union.
Eligibility **Salary decreases**	Can an employee in the VDC Program whose salary was greater than $75,000 remain in the Program if their salary falls below $75,000?	Yes; once an employee establishes membership in the VDC Program, the employee retains that membership. However, their employee contribution rate may change depending on the new salary level. $45,000 or less = 3% $45,000.01 to $55,000 = 3.5% $55,000.01 to $75,000 = 4.5% $75,000.01 to $100,000 = 5.75% Greater than $100,000 = 6% **Note:** While eligibility is determined by salary rate (see page 1), contribution rate is based on actual wages. All amounts are subject to the IRC Section 415 annual limit. Additional information is available at www.vdc.ny.gov. Please refer to the SUNY Salary Bulletin; regarding Tier VI Employer Contribution Rate & Look Back section located at https://www.osc.state.ny.us/state-agencies/payroll-bulletins/state-agencies/1793-two-year-look-back-tier-6-tiaa-voluntary-defined-contribution-vdcwww.tiaa.org/public/pdf/SUNY_Bulletin_January_2015.pdf.

CATEGORY	QUESTION	ANSWER
Eligibility **30-day requirement**	If it is optional for an employee to join either a NY State-sponsored retirement plan or the VDC Program (e.g., due to part-time/temporary employment) and the employee chooses not to join either plan, but is mandated to join a retirement plan later (e.g., after switching to full-time/permanent employment), can the employee still enroll in the VDC Program?	Yes, so long as the election is made within 30 days of the appointment in which enrolling in a retirement system becomes mandatory. The 30-day enrollment requirement applies to part-time/temporary and full-time employees.
Eligibility **Current Tier VI**	Anyone hired after July 1, 2013, can participate in the VDC Program; but what about the other Tier VI employees hired before then? Are they allowed to participate in the Program?	Legislation dictates that the VDC Program is only available to employees who are newly hired on or after July 1, 2013. Employees hired before then are not eligible for the Program unless they have a qualifying change (e.g., leave employment and return to public employment under qualifying circumstances). Otherwise, those employees must maintain their membership with the defined benefit retirement plan in which they are currently enrolled.
Eligibility **Rehired with no retirement plan history**	Is an employee hired before July 1, 2013–and not required to join a retirement system–but separated and was rehired after July 1, 2013, eligible to participate in the VDC Program?	Yes. If an employee was hired by a public agency before July 1, 2013, and separated from service, and then returned to an eligible position, they are eligible to participate.
Eligibility **Retired rehired**	Is a retiree from the NYC Pension System (e.g., a retired NYC police officer) who is hired by the state in a VDC Program-eligible position eligible to participate in the Program?	If a retiree who is collecting a defined contribution from TRS/ERS is rehired, he/she is not eligible for the VDC Program unless he/she elects to suspend that previous public retirement benefit; otherwise meets eligibility requirements; and had not previously been offered the VDC Program as a retirement plan option (e.g., through New York State employment prior to retirement).

CATEGORY	QUESTION	ANSWER
Eligibility **Mandatory contributions**	Can an employee enroll in the VDC Program and a 457(b), 403(b) or 401(k) plan at the same time?	Yes. The VDC Program is a defined contribution plan and an employee can enroll in the VDC Program as well as a voluntary tax deferred program, such as a 457(b), 401(k), or 403(b) plan. Also, because employee contributions to the VDC Program are mandatory, they do not offset the 402(g) limits.

CATEGORY	QUESTION	ANSWER	
Eligibility **Transfers between NY State entities**	Does a person moving from one New York state authority to another qualify to enroll in the VDC Program?	A person moving from one NY state agency to another who is currently enrolled in a state-/city-sponsored retirement plan does not qualify to enroll in the VDC Program. An employee moving from one NY state agency to another who is currently in NYSLRS/NYSERS, is not permitted to enroll in the VDC Program.	
		Scenario	**Is the employee eligible for the VDC Program?**
		1. Moving from one NY authority (non-state agency) to another	Yes
		2. Moving between NY authority and a NY state agency	Yes
		3. Moving from one state agency to another	No, unless they were already participating in the VDC Program with the previous employer.
		4. Moving between authorities, counties, cities, libraries, towns, municipalities, etc.	Yes, so long as they are not changing positions within the same employer.
		5. Moving from part-time to full-time employment	No, since they will maintain their current position.
		6. Moving from NYS employment to NYC employment	Yes, since they are changing employers.
		7. Moving from a union-represented position to an unrepresented position	Yes; this is a qualifying change
		8. Moving from an non-represented position to a union-represented position	No; the employee must leave the VDC Program and enroll in either the NYSERS or the NYCERS plan

Eligibility **Salary increase**	If an employee starts employment below the required $75,000 level, then receives an increase that brings the salary above $75,000, would the employee then be eligible to enroll in the VDC Program?	No, unless there is a qualifying status change.

Contributions

CATEGORY	QUESTION	ANSWER
Contributions **Tracking**	Are employers/agencies responsible for tracking the employee and employer contributions, or will the Office of the State Comptroller do this?	If you have a centralized payroll administrator, the census remittance (CR) file—including indicative data, contribution amounts, management of the escrow contributions and funding—will be managed by that service provider. **Note:** Centralized payroll administrators will calculate contributions for vested and unvested employees enrolled in the VDC Program and remit vested contributions. If your payroll is not administered by a centralized payroll administrator, you will calculate contributions and record-keep/hold in an escrow (or separate) account all contributions of unvested employees.
Contributions **Impact of Family Medical Leave of Absence (FMLA)**	What happens if the employee comes off payroll, e.g., through FMLA? Would they have to make catch-up contributions?	FMLA is a non-paid benefit, meaning there are no contributions (employee or employer) while an employee is not on payroll. It is important to note that vesting credit will not be accumulated during unpaid leave or when an employee is not on payroll. Generally, no contributions would be made for a period during which an employee is on leave, with the exception of military leave. Employees who return to work and become active on their employer's payroll can resume making contributions within applicable timelines and guidelines. Days attributable to vesting resume when an employee returns to active employment. An employee not being paid or not active on the employer's payroll will not accrue time toward the 366-day vesting requirement. **Exception:** Employees on disability

CATEGORY	QUESTION	ANSWER
Contributions **Rates**	What are the NYS VDC Program contribution rates?	Employer contribution is 8% of annual wages Employee contributions are based on salary:* $45,000 or less = 3% $45,000.01 to $55,000 = 3.5% $55,000.01 to $75,000 = 4.5% $75,000.01 to $100,000 = 5.75% Greater than $100,000 = 6% **Note:** These employee contributions are based on the rate of pay. For example, if an employee was hired at a salary rate of $75,000, but works part-time and actually earned $45,000, he/she would still be eligible to participate. However, the employee contribution would be less than 4.5% as noted above. *While eligibility is determined by salary rate (see page 1), contribution rate is based on actual wages. Please refer to the section, **"You must use a two-year look back salary,"** in the Salary Summary Guide for the calculation, available at www.tiaa.org/public/pdf/VDC_Salary_Summary_Guide_FINAL.pdf. All amounts are subject to the IRC Section 415 annual limit. For additional information, visit www.vdc.ny.gov.
Contributions **Impact on other plans**	Does the contribution to the VDC Program affect the employee's ability to contribute to a 457(b), 403(b) or 401(k) plan?	No. Employees can participate in the VDC Program and are encouraged to save additional funds for retirement in their employer's 457(b), 403(b) or 40l(k) plan. Additionally, because the employee contributions to the VDC Program are mandatory (under 414(h)), they do not offset the maximum amount the employee can tax defer to the employer's 457(b), 403(b) or 401(k) plan.
Contribution **Rates**	Is there a cap on the employee contribution percentage? Can an employee contribute more than the percentage required?	Yes. The cap on employee contributions is 6% at an annual wage of over $100,000. An employee is permitted to contribute only a specific percentage that is based on their salary. An employee can make additional contributions to the voluntary tax-deferred saving program, such as through a 457(b), 403(b) or 401(k) plan, up to the tax deferral limit under 402(g) and 415. **For 2023, the annual salary cap is $330,000.** Contribution limits are available at www.irs.gov/retirement-plans/401k-plans-deferrals-and-matching-when-compensation-exceeds-the-annual-limit.

CATEGORY	QUESTION	ANSWER
Contributions **Taxation**	Are contributions through payroll deductions taxable?	Employee mandatory contributions are pretax, deducted from the employee's gross includable salary (annual salary plus pensionable factors, e.g., location/stipends). This excludes non-pensionable items (e.g., uniform allowance), which will be reported in the employee's W-2 as a separate item. The employee must include this amount on NYS Tax Return IT201. **Note on distributions:** Distributions will not be subject to New York State taxation if you reside in New York State. If you reside outside of New York State, taxes will be applied to distributions from the plan. New York State tax law allows an annual state income tax exemption for employees who are members of New York State public retirement plans. The VDC Program is a New York State public retirement plan and the income paid from this plan to New York State or city employees who reside in New York is exempt from New York State taxes. To claim this tax exemption, employees who receive income from the VDC Program must itemize the amounts received from SUNY, differentiated from any other plan from which they may be receiving income. We cannot offer tax or legal advice. Employees must seek the advice of their own tax, legal or finance counsel. Please refer to the salary summary guide and employer resources located on www.vdc.ny.gov/employer.
Contributions **Salary base**	Are employee contributions calculated on gross minus the nontaxable deductions, or on the full gross amount?	Employee contributions are calculated based on the employee's gross includable salary (annual salary plus pensionable factors, e.g., location/stipends), excluding non-pensionable items (e.g., uniform allowance). Overtime is considered, up to the allowable IRS limits. Please refer to the salary summary guide and employer resources located on www.vdc.ny.gov/employer.
Contributions **Employer/ agency**	What is the employer's cost of contribution?	The employer/agency contributes 8%. Simple interest is paid on contributions at the completion of the 366-day escrow/vesting period.
Contributions **Contribution management**	How often does the employer/agency submit the 8% contribution? Are we billed or do we calculate ourselves?	Employer and employee contributions for vested employees are remitted to the third-party program administrator (TIAA) on a payroll schedule provided to TIAA by the employer/agency.

CATEGORY	QUESTION	ANSWER
Contributions **Interest on contributions**	Does the 4% interest accrue on both the employer and employee contributions?	Yes. The 4% interest accrues on both the employer and employee contributions for the 366-day vesting period. It is calculated as 4% simple interest at the end of the 366-day vesting period and remitted to TIAA along with the retroactive employer and employee premiums, plus the first employer and employee premiums. The interest rate, in addition to the simple interest formula, is dictated in Education Law Article 8B section 392. If the employee terminates service before vesting, the escrowed employee contribution, plus 4% simple interest up to the point of termination, should be refunded to the employee. He/she is not owed employer premiums or interest on the employer premiums. More information is available through the VDC Program website at www.vdc.ny.gov/employer.
Contributions **414(h) contributions**	During the vesting period, are employee contributions treated as 414(h) contributions?	Yes, in the same manner as they would be during the vesting period for the Defined Benefit ERS, TRS, and other plans. The treatment is the same during and after vesting. The total employee contributions are record-kept at TIAA as remitted under 414(h). This is important to note during employee tax filings.
Contributions **Refund of employee contributions**	If an employee does not complete the vesting period, how are the contributions handled after he/she leaves?	The contributions should not be remitted to TIAA; an employee who has terminated or separated from employment before vesting is not considered a plan participant. The refund to the employee will include the employee contributions plus 4% simple interest up to the date of termination. **The employee unvested pretax contributions should be refunded to the employee through the final separation check (along with simple interest) so that it may be reported correctly on his/her wage and tax statement at year-end.** The refunded employee contributions would be reported as gross income on the W-2, and the 4% simple interest would be reported on a 1099INT. Keep in mind that this is a 414(h)(2) plan and is treated similar to the ERS DB plan with regard to tax reporting. If you would like additional advice on how to report the contributions/distributions, please consult with your legal department/internal tax advisor.
Contributions **VDC Program refund application**	How should an employee request a contribution refund?	An employee can request a refund by completing the *Application for Refund of Voluntary Defined Contribution Program* found at www.tiaa.org/public/pdf/VDCRefundApp.pdf. The form must be notarized and returned to the employing institution. **A refund will be made only after the employee has been off the payroll for two full payroll periods.** The refunded employee contributions would be reported on the W-2, and the 4% simple interest would be reported on a 1099INT.

Vesting

CATEGORY	QUESTION	ANSWER
Vesting **Validation**	How will the employer/agency know if an employee has already met the vesting period from a previous employer (public or private)?	Employees are required to complete the retirement plan election (RPE) form during enrollment. The employee provides on the RPE any plan participation in a specific retirement system and with specific plan providers. The employer's/agency's benefits administrators should track each employee's plan entry date so the 366-day period can be appropriately calculated. If the employee reports an existing contract with one of the investment providers under the VDC Program, you will contact that investment provider. The employee may also provide a statement from the approved investment provider showing a vesting percentage equal to 100%. During enrollment, employees are asked a series of questions, such as: 1. Have you ever worked for a public employer in New York? **Note:** If transferring from another NYS public employer, any ERS/TRS history can be counted toward the 366-day vesting period. This also applies to any other VDC Program public agency in which an employee participated. According to the plan sponsor (although silent in the law and as an administrative policy), if someone left Location A before they were vested and then goes to Location B, the new employer/agency would pay the entire employer contribution (8%) as an administrative policy. This, of course, is if the employee's unvested contributions are repaid/transferred to the new employer's escrow account; they would also receive service credit for that time in the escrow period. 2. Are you presently receiving a retirement benefit from any public retirement system of New York State? 3. Do you currently own a vested employer-sponsored retirement contract with TIAA, Voya, AIG or Fidelity? Use the responses to these questions to validate the employee's eligibility and vesting.

CATEGORY	QUESTION	ANSWER
Vesting **Verification**	How can we be expected to validate what a new staff member presents as their history to verify vesting?	Employees will provide their employee history when they elect to join the VDC Program. If the employee indicates participation in any of the public pension plans offered in New York State, you will contact the retirement plan to confirm the employee's membership status. NY State and NYC agencies can contact their payroll processors (e.g., the Office of the State Comptroller for New York State or the Office of Labor Relations for New York City). If the employee reports an existing contract with one of the investment providers under the VDC Program, you will contact that investment provider to verify contract information. The employee may also provide a statement from the approved investment provider showing a vesting percentage equal to 100%. **Note:** When confirming contracts, please ensure that contracts are employer-sponsored vested contracts issued by one of the approved investment providers under the VDC Program. Visit www.vdc.ny.gov for contact information of each investment provider.
Vesting **Date**	Is the vesting date based on the date the employee applied for enrollment?	No; the vesting date for full-time employees is based on hire date.
Vesting **Vested employee contributions**	Where are employee contributions located once the first year of vesting is achieved?	Employee/employer contributions are held in escrow (a segregated account) by the employer until the employee becomes vested, i.e., upon achieving 366 days' participation in the program. Once the employee vests in the VDC Program, funds should then be remitted to the investment provider(s) selected by the employee.
Vesting **Nonvested employee contributions**	If the employee does not complete the vesting period, is the employer/agency required to refund the employee contributions directly to the employee?	If the employee does not complete the vesting period, the employer/agency will refund **(if requested by the employee and approved by the employer)** the employee unvested pretax contributions directly to the employee plus 4% simple interest. The refunded employee contributions would be reported on the W-2 and the 4% interest would be reported on a 1099INT. **Note:** Since a terminated employee is not considered a plan participant, unvested employee contributions plus 4% simple interest should be returned to the employee and should not be remitted to TIAA. The employee has the option to leave their funds in the escrow account if the employer approves.

CATEGORY	QUESTION	ANSWER
Vesting **During the escrow phase**	How does vesting affect the funds accumulating in escrow?	Employee/employer contributions are held in escrow by the employer until the employee becomes vested, i.e., upon achieving 366 days' participation in the program. Upon becoming vested, funds are then transmitted (plus 4% simple interest) to the investment provider(s) selected by the employee.
Vesting **Employer-sponsored 401(k) plan contracts**	Does having a vested 401(k) contract from a private employer qualify for immediate vesting in the VDC Program?	Yes, a vested 401(k) contract from a private employer sponsored plan qualifies for immediate vesting in the VDC Program.

ADMINISTRATION

Remittance

CATEGORY	QUESTION	ANSWER
Remittance **Census remittance (CR) file requirement**	When should an employee be added to the census remittance file?	Once the employee's *Retirement Plan Election* (RPE) form is approved in PlanFocus® and the employee is determined to be vested, the employer/agency must ensure that the employee is added to the census remittance (CR) file. A vested employee's contributions must be submitted on the CR file as soon as administratively feasible. If there is any delay, both employer and employee contributions should be record-kept by the employer/agency until they can be added to the CR file, then retroactively remit all appropriate contributions. Contributions for employees who must meet the 366-day vesting period should be record-kept in a separate account by the employer/agency.
Remittance **CR file requirement**	The payroll administrator for my institution is centralized (Office of the State Comptroller (OSC), Office of Payroll Administration (OPA) or the Office of Labor relations (OLR)). Do I have to submit a file for my institution?	No. Your payroll administrator (OSC, OPA, OLR) will submit the CR file (indicative data and contribution information file). If you work with the OSC, refer to Payroll Bulletin 1256. **Reminder:** Once the employer/agency approves the employee's plan election, the employer/agency must ensure that the employee is added to the CR file. Each employer is responsible for coordinating this action step with their centralized payroll administrator, third-party service providers, or within your own institution when payroll is administered within the institution. If an employee is vested, his/her contributions must be submitted on the CR file as soon as administratively feasible. If there is any delay, both employer and employee contributions should be record-kept by the employer/agency until they can be added to the CR file, then retroactively remit all appropriate contributions. Contributions for employees who must meet the 366-day vesting period should be record-kept in a separate account.

CATEGORY	QUESTION	ANSWER
Remittance **Timing of the CR file**	Can the CR file be submitted less than three days before a payroll date?	The standard and recommended time is three days to allow for the best processing experience and time to review the files. Day 1: Employer/agency submits the CR file. If the data is received in good order, it will be disbursed to the investment providers. Otherwise, the employer/agency will receive notification that the file cannot be processed. If the data is received after 4 p.m. ET, it will be processed and disbursed to providers the following business day. **Note:** Adjustments received after the data has been disbursed will be processed with the next remittance file cycle. Day 2: The employer/agency and payroll agency will receive a funding request/ confirmation of good order. Day 3: Employer/agency will remit funding as applicable to TIAA. The trade date for the contributions will be determined by the good order assessment of each investment provider.
Remittance **Compliance**	Are contributions to the VDC Program subject to limits monitoring?	Yes, depending on the characterization of the contributions and the IRC Code. Employee mandatory contributions to the VDC Program are not considered to be elective deferrals and are not subject to 402(g) limits. Employer contributions to the VDC Program: • Are not subject to the governor's cap. • Are subject to the 401(a)(17) limit on compensation that may be counted for benefits under the plan. All contributions are subject to the IRC Section 415 annual limit, available at www.irs.gov/retirement-plans/cola-increases-for-dollar-limitations-on-benefits-and-contributions. All contributions and forfeiture allocations are included in the limit. Limits monitoring is the role and responsibility of the employer. You should work with your centralized payroll administrator and TIAA, the Program record-keeper, as needed.
Remittance **Remitting contributions**	Is the 8% contribution monthly, or can we remit at the end of the year?	Contributions should be made based on an employer's payroll schedule.

CATEGORY	QUESTION	ANSWER
Remittance **Remittance for vested employee contributions**	Should I include both the employee and employer contributions of a vested employee?	Yes. Employer and employee contributions for an unvested employee are held in escrow (a separate account) and record-kept by the employer until the 366 day vesting period has been completed. Once the employee becomes vested, the employer and employee contributions and interest on those contributions (simple interest calculated at 4%) are remitted in the pay cycle following employee vesting.

Data

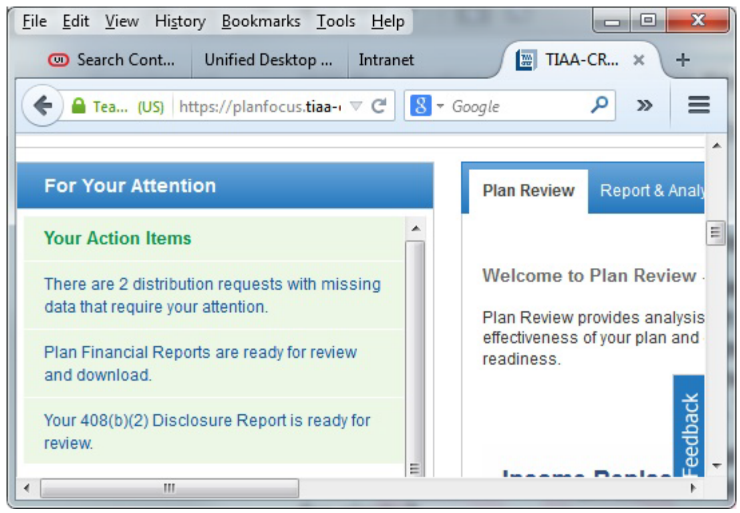
CATEGORY	QUESTION	ANSWER
Data administration **File format**	What file format should be used?	The SPARK census remittance (CR) file must be used for any institution with more than 250 plan participants. If you anticipate that your eligible population will be 250 or more within the next 2-5 years, you must submit your data using the SPARK CR format. For employers/agencies whose number of plan participants will not exceed 250 within the next 2-5 years, you may use the PlanFocus® Online Contribution List (OCL).
Data administration **Reporting**	Should I include employees who do not meet the 366-day vesting requirement on the data administration file when they elect to participate in the VDC Program?	No. The employer/agency must record-keep the escrow contributions on a per-pay period basis. Once the employee vests, you must add the employee to your remittance file and report the escrowed employer and employee contributions (including the 4% simple interest and the first contribution). If your payroll is performed by a central payroll administrator, please contact that administrator regarding this function (see OSC payroll bulletin No. 1256 at www.osc.state.ny.us/agencies/pbull/agencies/2013_2014/bulet1256.htm). *Example:* Employee must meet the 366-day vesting period if hired on August 1, 2013. Vesting date: August 1, 2014. Date added to data administration file: Not before August 1, 2014.
Data administration **Submitting your file**	When do I submit my file? What is the difference between a *payroll* date and a *check* date?	Each employer/agency or payroll administrator will submit a schedule to TIAA, the third-party administrator, based on **your payroll schedule** and the three-business-day common remitter cycle. The data file is submitted three days prior to your pay period end date or your check date. The date that you submit your file is based on the schedule that you provide to TIAA, the third-party administrator.
Data Administration **Distributions**	If an employee terminates employment, how are escrow funds disbursed?	If an employee terminates and has not vested, the employee contributions, plus 4% simple interest, up to the point of termination only would be refunded through a final paycheck. The employee may elect to keep the contributions in escrow with employer approval. Employer/agency contributions and corresponding interest are not included in the refund. For further information, please consult with your legal counsel/tax advisor.

CATEGORY	QUESTION	ANSWER
Data administration **Distributions**	What are the types of distribution options available?	Distribution options for vested employees include: At separation of service: • Single and joint life lifetime retirement income • Single/systematic lump-sum withdrawals • Minimum distribution payments • Interest payments • Rollovers In service: • Loans • Death benefits
Data administration **Distributions**	Can an employee withdraw money from their account in the event of financial hardship?	No. Hardship distributions are not permitted.
Data administration **Distributions**	At what age are employees able to take lump-sum or periodic payments (distributions)?	The VDC Program is designed to allow retirement at any age. Distributions from Program contracts are permitted any time after separation from service, subject to an IRS 10% penalty for distributions prior to age 59½, unless separating from service after reaching the normal retirement age of 55.

CATEGORY	QUESTION	ANSWER
Data administration **Consolidating files**	My institution has other plans with TIAA, can we use the same file to report participation in the VDC Program?	No. If your centralized payroll administrator (e.g., OSC or OLR/OPA) currently submits a data file to TIAA for other plans, TIAA will work directly with the centralized payroll administrator to determine if that file meets format/layout specifications. However, different plans may have differing data elements and layouts that may not support the VDC Program requirements. If your payroll is not administered by a centralized payroll administrator and your institution participates in other TIAA plans, TIAA will work with you to establish a separate file in support of remittances specifically for the VDC Program. If you are using the SPARK CR format, you must create a new file for the NYS VDC Program. The NYS VDC Program has a different plan number and follows a different naming convention. If you are not using the SPARK CR format and the participation in the NYS VDC Program will exceed 250 participants in the next 2-5years, you must implement the SPARK CR format. Otherwise, you have the option to submit your data using the remittance module within PlanFocus, the Online Contribution List (OCL). TIAA will work with you to establish the proper protocols that will enable you to establish remittance files using the SPARK file process. Larger institutions may benefit by using the SPARK format even if they have less than 250 participants.
Data administration **File Format**	Can we choose to use the SPARK CR format even if we have less than 250 enrollees?	Yes.

Enrollment

CATEGORY	QUESTION	ANSWER
Enrollment **Exception to online enrollment using Retirement Plan Election (RPE) system**	What is the enrollment process for employees who are not able to access or use the RPE system?	If an employee is unable to access or use the RPE system, you can take him/her through the process online or he/she should contact TIAA **Retirement@Work** consultants at **866-271-0960**.
Enrollment **Responsibility for RPE**	Will the employer/agency enter employees into the RPE system or will the employees enter themselves? If the latter, how will we be notified?	Employees must enroll online themselves through the RPE system online at www.vdc.ny.gov. Once the employee completes his/her election, as well as the three steps in the enrollment process, the employer/agency will be alerted through PlanFocus® to review a new item. The employer/agency may contact TIAA to verify prior retirement plan participation for TIAA contracts. All other retirement plan contract/service history verifications must be completed by the employer/agency with each individual investment provider/state retirement plan. **Important:** The action to review the RPE is time sensitive; any delay in approving the employee affects later steps to pass the contributions to the record-keeping system. The employer/agency approves or declines the employee's election within 30 days of hiring the employee. If the employee is not eligible, the employer/agency must notify the employee. An online report will identify who has completed the RPE process. For questions on enrolling into the plan, assistance on using **Retirement@Work** or to complete the investment provider election, employees can contact the TIAA **Retirement@Work** consultants at **866-271-0960**.
Enrollment **Monitoring RPE**	Will TIAA, as the plan record-keeper, inform the employer/agency that the employee has not enrolled in/selected a retirement plan within 30 days of his/her hire date?	No. The employer/agency must monitor retirement plan election. Access the RPE system through the secure TIAA PlanFocus portal. **Important:** The action to review the RPE is time sensitive; any delay in approving the employee affects later steps and the employee's first contribution. **Note:** If the employee elects to participate in the VDC Program but does not complete the enrollment with an investment provider, the employee will be default-enrolled to a provider as determined by the plan sponsor.

CATEGORY	QUESTION	ANSWER
Enrollment **Declining election**	Will the election form have an option to decline VDC Program participation?	No, not at this time. The RPE collects only affirmative participation in the VDC Program.
Enrollment **Notifications**	Does the system send us notifications when someone has completed elections, or do we need to manually check for alerts?	The answer is both. The system will send you email alerts. But, as Program administrator, you will need to log in to the secure TIAA PlanFocus portal (tiaa.org/public/plansponsors) and routinely check for alerts regarding employee RPE submissions. You'll see these in your work queue. It's a good habit to visit PlanFocus frequently as an administrator, and not less than once each payroll period. 
Enrollment **Administration enrollment alert**	What is the average time from when an employee enrolls online and the administrator receives notification?	Once an employee enrolls online, information is fed to the TIAA PlanFocus website and will be available the next business day (if it was input during standard operating business hours). Concurrently, the employer/agency will receive a notification to review the new item on his/her work list each day that there is an item to complete. **Important:** The action to review is time sensitive; any delay in approving the employee participation can result in the first contribution being delayed. Each new employee must choose his/her retirement plan within 30 days of hire date. For any employee that is not mandated to make an immediate selection, participation will begin upon election.

CATEGORY	QUESTION	ANSWER
Enrollment **Alerts**	Once the employer/agency approves the employee's participation in the VDC Program, what's next?	The employer/agency must ensure that the employee is added to the census remittance (CR) file when they are vested. The employer/agency is responsible for coordinating this with centralized payroll administrators. Vested employees' contributions must be submitted on the CR file/adjustment file as soon as administratively feasible. If there is any delay, both employer and employee contributions should be record-kept by the employer/agency until they can be added to the CR file, then retroactively remit all appropriate contributions. Contributions for unvested employees should be record-kept by the employer/agency in escrow.
Enrollment **Effective date**	How is the effective date determined if an employee enrolls in the VDC Program? Is it the day he/she enrolls, or is it retroactive back to hire date since he/she has 30 days to enroll?	It is retroactive back to the employee's hire date for mandatory (full-time employee) membership. If he/she is an optional (part-time) member, then it's done prospectively from the date the application was received.
Enrollment **New hire employee cannot access RPE**	Can you help the new employee who cannot access the RPE system?	Yes; we can help. The employee can contact **Retirement@Work** at **866-271-0960** to speak with a representative for help selecting the VDC Program as their retirement plan. For enrollment with an approved investment provider, a **Retirement@Work** representative will introduce the employee to the investment provider (TIAA, Voya, AIG, Fidelity) or instruct the employee to make direct contact. **Note:** If an employee is limited under ADA and cannot use the automated system to select a retirement plan, he/she may contact the **Retirement@Work** telephone center at **866-271-0960** to speak with a representative who can complete the RPE on their behalf.
Enrollment **Withdrawal**	Can the employee withdraw from the VDC Program?	No. While the employee is with his/her current employer, he/she cannot withdraw from the VDC Program. However, if he/she terminates service with the current employer, please refer to the question "switching jobs" located on page 2 under eligibility.

Escrow

CATEGORY	QUESTION	ANSWER
Escrow **Definition**	What is an escrow account and who manages it?	Escrow is a separate account established for the purpose of holding funds on behalf of the employees. The employee's contributions are held in escrow until the employee vests with the VDC Program (366 days after hire). The employer/agency will record-keep the per-pay period escrow employer and employee contributions. Once the employee vests, the employer/agency will remit the escrowed contributions and simple interest on both the employer and employee contributions at the rate of 4%.
Escrow **How many?**	Is one escrow account needed for all employees in the vesting wait period, or one per each employee?	One per employer/agency, so long as the institution tracks the escrow balance per employee.
Escrow **Interest earned**	Can the employer/agency earn interest on the funds in the escrow account?	The employer/agency obligation is the 4% simple interest rate on employer and employee contributions if the employee is required to complete the 366-day vesting period. If an employee is immediately vested, contributions will be submitted as soon as administratively feasible. If your funds are accruing greater than 4%, the excess earnings can simply benefit the overall escrow of the employer/agency. Please see your legal counsel/tax advisor for further information. Please also review the document available at **www.tiaa.org/public/pdf/Chapter-18_2012-Pension-Reform.pdf**.
Escrow **Interest**	Is the 4% interest in escrow in addition to the 8% employer contribution?	Yes. The employer contribution of 8% is in addition to the 4% escrow interest. **Note:** For additional information, refer to New York Education - Article 8-B - §392 Rates of Contribution for guidance on crediting interest rate. Please also review the document available at **www.tiaa.org/public/pdf/Chapter-18_2012-Pension-Reform.pdf**.
Escrow **Interest legislation**	Where do we get the legislation information on the 4% interest rate on funds in the escrow account?	This is noted in New York Education - Article 8-B - §392 Rates of Contribution. Please also review the document available at **www.tiaa.org/public/pdf/Chapter-18_2012-Pension-Reform.pdf**.

CATEGORY	QUESTION	ANSWER
Escrow **Calculations and salary increases**	While funds are being held in escrow, what happens if a person receives a salary increase before the funds are remitted to TIAA? Does the increased employer contribution take effect simultaneously when the increase occurs? Does it take place in the same fiscal year or does it use the NYSERS two-year delay?	While funds are being held in escrow, if an employee's salary is increased prior to vesting and before remittance of funds, the employer/agency should make the appropriate adjustments to the contribution amount withholdings. The employer/agency will then place the original withholding amount, plus the additional funds that correspond to the salary increase, into the escrow account. The increase in both employee and employer contributions should take place at the same time as the salary increase. No, the NYSERS two-year delay does not apply. Reference: SUNY Payroll Bulletin, **www.tiaa.org/public/pdf/SUNY_Bulletin_January_2015.pdf**

Loans

CATEGORY	QUESTION	ANSWER
Loans	Can employees take loans from the VDC Program? If so, are loans eligible during the first 366 days?	Yes. Employees may take a loan from the Program once they become vested. Employees may not take loans during the 366-day vesting period. VDC Program funds are available for loan once the vesting requirement has been satisfied. Loan availability is subject to the provisions of the plan and IRS guidelines. Employees may borrow up to 50% of the accumulated value of their contracts, subject to IRS 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). For additional information about the program, please review the Summary Plan Description available at **www.tiaa.org/public/pdf/Voluntary-Defined-Contribution-Plan-SPD.pdf**.

Taxes

CATEGORY	QUESTION	ANSWER
Taxes **Contribution reporting**	Is the employer contribution reported on a W-2?	TIAA is not an institutional tax advisor and cannot legally advise you on employee tax reporting. Typically, employer contributions are not reported on a W-2 since there is no impact to the employee's tax status during contribution. When the employee takes distributions from the VDC Program, TIAA or the financial provider that the employee selected will issue a 1099 that reports the employee contributions only plus earnings. Unvested employer contributions stay in the employer escrow account.
Taxes **Contributions**	Are contributions through payroll deductions taxable?	Employee mandatory contributions are pretax, deducted from the employee's gross includable salary (annual salary plus pensionable factors e.g., location/stipends), excluding non-pensionable items (e.g., uniform allowance). These contributions will be reported in the employee's W-2 as a separate item. The employee must include this amount on his/her NYS Tax Return. **Note on distributions:** New York State tax law allows an annual state income tax exemption for employees who are members of New York State public retirement plans. The SUNY Optional Retirement Plans (ORPs) and the VDC Program are New York State public retirement plans; therefore, income paid from these plans to New York State or City employees who reside in New York are exempt from New York State taxes. To claim this tax exemption, clients who receive income from the SUNY plan or the VDC Program must be able to itemize the amounts received from the VDC Program, differentiated from any other plan from which they may be receiving income. We cannot offer tax or legal advice. Employees must seek the advice of their own tax, legal and finance counsel. Please refer to salary summary at www.vdc.ny.gov/employer.
Taxes **Handling of unvested contributions**	If the employee does not complete the vesting period, what is the process the agency/employer should follow and what are the tax implications?	The contributions should not be remitted to TIAA; an employee who has terminated before meeting the vesting period is not considered a plan participant. Refunds requested by an employee will include the employee contributions along with interest up to the date of termination. The employee unvested pretax contributions should be refunded to the employee and returned on the final separation check (plus 4% simple interest) so that it may be reported correctly on the employee's wage and tax statement at year end. The refunded employee contributions would be reported on the W-2 and the 4% interest would be reported on a 1099INT.

CATEGORY	QUESTION	ANSWER
Taxes **W2 reporting**	Is the employer contribution reported on a W-2?	TIAA is not an institutional tax advisor and cannot legally advise you on employer/agency tax reporting. Typically, employer/agency contributions are not reported on a W-2 for a vested employee since there is no impact to the employee's tax status during the contribution stage. When the employee takes distributions from the VDC Program, TIAA, or the investment provider that the employee selected, will issue a 1099 that reports the entire distribution. 1099s will include employee contributions plus earnings. Unvested employer contributions stay in the employer escrow account.

ADDITIONAL POINTS OF CLARIFICATION

CATEGORY	QUESTION	ANSWER
Retirement calculator	Is there a retirement calculator that an employee can use to estimate retirement income?	Yes; an online tool is available at **www.tiaa.org/public/offer/insights/retirement-advisor**. The calculator is for illustration purposes only and should not be relied on to determine actual numbers. Employees should consult with their financial/tax advisor for calculations specific to their circumstances.
Plan types	What is the difference between a 401(a) and 401(k) plan?	Governmental plans under Internal Revenue Code Section 401(a): Under Internal Revenue Code Section 414(d), a governmental plan is an IRC Section 401(a) retirement plan established and maintained for the employees of: • The United States or its agency or instrumentality • A state or political subdivision, or its agencies or instrumentalities • An Indian tribal government or its subdivision, or its agencies or instrumentalities (participants must substantially perform services essential to governmental functions rather than commercial activities) **Source:** www.irs.gov/Retirement-Plans/Governmental-Plans-Under-Internal-Revenue-Code-Section-401-a People often refer to a 401(a) plan as an "employer only" contribution plan, i.e., the plan participants make no elective contributions. Usually when someone says 401(a), they mean a profit-sharing plan, employee stock ownership plan or money purchase pension plan. But in reality, any qualified pension plan is a 401(a) plan, including a 401(k) plan. A 401(k) plan is a type of profit-sharing plan and is a qualified plan under section 401(a) of the Internal Revenue code. *The information provided here is intended to help you understand the general concept and does not constitute any tax, investment or legal advice. Consult your financial, tax or legal advisor regarding your own unique situation and your company's benefits representative for rules specific to your plan.* **Source:** 401Khelpcenter.com
Investment provider selection	Can an employee contribute to multiple investment providers or only one?	An employee may choose to allocate his/her employer and employee contributions to one or more of the approved investment providers offered by the VDC Program.
Rollover (in) – employee transactions	Will the employee be able to roll over outside assets (e.g., 401(k), 403(b)) at any time (after the vesting period is complete) into the VDC Program account?	No. The VDC Program does not have a rollover provision.

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This is a general guide and responses are not meant to capture every scenario. The material provided in this booklet is for general information purposes only. Although every effort has been made to ensure its accuracy, the rules of SUNY's Optional Retirement Program are binding.

Specific questions should be directed to the plan administrator, The State University of New York, or the plan record-keeper, TIAA.

New York State
Voluntary Defined Contribution Program