§ 555. Ordinary disability retirement. a. Application for an ordinary disability retirement allowance for a member may be made by:

1. Such member, or

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

3. Some person acting on behalf of and authorized by such member.

aa. 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. Actually be in service upon which his or her membership is based, or, have been discontinued from service, either voluntarily or involuntarily, for not more than ninety days, providing the member was disabled prior to such discontinuance.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service during a period preceding the filing of the application provided the failure to do so was the result of the disability alleged in the application and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by the county sheriff for the calendar year preceding the onset of the disability.

After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for ordinary disability, he or she shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

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

1. If a member has attained age sixty when such retirement becomes effective, his or her retirement allowance shall be equal to that which he or she would receive in the case of superannuation retirement.

2. If the member has not attained age sixty when such retirement becomes effective, his or her retirement allowance shall consist of:

(a) An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement, plus

(b) A pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he or she may then be entitled, if any, plus

(c) A pension computed in accordance with whichever of the following provides the greater benefit:

(1) A pension which, together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal ninety per centum of one-seventieth of his or her final average salary multiplied by the number of years of his or her total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-quarter of his or her final average salary. If the retirement allowance so computed shall amount to one-quarter or less of the member's final average salary, his or her pension shall be computed upon the basis of the total service which he or she would have rendered if he or she continued in service until he or she attained age sixty so as the resulting retirement allowance computed by resort to this formula shall not exceed one-quarter of the member's final average salary.

(2) A pension which together with the member's annuity and the pension-providing-for-increased-take-home-pay, if any, shall equal one-sixtieth of his or her final average salary multiplied by the number of years of his or her total service credit, which formula shall be used only if the retirement allowance so computed exceeds one-third of his or her final average salary. If the retirement allowance so computed shall amount to one-third or less of the member's final average salary, his or her pension shall be computed upon the basis of the total service which he or she would have rendered if he or she continued in service until he or she attained age sixty so far as the resulting retirement allowance computed by resort to this formula shall not exceed one-third of the

member's final average salary.
For the purpose only of determining the amount of a pension pursuant to any of the above formulae, the annuity shall be computed as it would be:

(aa) If not reduced by the actuarial equivalent of any outstanding loan, and

(bb) If not increased by the actuarial equivalent of any additional contributions, and

(cc) If not reduced by reason of the member's election to decrease his or her annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his or her contributions for old-age and survivors insurance coverage.

c. If the member, at the time of the filing of an application under the provisions of subdivision a of this section, is eligible for a service retirement benefit, then and in that event, he or she may simultaneously file an application for service retirement in accordance with the provisions of section three hundred seventy of this chapter, provided that the member indicates on the application for service retirement that such application is filed without prejudice to the application for ordinary disability retirement.

d. An application for an ordinary disability retirement allowance may be filed, as otherwise provided herein, simultaneously with or after the filing of an application for an accidental disability retirement allowance, providing a member meets the requirements of this section. If the comptroller shall deny the application for an accidental disability retirement allowance, he or she shall then determine the application for an ordinary disability retirement allowance. If the comptroller shall grant the application for an accidental disability retirement allowance, the application for an ordinary disability retirement allowance will be deemed to have been withdrawn.