§ 507-a. Disability retirement. a. Subject to the provisions of subdivision e of this section, application for a disability retirement allowance for a member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision of New York state as defined in subdivision i of section eighty-nine of this chapter or for a member serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter or the New York city department of correction may be made by:

1. Such member, or

2. The head of the department in which such member is employed.

b. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. The application must be filed within three months from the last date the member was being paid on the payroll or within twelve months of the last date he was being paid on the payroll provided he was on a leave of absence for medical reasons without pay during such twelve month period provided the member was disabled at the time he ceased being paid.

3. Provided, however, if the retirement system determines that such member was physically or mentally incapacitated for performance of gainful employment as the natural and proximate result of an accident not caused by his own willful negligence sustained in the performance of his duties in active service while actually a member of the retirement system the requirement that the member should have ten years of credited service shall be inapplicable.

c. If the retirement system determines that the member is physically or mentally incapacitated for the performance of gainful employment, and that he was so incapacitated at the time he ceased his performance of

duties and ought to be retired for disability, he shall be so retired. Each retirement system shall be entitled to adopt appropriate procedures for making the foregoing determination, including but not limited to the conducting of medical examinations, if any, for the purpose of determining initial entitlement of an applicant for disability retirement or to continued entitlement to a disability retirement allowance. Such retirement shall be effective as of a date approved by the head of the retirement system.

d. Upon retirement for disability one of the following retirement allowances shall be payable:

1. In the case of a member of a retirement system other than the New York city employees' retirement system, if the member has attained age sixty when such retirement becomes effective, his retirement allowance shall be equal to that which he would receive in the case of service retirement at normal retirement age based on his credited service but in no event shall such retirement allowance exceed the amount he would have received pursuant to paragraph two of this subdivision.

2. In the case of a member of a retirement system other than the New York city employees' retirement system, if the member has not attained age sixty when such retirement becomes effective, his retirement allowance shall consist of a retirement allowance which shall equal one-sixtieth of his final average salary multiplied by the number of years of his credited service, which formula shall be used only if the retirement allowance so computed exceeds one-third of his final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his retirement allowance shall be computed upon the basis of the total service which he would have rendered if he continued in service until he attained age sixty provided that the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the member's final average salary.

3. In the case of a member of the New York city employees' retirement system, his retirement allowance shall be equal to the greater of:

(i) one-third of his final average salary; or

(ii) one-sixtieth of his final average salary multiplied by the number of years of his credited service; provided, however, that where such member is otherwise eligible to retire for service, and the retirement allowance which he would receive in the case of service retirement is larger than the retirement allowance he would otherwise receive under this subparagraph or subparagraph (i) of this paragraph, his disability retirement allowance pursuant to this paragraph shall be equal to the retirement allowance he would receive if he had retired for service.

e. Notwithstanding the preceding subdivisions of this section to the contrary, this section shall not apply to a member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member.