§ 607-e. Accidental disability retirement; Westchester county district attorney investigators. The county of Westchester may elect to make the benefits provided in this section available to criminal investigators, senior criminal investigators, deputy chief criminal investigators, and chief criminal investigators who are in the employ of the Westchester county district attorney.

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, application may be made not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

b. Application for an accidental disability retirement allowance for such a member may be made by:

1. Such member, or

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

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

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

(a) The time when and the place where such accident occurred, and

(b) The particulars thereof, and

(c) The nature and extent of the member's injuries, and

(d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer shall have its employees located or performing functions and duties within the normal scope of their employment, or

(b) If the application for accidental disability retirement is filed within one year after the date of such accident, or

(c) If a failure to file notice has been excused for good cause shown, as provided by rules and regulations promulgated by the comptroller.

d. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for accidental disability, such member shall be so retired. Such retirement shall be effective as of a date approved by the comptroller.

e. The retirement allowance payable upon accidental disability retirement shall consist of:

1. An annuity which shall be the actuarial equivalent of the member's accumulated contributions, plus

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

3. A pension of three-quarters of his final average salary. The payment of such pension shall be subject to the provisions of section six hundred seven-f of this article.

f. If the member, at the time of the filing of an application under the provisions of subdivision b 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 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 accidental disability retirement.