§ 507. Accidental disability benefits. a. A member in active service, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit described in subdivision c of this section if such member has been determined to be eligible for primary social security disability benefits and was disabled as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system or the New York state and local employees' retirement system who is otherwise eligible for accidental disability benefits pursuant to this section shall be deemed to be ineligible for such benefits because such member is eligible for a normal service retirement benefit.

b. A police/fire member in active service, a New York city uniformed correction/sanitation revised plan member in active service or an investigator revised plan member in active service, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit either as provided in subdivision a of this section or if such member is physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence.

c. 1. In the case of a member of a retirement system other than the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, or in the case of a member of the New York city employees' retirement system who is a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, the accidental disability benefit

hereunder shall be a pension equal to two percent of final average salary times years of credited service which such member would have attained if employment had continued until such member's full escalation date, not in excess of the maximum years of service creditable for the normal service retirement benefit, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. The provisions of this paragraph shall not apply to New York city enhanced plan members.

2. In the case of a member of the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member), the New York city board of education retirement system or the New York city teachers' retirement system, the accidental disability benefit hereunder shall be a pension equal to sixty percent of final average salary, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. In the event a disability retiree from any retirement system is not eligible for the primary social security disability benefit and continues to be eligible for disability benefits hereunder, such disability benefit shall be reduced by one-half of such retiree's primary social security retirement benefit, commencing at age sixty-two, in the same manner as provided for service retirement benefits under section five hundred eleven of this article.

3. In the case of a New York city enhanced plan member, the accidental disability benefit hereunder shall be a pension equal to seventy-five percent of final average salary, less one hundred percent of any workers' compensation benefits payable.

d. If a member shall cease to be eligible for primary social security benefits before attaining age sixty-five, or, if receipt of social security benefits is not a condition for disability benefits hereunder, shall engage in such employment or business activity as would render

such member ineligible for social security disability benefits (had he or she otherwise been eligible), benefits hereunder shall cease. Provided, however, if such member is otherwise eligible, the state civil service department or appropriate municipal commission shall place the name of such person, as a preferred eligible, on the appropriate eligible lists prepared by it for positions for which such person is stated to be qualified in a salary grade not exceeding that from which such person retired. In such event, disability benefits shall be continued for such member until such member first shall be offered a position in public service at such salary grade.

e. A member, except a New York city enhanced plan member, shall not be eligible to apply for disability benefits under section five hundred six or this section unless such member shall, at the time of application, sign a waiver prepared by the retirement system and approved by the administrative head of such system pursuant to which such member agrees to waive the benefits of any statutory presumption relating to the cause of disability or eligibility for disability benefits, and a determination of eligibility for benefits hereunder shall be made without regard to any such statutory provision.

f. If disability benefits hereunder are conditioned upon eligibility for receipt of primary social security disability benefits, benefits hereunder shall commence at the time that primary social security disability benefits commence. If disability benefits hereunder are not conditioned upon eligibility for receipt of primary social security disability benefits, benefits hereunder shall commence as of the date of disability retirement.

g. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(b) The comptroller or applicable retirement system board of trustees are hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

2. (a)(1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller or applicable retirement system board of trustees to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The comptroller or applicable retirement system board of trustees shall consider a reclassification of the member's retirement as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the comptroller or applicable retirement system board of trustees according to procedures developed by the comptroller or applicable retirement system board of trustees.

(e) The comptroller or applicable retirement system board of trustees is hereby authorized to promulgate rules and regulations for their respective retirement systems to implement the provisions of this paragraph.

h. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree who: (1) has met the criteria of subdivision g of this section and retired on a service or disability retirement, or would have met the criteria if not already retired on an accidental disability; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's part. Such retiree's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, including any post-retirement death benefits, since the retiree's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

h-1. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership in the New York state

and local employees' retirement system or the New York state teachers' retirement system, when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

i. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision g of this section; and (2) dies in active service from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

j. Notwithstanding any inconsistent provision of this chapter or any law, any condition of impairment of health caused by diseases of the lung, resulting in disability or death to a member of the New York city fire department pension fund who is a New York city enhanced plan member, who successfully passed a physical examination on entry into service as a firefighter, which examination failed to disclose evidence

of any disease or other impairment of the lung, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.