

# NYSUT Handbook for Laid-Off and Retrenched Employees

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**From the NYSUT Career Center**

***[www.nysut.org](http://www.nysut.org)***

**updated May 2009**



***A Union of Professionals***

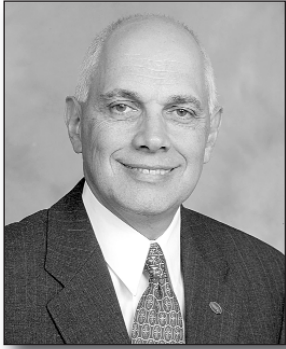
**Representing more than 600,000  
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## Introduction: Restarting Your Career



**Dick Iannuzzi**

As president of New York State United Teachers, a statewide union of more than 600,000 professionals in education and health care, I know how important each and every worker is to our shared mission of helping students learn. The union fights mightily to secure the resources needed to keep teachers teaching and to keep education and health employees on the job from pre-K through post-grad. Despite NYSUT's success as an advocate, education is not immune to job loss triggered by this deep global recession.

Few events are as devastating as losing a job. As a NYSUT member, **if you are laid off, your membership in the statewide union will be continued for free.** That membership ensures your eligibility to participate in NYSUT Member Benefits and NYSUT Social Services; it entitles you to free legal consultation if you have lost your job, and keeps you at the forefront of union advocacy.

NYSUT is dedicated to providing support, information and resources to help you get through these tough times. Through the online **NYSUT Career Center** and this companion guide for laid-off and retrenched employees, you will find information about protecting your benefits, your rights in returning to work, and news and resources to help in a job search.

You may be temporarily laid off from work, but you continue as a valued member of your statewide union. NYSUT is here to serve you during this challenging time and into the future.

**Richard C. Iannuzzi**  
**President, New York State United Teachers**

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NYSUT Social Services staff has a broad scope of knowledge and extensive referral resources. Professionals provide free, supportive phone consultation, followed up by working with agencies and providers in your community. All contacts and resulting services from NYSUT Social Services are completely confidential.

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People who gravitate to careers in education work in an environment that emphasizes structure and stability - so losing a job can make them “feel the ground is moving” beneath them, says Dr. Peter Kanaris, clinical psychologist and coordinator of public education for the New York State Psychologist Association.

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## **1. The First Step: Check With Your Union**

### **The first thing you should do if you receive a layoff notice**

Getting a layoff notice — or a preliminary notice that layoff is pending — is a heart-wrenching experience. Please know that you are not alone. At this time especially, New York State United Teachers — your state affiliate — and your local union are here to serve you and advocate on your behalf.

The first thing to do if you receive a layoff notice is nothing - that is, don't sign a statement or any paperwork regarding a layoff. Take a deep breath and contact your local union representative, such as your building representative or a local officer.

NYSUT members belong to local unions that stand ready to provide specific advice and support for you based on your local contract.

Your supervisor may ask you to sign a statement regarding your layoff. One rule of thumb: never sign anything. Check with the union first.

### **Your local union can assist you with:**

#### **1. Maintaining your NYSUT membership.**

When you notify your local union president as soon as you are laid off, he or she will make the necessary arrangements for you, including notifying NYSUT of your change of status. As a member in laid-off status, your access to NYSUT Social Services and participation in NYSUT's Member Benefits-endorsed voluntary programs remains active.

#### **2. Your right to be recalled for vacancies.**

Your local union can tell you what the law, regulations and your contract may provide in terms of seniority rights — which may affect the order in which layoffs are made — and recall rights — the order in which workers may be recalled to future openings.

## 2. Maintaining Your NYSUT Membership

### **You maintain your NYSUT membership. For free.**

Your membership in your statewide union, New York State United Teachers, continues — at zero state dues — if you are laid off. Delegates to the NYSUT 2009 Representative Assembly unanimously approved a policy that says members experiencing layoff due to events beyond their control remain NYSUT members for at least two years or until you are re-employed in a job that affords you NYSUT membership. That two-year period can be extended by the request of the local union. The policy, proposed by the union’s Board of Directors, furthers NYSUT’s mission of supporting all members, particularly those in need.

This “zero state dues” policy for laid-off members maintains your continuity of membership and services if you lose your job. It keeps you at the forefront of NYSUT’s advocacy efforts, and you can continue to rely on your union for information and resources. As a member in laid-off status, your access to NYSUT Social Services and participation in NYSUT’s Member Benefits-endorsed voluntary programs remains active. It also entitles you to free legal consultation if you have lost your job.

Notify your local union president as soon as you are laid off and he or she will make the necessary arrangements for you, including notifying NYSUT of your change of status. If you currently use payroll deduction to pay for NYSUT Member Benefits-endorsed voluntary programs, you’ll receive a letter from program vendors about how to make payments without payroll deduction.

For more detailed information, contact your local union or the **NYSUT Member Benefits Trust** office toll free at 800-626-8101.

### **For more information**

- **Your Right to Be Recalled for Vacancies.**

Your local union can tell you what the law, regulations and your contract may provide in terms of seniority rights — which may affect the order in which layoffs are made — and recall rights — the order in which workers may be recalled to future openings.

## 3. Maintaining Your Health Benefits

### In this section:

- COBRA continuation benefits
- HIPAA rights: Continuing coverage once you have a new job
- Other options for health insurance
- Getting help with prescription drug costs

Health insurance is a big concern for anyone facing layoff. The safety nets in place have been enhanced by the federal government, including changes in the COBRA law that allows you to continue your health insurance after employment ceases.

As soon as you get a notice of layoff, contact your plan sponsor (either your employer's personnel office or your benefit fund) to determine the date when your insurance coverage will cease, and to obtain information on your options. That should include information on the procedures for enrolling in COBRA to continue your coverage.

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### COBRA continuation benefits

#### What is COBRA?

When health coverage provided by your employer ends, you may opt to continue your existing insurance coverage under COBRA continuation benefits. COBRA, or the Consolidated Omnibus Budget Reconciliation Act, says that if you lose your job for any reason other than "gross misconduct," you have the right to continue in your former employer's group plan for up to 18 months. Until recently, you had to pay the full costs, plus a 20 percent administrative fee, of this continued health coverage yourself. In too many cases, this has made COBRA coverage an unaffordable option. But now, following action by Congress and President Obama, in many cases 65 percent of your cost for continued health coverage through COBRA may be covered by the federal stimulus act. It provides a 65 percent government subsidy for up to nine months of COBRA continuation of coverage for qualified individuals who lost coverage because their employment was involuntarily terminated between Sept. 1, 2008, and Dec. 31, 2009. Again, talk with your local union about specifics for your employer.

## **What types of benefits are covered under COBRA?**

- Cafeteria Plans
- Dental Insurance
- Employee Assistance Programs that provide a specified number of visits
- Health Insurance (examples: Indemnity, PPO, POS and HMO)
- Prescription Drugs
- Vision Care
- Health Reimbursement Arrangements (HRAs)

*\*COBRA subsidy is not available for coverage under a flexible spending account*

## **What are the eligibility requirements?**

To be eligible for continued coverage, you must be covered under a group health plan until the day before the layoff occurs. If your employment began and was terminated before you were actually eligible for health insurance, you're not eligible for COBRA coverage.

For your spouse or dependents to be covered under COBRA, you must have selected a family plan; otherwise you will be covered by an individual plan and your spouse and dependents will not be eligible.

In order to qualify for the 65 percent COBRA subsidy you must meet all of the following requirements:

- Be "involuntarily terminated" and eligible for COBRA continuation coverage at any time during the period beginning Sept. 1, 2008, and ending Dec. 31, 2009;
- Elect COBRA coverage when first offered, or during the additional special election period;
- Not be eligible for other group health coverage, such as a spouse's plan or Medicare; and
- Have an annual income less than \$125,000 for a single or \$250,000 for a joint return in any year in which the subsidy is received. The 65 percent subsidy is reduced for those with incomes up to \$145,000 for single and \$290,000 for a joint return.

## **What is the Special COBRA election opportunity?**

Individuals involuntarily terminated from Sept. 1, 2008, through Feb. 16, 2009, who did not elect COBRA when it was first offered OR who did elect COBRA but are no longer enrolled (for example, because it was too expensive) have a new election opportunity. COBRA coverage elected in this special period begins with the first period of coverage beginning on or after Feb. 17, 2009. Plan sponsors must notify affected workers no later than April 18, 2009, regarding this second election period.

## **What is an "involuntary termination"?**

The Department of Labor defines an involuntary termination as a severance from employment due to the independent exercise of the unilateral authority of the employer to terminate the employment, other than at the employee's implicit or explicit request, where the employee was willing and able to continue performing services.

This typically would include a layoff, furlough or other suspension of employment with an involuntary reduction in hours to zero resulting in a loss of health coverage. This includes layoff periods with a right to recall or a temporary furlough.

Determining whether your job loss was involuntary depends on all the facts and circumstances, but listed below are some guidelines:

- A voluntary termination, resignation or retirement may be considered “involuntary” if the facts demonstrate that the employer was intending to terminate the employee’s services, and that the employee knew his/her job was on the line;
- The employer’s failure to renew a contract when the contract expires if the employee was willing and able to execute a new contract providing terms and conditions similar to those in the expiring contract and to continue providing the services;
- An employee initiated termination from employment for good reason due to an employer action that causes a material negative change in the employment relationship for the employee;
- A lay-off, furlough or other suspension of employment with an involuntary reduction in hours to zero resulting in a loss of health coverage. This includes lay-off periods with a right to recall or a temporary furlough;
- An employer’s action to end an individual’s employment when the individual is absent from work due to illness or disability;
- Termination for cause; however, for purposes of federal COBRA if the termination of employment is due to the gross misconduct of the employee, the termination is not a qualifying event and the employee and family members losing coverage would not be eligible for COBRA;
- A resignation as a result of a material change in the geographic location of employment for the employee;
- A lockout initiated by the employer; and
- Termination elected by the employee in return for a severance package (a “buy-out”) where the employer indicates that after the offer period for the severance package, a certain number of remaining employees in the employer’s group will be terminated.

### **Is the COBRA subsidy available to employees who lose health insurance coverage because of a reduction in the number of hours worked?**

If your hours are cut, but you are still employed — that is, your hours have not been cut to zero — it is not considered an involuntary termination even if health insurance is lost. However, if an employee opts to leave a job because the employer imposed a cut in hours, the worker may be eligible for the COBRA subsidy, if the reduction in hours is a “material negative change” in the employment relationship. And even if an employee does not qualify for the 65 percent subsidy of COBRA costs, he/she could still be eligible for COBRA coverage.

### **If my domestic partner or same-sex spouse is covered under my benefits, will COBRA allow them to retain coverage if I lose my job?**

Your employer may opt to allow you to continue health coverage through COBRA of your domestic partner or a same-sex spouse who is your dependent, but your employer is not required to do so. And while you may be eligible to continue your partner’s benefits under COBRA, the federal subsidy of premium costs does not apply to domestic partners or same sex spouses. Your local union can help you in determining your options.

## **Can I choose to only continue medical coverage under COBRA?**

It depends. If the school district that you were laid off from offers separate health insurance plans (dental, medical, prescription, or vision), you could choose which plans to continue. However, if the school district offered one plan with multiple health insurance benefits, you would not be able to choose.

For involuntarily terminated workers, if an employer offers coverage options to active employees, the employer may (but is not required to) allow individuals to switch the coverage options they had when they became eligible for COBRA. To retain eligibility for the COBRA subsidy, the different coverage:

- Must have premiums that are equal to or less than the individual's original coverage;
- Must be offered to active employees; and
- Cannot be limited to only dental coverage, vision coverage, counseling coverage, a flexible spending account or an on-site medical clinic.

## **When do I have to give notification to my employer that I want to continue health benefits under COBRA?**

You have 60 days from the date coverage ends or from the date you are notified your coverage will end, whichever is later, to elect COBRA. Don't delay — health coverage is an important benefit and it's vital to protect your options.

## **What will this coverage cost my family and me?**

Workers who are involuntarily terminated satisfy their COBRA premium by paying 35 percent of the premium. The former employer cannot collect the remaining 65 percent from the worker, but must obtain reimbursement from the federal government through reductions in federal payroll tax. Premium assistance ends on the first date that an individual is eligible for coverage under any group plan (including spouse's plan) or Medicare.

Those workers who are not eligible for the subsidy must pay 102 percent of the full-share premium. This also applies to involuntarily terminated workers after the 9-month COBRA subsidy period has expired.

If you do not elect to continue your health insurance coverage through COBRA and you create a gap in your health insurance of more than 63 days, you will lose your health insurance rights under the Health Insurance Portability and Accounting Act (HIPAA). An explanation of HIPAA follows shortly.

## **How often must I make the premium payments for COBRA?**

There is a mandatory monthly payment option, meaning you must be given the option of paying COBRA premiums on a monthly basis. You cannot be required to pay COBRA premiums on any other basis, such as quarterly, semiannually, or annually. The initial premium payment must be made within 45 days from the date of COBRA election.

## What is the maximum coverage period for COBRA?

It varies. If your job was terminated, if you resigned voluntarily, or if your hours were reduced, the maximum coverage time is 18 months for you, a spouse and dependent children.

In addition to the maximum coverage time, coverage will end if one of the following events occurs:

- The employer ceases to provide a group health plan to its employees;
- The laid-off employee fails to pay the required premiums in a timely manner;
- The laid-off employee becomes a covered employee under another group health plan; or
- The laid-off employee becomes eligible for Medicare.

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## Beyond COBRA, there are other health insurance options

If you have lost health insurance benefits due to job changes or divorce, and do not opt to continue coverage through COBRA, here are some avenues you can check out:

1. Healthy NY  
[www.healthyny.com](http://www.healthyny.com)  
866-432-5849
2. Child Health Plus  
[www.nyhealth.gov/nysdoh/chplus/](http://www.nyhealth.gov/nysdoh/chplus/)  
800-698-4543
3. Family Health Plus  
[www.health.state.ny.us/nysdoh/fhplus/](http://www.health.state.ny.us/nysdoh/fhplus/)  
877-934-7587
4. Health insurance through a local chamber of commerce;  
if you are a sole proprietor or are related to the proprietor while working for them\*
5. College alumni associations
6. University student health insurance
7. Standard private insurance in your county  
[www.ins.state.ny.us/ihmoindx.htm](http://www.ins.state.ny.us/ihmoindx.htm)
8. Medicare — for persons 65 or older and disabled individuals
9. Options for continued coverage for disabled dependents
10. Veterans Benefits: the Aid and Attendance program provides a monthly stipend for long-term care.

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## **You have HIPAA rights that can help you continue health coverage in a new job**

The Health Insurance Portability and Accountability Act protects many workers who change jobs or lose jobs by providing better access to health insurance coverage. It limits exclusions for pre-existing conditions; prohibits discrimination against employees and dependents based on their health status; and guarantees renewability and availability of health coverage to certain employees and individuals.

Here are some FAQs about HIPAA.

### **How does HIPAA help people who currently have health insurance through their employer and who want to change jobs?**

Previously, some plans did not cover pre-existing medical conditions. HIPAA limits this practice so that most plans must cover an individual's pre-existing condition after 12 months. If at the time you change jobs you already have 12 months of continuous group health coverage, you will not have to start over with a new 12-month exclusion for any pre-existing conditions. Under HIPAA, your new employer will be required to give you credit for the length of time that you had continuous group health coverage.

### **What is a “pre-existing condition”?**

Under HIPAA a “pre-existing condition” is a condition for which medical advice, diagnosis, care or treatment was recommended or received within the six-month period ending on the enrollment date in any new health plan. If you had a medical condition in the past, but have not received any medical advice, diagnosis, care or treatment within the six months prior to enrolling in the plan, your old condition is not a “pre-existing condition” for which an exclusion can be applied.

### **How does “crediting” for pre-existing conditions work under HIPAA?**

You will receive credit for your previous coverage that occurred without a break in coverage of 63 days or more. However, any coverage occurring prior to a break in coverage of 63 days or more would not be credited against an exclusion period. So, if you've had 12 or more months of continuous coverage, you will have no pre-existing waiting period. If you had prior coverage for seven months, you can be subject to only a five-month exclusion period.

### **Are there “pre-existing conditions” that cannot be excluded from coverage?**

Pre-existing condition exclusions cannot be applied to pregnancy, regardless of whether the woman had previous coverage. In addition, a pre-existing condition exclusion cannot be applied to a newborn or adopted child under age 18 as long as the child became covered under the health plan within 30 days of birth or adoption, provided they do not incur a subsequent break in coverage of 63 days or longer.

## **Will I be covered immediately under my new employer's plan?**

Not necessarily. Employers and insurance companies may set a waiting period before enrollees become eligible for benefits under the plan. HMOs may have an "affiliation period" during which an enrollee does not receive benefits and is not charged premiums. Affiliation periods may not last for more than two months and are only allowed for HMOs that do not use exclusions of pre-existing conditions.

## **Does HIPAA require employers to offer health coverage or to provide specific benefits?**

No. The provision of health coverage by an employer is still voluntary. HIPAA does not require specific benefits nor does it prohibit a plan from restricting the amount or nature of benefits for similarly situated individuals.

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## **Getting help with prescription drug costs**

When you lose a job that had prescription drug benefits, you have the option of continuing that prescription coverage through COBRA - but the cost to you may be prohibitive.

NYSUT Social Services says another way to get help with prescription costs is to apply for subsidies through a specific pharmaceutical company's Patient Assistance Plan that can help some patients pay for medications. Many local health clinics have sliding scale fees. Some prescription drug options:

### **1. Patient Assistance Programs (PAP)**

*[www.rxassist.org](http://www.rxassist.org).*

Each drug company sponsors its own assistance plan. When you access the Web site you can see if the particular drug you need is available through a PAP.

### **2. Elderly Pharmaceutical Insurance Coverage Program (EPIC)**

*[www.nyc.gov/html/caregiver/paying\\_5.html](http://www.nyc.gov/html/caregiver/paying_5.html)*

800-332-3742

This is a New York state program that helps seniors pay for their prescription drugs. You must meet income eligibility requirements.

## 4. Maintaining Your Retirement Benefits

### In this section:

- Protecting your retirement benefits
- New York State Teachers Retirement System (TRS)
- New York State Employees Retirement System (ERS)
- New York City Teachers Retirement System
- Higher Ed: Optional Retirement Program (ORP)

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### Protecting your retirement benefits if you are laid off

When you are dealing with the stress of a layoff, it may seem like low priority to be thinking about your retirement benefits. But because your retirement benefits are linked to your employment status, it is important to have clear, specific guidance on how unemployment, re-employment or a change in careers could affect your benefits at retirement.

You will want to know if you are vested in a pension plan, if your pension or retirement investment accounts are portable or accessible and, if so, what are the penalties or consequences for any change you might make. Your status in a particular pension tier and your ability to re-enter a pension system after a prolonged absence are among the variables that could be affected by unemployment or a change in careers. Your local union representative can help you connect with experts in each retirement system.

### NYSUT members belong to a variety of retirement systems:

#### New York State Teachers' Retirement System:

Full-time public school teachers, teaching assistants, guidance counselors and administrators. Also part-time teachers who opt to join the retirement system and teachers at participating charter schools.

#### New York State and Local Employees' Retirement System:

School-Related Professionals, non-teaching public school employees.

#### Teachers' Retirement System of the City of New York or the New York City Board of Education Retirement System:

Educators employed by the New York City Department of Education, the City University of New York, or participating city charter schools.

## **Optional Retirement Plan:**

Teachers employed by a New York state community college, the City University of New York or the State University of New York may elect membership in TRS, ERS or an ORP.

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## **If you participate in the New York State Teachers' Retirement System**

### **How can I retain my membership in the New York State Teachers' Retirement System during the time I am laid off?**

If you have five or more years of service in NYSTRS, you are vested in the system. However, the membership of any person credited with fewer than five years of service will automatically terminate when they do not receive the equivalent of 20 or more full-time days of credit in a school year for seven consecutive school years.

### **How can I accrue vested rights if I am laid off?**

If you have less than five years of service, you can continue to work toward vested rights if you work as a part-time employee (e.g., substitute teacher or part-time teaching assistant). The equivalent of 20 full-time days equals one month of credit, and nine months of credit equals a full year for NYSTRS.

### **What happens if I have worked for different school districts?**

All service would be counted, but only in the respective retirement systems that cover the position. For example, a business teacher could substitute-teach, which would be reported to NYSTRS, but if he or she filled in as a principal's secretary or a custodian, that service could only be reported to the Employees' Retirement System. The end result would mean it would take longer for the person to accrue service credit toward vesting. All of your service in New York state public schools counts, regardless of how many different employers you have had, provided the appropriate transfer guidelines are followed. If an employer mishandles your records or does not submit them to the retirement system, you will not receive credit. If you have concerns, contact your retirement system immediately. You may have to contact the employer as well.

### **What happens if I withdraw my benefits from the system?**

NYSUT strongly recommends that you NOT withdraw. If you do, you forfeit all benefits. If you are re-employed after such a withdrawal, you may rejoin the system. Current guidelines allow you to apply for reinstatement in your plan and to pay for prior service credit. You will be enrolled in the plan in effect at the time of such new employment and would need to apply and pay for a re-instatement of your former membership to effect a change in your date of membership. Tier I and II members may withdraw from membership at any time. You would need to submit a signed statement indicating you understand the consequences of withdrawing your membership and terminating your rights to any future benefit. Tier 3 and Tier 4 members may withdraw only if they have less than 10 years of service credit.

## **Final Note: Keep Your Paperwork**

Be sure to keep all pertinent records, including pay stubs, W-2 forms, income tax filings and NYSTRS or NYSLERS annual statements and correspondence. For more information, contact:

### **New York State Teachers' Retirement System (NYSTRS)**

10 Corporate Woods Drive Albany, NY 12211-2395

518-447-2900\_800-348-7298

[www.nystrs.org](http://www.nystrs.org)

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## **If you participate in the New York State and Local Retirement System (NYSLRS), also known as Employees Retirement System (ERS)**

If you have five or more years of service credit in this system, including a minimum of five years as a retirement system member, you are vested in the system. However, the membership of any person credited with less than five years of service credit will terminate if they do not return to covered employment within a seven-year period.

### **How can I accrue vested rights if I am laid off?**

If you have less than five years of service, you can accrue vested rights if you work as a part-time employee (e.g., substitute teacher or part-time TA). For NYSLERS a full year is based on 180 days. More information on credits for part-time service and other topics can be obtained from each retirement system's Web site: [www.nystrs.org](http://www.nystrs.org) or [www.osc.state.ny.us/retire/](http://www.osc.state.ny.us/retire/)

### **What happens if I have worked for different school districts?**

It's true that all service would be counted, but only in the respective retirement systems that cover the individual positions. For example, a business teacher could substitute-teach, which would be reported to NYSTRS, but if he or she filled in as a principal's secretary or a custodian, that service could only be reported to ERS. The end result would mean it would take longer for the person to accrue service credit toward vesting. All of your service in New York state public schools counts, regardless of how many different employers you have had, provided the appropriate transfer guidelines are followed. If an employer mishandles your records or does not submit them to the retirement system, you will not receive credit. Contact your retirement system immediately. You may have to contact the employer as well.

### **What happens if I withdraw my benefits from the system?**

NYSUT strongly recommends that you NOT withdraw your benefits. If you do, you forfeit all benefits.

If you are re-employed subsequent to withdrawal, you may rejoin the system. You will be enrolled in the plan in effect at the time of such new employment and would need to apply and pay for a re-instatement of your former membership to effect a change in your date of membership. Tier I and II members may withdraw from membership at any time. You would need

to submit a signed statement indicating you understand the consequences of withdrawing your membership and terminating your rights to any future benefit. Tier 3 and Tier 4 members may withdraw only if they have less than 10 years of service credit.

School-Related Professionals and other members of the New York State and Local Employees' Retirement System (ERS) with questions about their retirement plans can visit one of 16 field offices located throughout the state.

Hours in Albany are 8:30 a.m. to 4:30 p.m. All other locations are open from 9a.m. to noon and 1 to 4 p.m. on the days indicated. These services are offered by appointment only. You need to schedule an appointment by calling toll-free 866-805-0990. Bring any recent correspondence from the retirement system with you to the consultation.

ERS field representatives are not able to accept phone calls or letters. If you would like to speak to a representative, please call the ERS Albany office at 518-474-7736 or toll-free at 866-805-0990.

### **Final Note: Keep Your Paperwork**

Be sure to keep all pertinent records, including pay stubs, W-2 forms, income tax filings, and NYSTRS or NYSLERS annual statements and correspondence.

### **New York State and Local Retirement System (NYSLRS)**

110 State St.  
Albany, NY 12244-0001  
518-474-7736  
866-805-0990 (toll-free)  
[www.osc.state.ny.us/retire/](http://www.osc.state.ny.us/retire/)

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### **If you participate in the New York City Teachers' Retirement System or Board of Education Retirement System**

As a member of the United Federation of Teachers, the UFT is your best source of information on understanding and protecting your retirement benefits. Contact the UFT at 212-777-7500. You may also contact:

#### **Teachers' Retirement System of the City of New York**

55 Water St.  
New York, NY 10041  
888-8-NYC-TRS  
<http://www.trs.nyc.ny.us/>

#### **New York City Board of Education Retirement System**

65 Court St., 16th Floor  
Brooklyn, NY 11201-4965  
[www.nycbers.org](http://www.nycbers.org)

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## **If you participate in the Optional Retirement Program (ORP)**

If you are employed by the State University or City University systems (SUNY and CUNY), you may join one of several retirement system plans, including the Optional Retirement Program. The ORP is a defined-contribution retirement program.

### **How can I accrue vested rights if I am laid off?**

An ORP is similar to an Individual Retirement Account. The plans, at both SUNY and CUNY, have a 366-day vesting period. If you are laid off, contributions by you and your former employer will cease. If you return to service and rejoin the ORP, your membership will continue.

### **What happens if I withdraw my benefits from the ORP?**

NYSUT recommends that you not withdraw your benefits. If you do, you forfeit all benefits. If you are re-employed subsequent to withdrawal, you may rejoin the system. If you cash out your plan, you may also be subject to an early withdrawal tax penalty.

Contact your ORP plan administrator for more information or questions specific to your situation.

## **Optional Enrollment Programs**

- **ING**  
*www.INGretirementplans.com*  
800-677-4636
- **TIAA-CREF**  
*www.tiaa-cref.org*  
800-842-2776
- **Metropolitan**  
*www.metlife.com*  
800-638-5433
- **VALIC**  
*www.aigretirement.com*  
800-448-2542
- **Guardian**  
*www.guardianlife.com*  
212-598-8000

## 5. Your Right to be Recalled for Vacancies

### In this section:

- Right to recall
- Teachers and teaching assistants
- School-related professionals
- Higher education professionals

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### Right to recall

Your local union can tell you what the law, regulations and your contract may provide in terms of seniority rights — which may affect the order in which layoffs are made — and recall rights — the order in which workers may be recalled to future openings.

If you have a permanent or probationary appointment, you may be entitled to be recalled to a position similar to the one from which you've been laid off. For answers to specific questions about your status and your right to be recalled to a vacancy, contact your local union.

Sometimes layoff notices go out, and then districts or employers recall some or all of the laid-off workers. That's why it's important for you to know what your contract says about your seniority on the job and your rights if there is a recall.

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### Teachers and teaching assistants

New York State United Teachers has specific advice for members who are teachers and licensed teaching assistants. Teachers and teaching assistants who have been laid off and whose names are on a preferred eligibility list (PEL) should work with your local representative on the following steps:

- When you receive notice that you have been laid off or that your position has been abolished, you should formally request, via certified mail, that the school district notify you of any vacancies you would be entitled to pursuant to Sec. 2510(3) or 3013(3) of Education Law.
- If you change your address, you should immediately notify your local union and the school district, via certified mail, of your new address.
- Annually, you should request the district, via certified mail, to notify you of any vacancies to which you would be entitled pursuant to Sec. 2510(3) or 3013(3) of Education Law.
- If you are on a preferred eligible list and you learn of a vacancy to which you may be entitled, you should immediately contact your school district. If you believe your rights have been violated, you should immediately contact your local union.

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## **School-related professionals**

School-Related Professional job titles — with the exception of licensed and appointed teaching assistants - are covered under Civil Service Law under the category of “Classified Service.” (Examples of SRP jobs include teacher aides, bus drivers, cafeteria workers and clerical staff.)

Classified Service includes four types of appointments; competitive, noncompetitive, exempt and labor class.

Only individuals holding competitive service positions are guaranteed rights in a layoff situation as defined under civil service law.

If you are an SRP unit member in a position classified as noncompetitive, exempt or labor class, talk to your local union representative about contract provisions that may apply to you regarding seniority or rights to be recalled if you are laid off.

In some cases, noncompetitive and labor class positions held by an honorably discharged veteran or exempt volunteer firefighter may have some additional rights under law.

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## **Higher education professionals**

If you work at SUNY, CUNY, the community colleges or in the private sector, talk with your union representative about what your contract provides.

## 6. Unemployment Insurance

### On this page:

- Am I eligible to receive unemployment benefits? How do I qualify?
- How do I apply?
- When can I file a claim for benefits?
- How are payments made?
- How much will I receive?
- What is the maximum amount of benefits that I can receive?  
How long can I receive benefits?
- Does the Unemployment Office check up on individuals who receive unemployment benefits?
- Do I have to search for work?
- Will I be taxed on my unemployment?
- What do I do if my benefits are denied?
- Can I attend school while unemployed?
- Where can I get more information?

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If you work for a school district or an education employer that is preparing a budget for the next academic year, you may have received a preliminary layoff notice alerting you that you are scheduled to be laid off by a specific date. As upsetting as it is to receive a preliminary notice, it does not mean you are definitely losing your job. You may only apply for unemployment benefits once you are unemployed.

The federal stimulus law made changes that increased the amount and potential duration of benefits for workers who apply for benefits by Dec. 31, 2009.

These Frequently Asked Questions provide general guidelines to applying for unemployment benefits; contact your local union representative with questions specific to your circumstances.

### **Am I eligible to receive unemployment benefits? How do I qualify?**

If you are laid off and you are ready, willing, and able to work, you typically qualify for unemployment benefits. Generally, you qualify for benefits if you worked and were paid wages in at least two calendar quarters (three-month periods beginning January, April, July and October) and you received at least \$1,600 in wages in one of the quarters.

In addition to your primary employment, most other types of work also count toward establishing your eligibility.

To receive benefits, you must show that you are capable of working. If you are sick and can't work, you may qualify for state disability benefits, or workers' compensation if your injury or illness was job-related.

## **How do I apply?**

Visit the Department of Labor Web site, [www.labor.state.ny.us](http://www.labor.state.ny.us) or call the automated Telephone Claims Center at 888-209-8124 - patience may be required since the phone lines receive heavy use. Beware of individuals or companies that charge a fee to help consumers complete or file claims. No such service is required. You may file for claims yourself.

When submitting a claim, you should have your:

1. Social Security number
2. New York state driver's license or non-driver ID
3. Current mailing address and telephone number
4. The names and addresses of all employers for whom you've worked within the last 18 months. It may be helpful to have a W-2 form handy when filling out the application.

Don't delay filing a claim because you don't have all the necessary records. The best practice is to file as soon as you lose your job and gather the necessary records as quickly as possible.

## **When can I file a claim for benefits?**

You should file your claim in the first week that you become totally or partially unemployed. It is important to file as quickly as possible because your first week is an unpaid waiting week. Once approved for benefits, you typically receive your first payment in about three weeks. Remember, a delay in filing may cost you benefits.

## **How are payments made?**

Unemployment Insurance is paid on a weekly basis, either directly deposited into your checking account or deposited to a Direct Payment Card - a debit card issued by the Department of Labor through Chase Bank. The department does not issue paper checks.

Direct Payment Cards are valid for three years and carry a MasterCard logo. You can use them to withdraw money or to purchase goods.

## **How much will I receive?**

The amount of your benefit usually is about one-half of your average weekly gross wages, up to a maximum benefit of \$430 per week. Your initial benefit rate is determined using information your employer reports to the state. Keep any pay stubs and other proof of your wages. That information will come in handy if you believe your benefit amount is inaccurate. Wages include the monetary value of tips, bonuses, meals and lodging, as well as commissions and vacation pay.

Your weekly unemployment benefit payment is reduced by one-quarter for each day you work or are ineligible due to unavailability or incapability to work or other reasons. If you are re-employed and earn more than \$430 in any week, you will not receive benefits for the week.

### **What is the maximum amount of benefits that I can receive? How long can I receive benefits?**

Regular unemployment benefits are pro-rated, depending on your salary, up to a maximum weekly benefit of \$430 for 26 weeks. The total maximum amount of regular benefits you can receive is equal to your weekly benefit amount times 26.

If you still have not found employment after exhausting your regular unemployment insurance benefits, you may apply for up to 33 weeks of additional Emergency Unemployment Compensation. So the changes made by President Obama and Congress result in an extension of unemployment benefits to a maximum of 59 weeks. The federal stimulus law extends the deadline to apply for EUC through Dec. 31, 2009, with benefits payable through May 31, 2010.

### **Does the Unemployment Office check up on individuals who receive unemployment benefits?**

They might. You must notify them of any work you've done, no matter how slight. There are criminal penalties for making false statements. You must certify on a weekly basis that you remain unemployed.

### **Do I have to search for work?**

Yes, to be eligible for benefits you must be available for work and demonstrate that you are seeking employment while claiming benefits by keeping a written record of your job search activities. You must be prepared to look for employment in fields for which you may be qualified, which could be positions other than education-specific jobs.

### **Will I be taxed on my unemployment?**

Unemployment compensation is fully taxable. However, the federal stimulus law suspends the federal income tax on the first \$2,400 of unemployment benefits. After the end of the calendar year, you will receive a Form 1099-G reporting the amount of benefits you received. There is no automatic withholding on your unemployment checks. However, you may have 10 percent of your benefit check withheld for federal tax purposes.

### **What do I do if my benefits are denied?**

Immediately inform your local union representative. He or she will provide guidance, depending on the reasons for the denial. If your benefits are denied, a Notice of Determination will be mailed to you, telling you the reasons why. You are entitled to a hearing before an administrative law judge. You have 30 days from the date of the determination to request a hearing. Your request for a hearing must be made in writing and sent to New York State Department of Labor, P.O. Box 15131, Albany, NY 12212.

It's important that you continue to claim benefits according to the required procedure if you are awaiting the outcome of a hearing.

## **Can I attend school while unemployed?**

Section 599 of the Unemployment Insurance Law makes it possible for you to receive benefits while attending a training course or program that your local Division of Employment Services has approved. Approval is based on the type of training, its duration, your need for training and other factors. If you are approved for this program, you are not required to be available for work or look for work.

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### **For more information**

Go to the state Department of Labor Web site, [www.labor.state.ny.us](http://www.labor.state.ny.us) for additional information on qualifying for benefits. You may also contact the Division of Employment Services Office in your county.

## 7. NYSUT Services: From Health to Finances

### On this page:

- Free legal help
- Free support from NYSUT Social Services
- Do you have access to an Employee Assistance Program?
- Financial counseling and tips

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### Free legal help

The law firm of Feldman, Kramer & Monaco, P.C., provider of the trust-endorsed Legal Service Plan, will waive the plan's annual fee for members laid off at the end of the current school year.

More information about plan benefits can be found at <http://www.memberbenefits.nysut.org/>.

Contact Member Benefits for information on eligibility for this offer.

To access the free plan, laid-off members should call Member Benefits at 800-626-8101 to verify that their local has reported their layoff status.

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### Free support from NYSUT Social Services

When you are facing layoff, the flood of information and number of items on your “to do” list can seem daunting. Your local union is the best place to start for help in sorting out specifics.

Your statewide union, New York State United Teachers, offers a free support service for these tough times and beyond. NYSUT Social Services — [www.nysut.org/socialservices](http://www.nysut.org/socialservices) — is here to help those whose worlds have changed because of job loss.

“Just because you’re laid off does not exclude you from NYSUT Social Services,” said Ani Shahinian, social services specialist. “If you’re laid off, if you’re going to suffer financially or emotionally, we can talk and explore options. It is kind of a lifeline through a tough time.”

NYSUT Social Services staff has a broad scope of knowledge and extensive referral resources, whether it is for mental health care or providing the criteria needed to apply for food stamps. Professionals provide supportive phone consultation, followed up by working with agencies and providers in members’ communities to provide needed services.

Staff will help callers solve problems and prioritize concerns.

Losing a job can create its own myriad of stressors, and families or individuals may already be facing other concerns. NYSUT Social Services can help with:

- managing hospitalizations;
- finding support groups or mental health services;
- locating services for persons with disabilities;
- arranging assistance for victims of violence;
- connecting with services for the aging; and
- finding help for marital and relationship problems or child-rearing concerns.

All contacts and resulting services from NYSUT Social Services are completely confidential.

Contact **NYSUT Social Services** Monday through Friday from 9 a.m. to 5 p.m. at: 800-342-9810, ext. 6206 or e-mail [socsvcs@nysutmail.org](mailto:socsvcs@nysutmail.org).

## **Employee Assistance Programs**

Many employers have Employee Assistance Programs that offer counseling. If you are unsure of your employers' participation you can call NYSUT Social Services.

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## **Financial Counseling**

If you need assistance with financial counseling, bankruptcy and debt repayment you can contact the NYSUT Member Benefits Trust endorsed program:

- **Consumer Credit Counseling Service of Central New York**  
<http://www.credithelpny.org/>  
800-479-6026

CCCS is a non-profit community service organization that provides free and confidential counseling and will refer you to an accredited affiliate in your area if additional services are required.

## **Finance Tip: Track your expenses**

A worksheet can help you see where you spend money and where you can save. Include fixed expenses such as mortgage or rent, child support, loans and credit card payments, and variable monthly expenses such as food, gas, repairs, recreation, utilities and child care. Consider future expenses, such as taxes, as well.

- List all income, including savings, severance pay, union strike assistance, unemployment, accrued vacation pay and pension fund refunds.
- List assets. These can include cash value of insurance policies, prepaid burial or funeral policies, home equity and resale value of items such as motor vehicles, boats and trailers.
- Set priorities for expenses. Mortgage or rent will head this list, followed by utilities, health insurance, car payments and child support. The list will help you pay first things first.

- Make a list of creditors. Include the name, address and contact person of all creditors, along with account numbers.
- List the total amount owed, a payment schedule and amount, and interest rates.
- Keep creditors informed. If you need to negotiate a lower monthly payment, work with creditors before you get behind. Possibilities include delaying, reducing or refinancing payments while you are out of work. Pay regularly to keep from being turned over to a collection agency.
- Do not ignore your mail
- Stop using credit cards
- Reduce household spending. Plan less expensive meals; use coupons; go to food co-ops, where being a member can reduce costs; visit farmers' markets.
- Eliminate extra features in your home equipment, such as call waiting on the telephone, or additional cable.
- Discontinue cell phones
- Use the library for Internet service

### **Finance Tip: Going green can save green**

Taking positive actions can make you realize you have control over some aspects of your financial situation even while unemployed. There are many ways to save money right around your home. Satisfaction can also come from making a more positive impact on the environment while reducing your spending.

- Turn off lights, TV and appliances when not in use.
- Unplug appliances.
- Lower the thermostat on both the hot water heater and furnace.
- Combine car trips.
- Use public transportation.
- Wash only full loads; hang clothes to dry.
- Do not let water run while brushing teeth or using the sink.
- Do your own lawn care. Use all-natural products instead of more expensive, chemical applications.
- Have an energy audit done of your home.
- The first step to reorganizing life without a job is to create a financial action plan:
- Prepare a complete household budget

## 8. Coping with Emotional Stress

### **In this section:**

- Coping with emotional stress
- Rebuilding after loss of a job

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### **Coping with emotional stress**

People who gravitate to careers in education work in an environment that emphasizes structure and stability — so losing a job can make them “feel the ground is moving” beneath them, says Dr. Peter Kanaris, clinical psychologist and coordinator of public education for the New York State Psychological Association.

“It’s important to recognize the effect of this economy on people in education is great, and kind of unique,” Kanaris says.

He is a state-certified school psychologist who formerly worked in the Harborfields School District and was a member of the Harborfields Teachers Association before joining colleagues in starting a clinic.

Women compose 65 percent of NYSUT’s membership, and the American Psychological Association’s 2008 “Stress in America” survey shows women are disproportionately affected by the stress of the changing economy.

“The weight of the family is absolutely more on them, the pressure, the family management, making ends meet, and being an earning force in the family... is more on women,” Kanaris says. “Women are juggling at least a half dozen balls at the same time.”

Whether male or female, educators tend to align themselves strongly with their jobs: librarian, teacher, school nurse, school social worker, teaching assistant.

“I notice with people in education: when we’re trained to do something it becomes a part of our identity. We slot ourselves in, ‘This is who I am,’” Kanaris said.

That can make it tough to cope, but staying active makes a difference.

### **Some tips:**

- Pause, don’t panic.
- Limit your exposure to negative stories about the economy in print or on television.
- Identify financial stressors.
- Make a plan involving the entire family on how to cut back on expenses.

During times of stress, Kanaris said, people sometimes make unhealthy choices for relief: smoking, drinking or emotional eating, for example.

Instead, he suggests, “Move your legs, take action.” Exercise or renewed interest in a hobby are “paradoxical opportunities.”

“When you’re working, you have less time for exercise. It’s a common complaint,” Kanaris said.

Being laid off also provides opportunity to spend time with family members and friends.

It is essential to keep mentally and physically in shape, he advised:

- Consider further education to keep stimulated and to become more marketable.
- Avoid “awfulizing” the situation. Question your thoughts if you start to dwell on imaginary outcomes, and deal instead with the demands of the present moment.
- Assess skills and interest. Teachers, for example, are good communicators and could make good consultants.

Kanaris urges those dealing with loss of a job to pay attention to themselves. Seek help, he said, for ongoing problems with:

- trouble sleeping
- changes in appetite
- difficulty paying attention
- irritability
- malaise
- depression
- persistent anxiety or nervousness.

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## **Rebuilding after loss of a job**

Losing a job is a life-changing experience that calls for relying on family, friends and even fellow employees who are going through a similar experience. NYSUT can refer associate members, or those recently laid off, to resources for help through its Social Services department. All can help build hope and motivation.

Work is a basic human need, providing satisfaction in using skills and talents, earning income and sharing time with colleagues. It is a central and defining part of our lives. By earning money for work, we are able to meet survival needs for food, shelter and medical care. There is also a psychological component: Work helps us meet a need to be productive, creative and valued members of society.

When we lose our jobs, we lose our salaries, along with a place to go every day — a work community. Work is one way we identify ourselves in the world. Without it, our self-esteem and self-confidence can be threatened.

By sharing concerns with friends, family and colleagues, we can rebuild our inner strengths. Colleagues can help us exchange job information, follow job leads and lead us to employment resources. Researching options for further education, a career change, or realizing a renewed commitment to our profession — perhaps just in another district — all help to motivate.

Losing a job has the same kind of effect as a death in the family or a serious accident. It can make us question ourselves and the world around us when the things we have counted on are suddenly gone.

Feeling the anger that can come after being told, “You no longer have a job here,” can lead us to blame ourselves: “I shouldn’t have gone into this profession” ... “I should have gone back to school for that other degree” ... “I should have picked a different school district to work in.”

Talking out fears and anger with friends and family is helpful. Sometimes a professional — a social worker, counselor, psychologist, faith-based leader or career counselor — can help. Developing a strong support system is very important. Writing out lists of our strengths and attributes can remind us why we are a good fit for our chosen profession.

For many people, keeping a routine is essential to staying positive and focused. Maintaining a proper diet and exercising regularly are important factors in holding on to a good outlook during a difficult time.

## 9. Your Job Search Action Plan

The AFL-CIO offers a job search action plan to help members who are out of work. NYSUT has added further information to that list for specific fields.

### Step 1: Take Stock of Yourself

- List the job skills you have developed. Talk with former colleagues, sometimes they can help you realize skills and strengths you are not even aware you use. Being in charge of a classroom, for example, requires managerial skills.
- Consider skills you have developed off the job.
- Write out your employment history, listing all previous jobs.
- Determine the pay and benefits you require, while realizing you may have to take an initial cut in pay in changing jobs.
- Determine the working conditions you prefer. Consider how far you are willing to travel. What are the expenses of dressing for this job, getting tools, etc.?
- Write down the lowest pay and benefits level you will accept.
- Figure out the opportunities for future wage increases and promotions at any job you are considering.
- Make a list of temp agencies or schools you can submit your name to for substitute teaching while you are looking for work.

### Step 2: Who is Hiring?

- Check newspaper advertisements, local job service offices, employment agencies and on-line services.
- Find out if there are any “head hunters” operating in your area.
- Check specialty areas in your field: for music teachers, librarians, BOCES instructors.
- Bookmark Web sites of employment agencies, services and school districts that you can easily check regularly.
- Tell everyone you know you are looking for work, and ask them to alert you to job openings.

### Step 3: Prepare for the Interview

- Find out as much as you can about the employer and the job opening before you apply or are interviewed. Almost every school district has a Web site now. Learn about special features of the place you will be interviewing.

- Practice asking and answering questions with a friend or colleague, especially if it has been awhile since you have interviewed with a potential employer. Consider how you might answer typical interview questions: Why are you interested in working for us? What are your goals in the next five years? What makes you think you can fill the requirements of this job?
- Use MapQuest or another Web-based directional search to be sure you know how to get to the interview. Take a test-drive to see how long it takes you to get there.
- Check your appearance. Dress appropriately for the type of job you are applying for, and sit upright during the interview.
- Bring the following to the interview: a summary sheet /resume of your work experience, skills and education that you can use to fill out the application form; your Social Security card and driver's license; citizenship documents if necessary; and a list of references.
- Be honest, to the point and confident when answering questions.
- Send a thank-you letter to the interviewer after the interview.



This publication, as well as many other valuable resources, is available online at [www.nysut.org](http://www.nysut.org), in the NYSUT Career Center. Here you can find a comprehensive, interactive map for education job listings in New York state, along with information to help you progress in your career and many links to additional resources.

The Center allows searches by region or statewide, for preK-12, for School-Related Professionals, for higher education or by specific career categories. It also includes advice for those seeking that first job in education as well as information for mid-career individuals making a new start.