§ 501. Definitions. The following words and phrases used in this article shall have the following meanings unless a different meaning is plainly required by the context: 1. "Retirement system" shall mean the New York state teachers' retirement system provided for in section five hundred two of this article.

2. "Retirement board" shall mean the retirement board provided by section five hundred four of this article.

3. "Employer" shall mean the state of New York, the city, the village, school district board or trustee, or other agency of and within the state by which a teacher is paid.

4. "Teacher" shall mean any regular teacher, special teacher, including any school librarian or physical training teacher, principal, vice-principal, supervisor, supervisory principal, director, superintendent, city superintendent, assistant city superintendent, district superintendent and other member of the teaching or professional staff of any class, public school, vocational school, truant reformatory school or parental school, and of any or all classes of schools within the state of New York, including schools on the Indian reservation, conducted under the order and superintendence of and wholly or partly at the expense of the New York state education department or of a duly elected board of education, board of school directors or board of trustees of the state or of any city or school district thereof, provided that no person shall be deemed a teacher within the meaning of this article who is not so employed for full time outside vacation periods. The word, "teacher," shall also include any person employed in the state education department who at the time he entered such employment, or within one year prior thereto, was a teacher within the foregoing definition, or who was engaged in such department in the performance of duties pertaining to instructional services prior to September first, nineteen hundred eighty-six or who provides instructional services at the New York state school for the blind or the New York state school for the deaf, but shall not include a person who is a teacher within the foregoing definition, and who elects to become a member of the New York state employees' retirement system pursuant to

paragraph five of subdivision c of section forty of the retirement and social security law upon his entry, on or after April first, nineteen hundred fifty, into his employment as such a teacher in a state-operated institution or community college under the jurisdiction of the board of trustees of the state university, or who is a teacher within the foregoing definition, and who elects to become a member of the New York city employees' retirement system, upon his entry, on or after April first, nineteen hundred fifty-six, into his employment as such a teacher in a community college operated by the city of New York, or who is a teacher within the foregoing definition, and who elects the optional retirement program established either by article eight-b or by article three, part V of this chapter. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this article.

5. "Present teacher" shall mean any teacher who was a teacher on or before the first day of August, nineteen hundred twenty-one, whose membership in the retirement system created by this article has been continuous and

a. who became a member of the retirement system created by this act on or before the first day of May, nineteen hundred twenty-four, provided that any such teacher becoming a member after the establishment of the system pay to the system on entrance the amount he would have contributed had he become a member as of the date of establishment; or

b. who was a member of a local district pension system on or before the first day of August, nineteen hundred twenty-one, who continued thereafter to be a member until he, with the membership of such local district pension system, became a member of the retirement system created by this article.

6. "New entrant" shall mean any teacher who is a member of the retirement system except a present teacher.

7. "Contributor" shall mean any member of the retirement system who has an account in the annuity savings fund as provided by this article.

8. "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided by this article.

9. "Regular Interest" a. For the purpose of crediting interest to individual accounts in the annuity savings fund, regular interest shall mean interest at five per centum per annum, compounded annually.

b. For the purpose of the actuarial valuations specified in subdivision two of section five hundred seventeen of this article, regular interest shall mean the valuation rate of interest recommended by the system's actuary and approved by the retirement board from time to time.

c. Notwithstanding any other provision of this article, the annuity values, option factors and reserves to be used to determine the amount of any benefit payable under the provisions of this article, except the benefit payable under paragraph three of subdivision b of section five hundred twelve of this article, provided that the right to the initial payment of the benefit accrues during the period that this subdivision is in effect, shall be based upon an assumed interest rate of four per centum per annum compounded annually. In the case of any person retiring on or after January first, nineteen hundred eighty-six, the assumed interest rate shall be such rate as recommended by the system's actuary and approved by the retirement board from time to time not to exceed seven per centum per annum compounded annually, provided, however, that the authority to use a rate in excess of four per centum per annum compounded annually shall only become effective if the courts have already finally determined, as to all members, beneficiaries and retirees of the retirement system, the proper application of the decision of the United States supreme court in the case of Arizona Governing Committee for Tax Deferred Annuities and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983). The exercise of this authority with respect to any class of annuitants, shall be an authority which is vested exclusively in the retirement board and nothing herein shall be construed as requiring a retroactive application of this authority at the time when such authority becomes available to the retirement board

as set forth above.

10. "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a contributor, and credited to his individual account in the annuity savings fund together with regular interest thereon. The interest on any contributions made after July first, nineteen hundred fifty-seven and prior to the date of receipt of them by the board shall be added to the accumulated contributions of the member in accordance with regulations of the retirement board.

11. a. "Final average salary" shall mean the average annual compensation earnable as a teacher during the five years of service immediately preceding his date of retirement, or it shall mean the average annual compensation earnable as a teacher during any five consecutive years of state service, said five years to be selected by the applicant prior to date of retirement. In the case of a member with a membership date prior to the seventeenth day of June, nineteen hundred seventy-one, a contribution by an employer on behalf of such member to a defined contribution plan qualified under subsection a of section four hundred one of the Internal Revenue Code of nineteen hundred eighty-six, as amended and maintained by such employer may be treated as compensation for the purposes of this paragraph, provided such contribution would otherwise have been treated as compensation, had it been paid directly to the member at the time the contribution was made.

b. Notwithstanding anything to the contrary in this article, commencing July first, nineteen hundred sixty-nine, "Final Average Salary" shall mean the average regular compensation earned as a teacher during the three years of actual service immediately preceding his date of retirement, or any other three years of consecutive service upon application of the member, exclusive of any lump sum payments for sick leave, annual leave or any other form of termination pay; provided, however, if the compensation earned in any twelve months exceeds that of the previous twelve months by more than twenty percentum, the amount in excess of twenty percentum shall be excluded in the computation of final average salary. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this

paragraph b shall apply only to those retiring from service prior to July first, nineteen hundred seventy-four.

12. "Annuity" shall mean the annual payments for life derived from contributions made by contributor as provided in this article. All annuities shall be paid in equal monthly installments.

13. "Pension" shall mean the annual payments for life derived from payments made by an employer as provided in this article. All pensions shall be paid in equal monthly installments.

14. "Retirement allowance" shall mean the pension plus the annuity

15. "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

16. "Pension reserve" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of any pension, computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

17. "Retirement fund" shall mean the state teachers' retirement fund for public school teachers of the state of New York as created by chapter one hundred forty of the laws of nineteen hundred ten, chapter four hundred forty-nine of the laws of nineteen hundred eleven, chapter forty-four of the laws of nineteen hundred fourteen, chapter one hundred three of the laws of nineteen hundred nineteen and chapter one hundred sixty-one of the laws of nineteen hundred twenty-three.

18. "Local district pension system" shall mean any teachers' retirement system or other arrangement for the payment of pensions or annuities to teachers exclusive of the retirement fund, created in any city or school district of this state prior to the first day of August, nineteen hundred twenty-one.

19. "Service" shall mean actual teaching or supervision by the teacher during regular school hours of the day, and shall mean governmental service in the state of New York in another capacity where the teacher was a member of the New York state employees retirement system, and where such service was credited to the teacher in the said New York state employees retirement system. Leave of absence with pay granted by the employer may be considered service under regulations prescribed by the retirement board. In all such leaves of absence the salary actually received shall be deemed to be the earnable compensation of such teacher within the meaning of this article, provided, however, that in the case of a member who dies at any time during the period from July first, nineteen hundred sixty-four through June thirtieth, nineteen hundred seventy-four, who is entitled to a death benefit in accordance with paragraph two of subdivision b of section five hundred twelve and who was on a leave of absence with pay in the last twelve months of service, then the compensation earnable by such member during the last twelve months of service while a member shall be the amount of salary such member would have earned had such member not been on such leave of absence.