But the amount selected may not be greater than your average earnings. However, the following reasons for discharge, suspensions or remedial training are excluded from coverage, and if you are suspended or discharged for one or more of these reasons you will NOT be entitled to benefits under the Plan:

(a) failure to meet or maintain in good standing the qualifications for your position under a collective bargaining agreement, your employment with your employer because you are on probation as long as you submit an application to participate in the Plan as soon as you complete your probationary period and your application is accepted by the Trustees in substantially the same form;

(b) because you are a subordinate of such individual;

(c) failure to appeal the determination;
Notice of Appeals Committee’s Decision: A decision on your appeal will be made by the Trustees or their committee and communicated in writing to you within five days of the decision. The appeal will be reviewed at the meeting of the Trustees or the committee that immediately follows the Plan’s receipt of your appeal, unless the appeal is filed within 30 days preceding the date of such meeting. In such case, a benefit determination will be made no later than the date of the second meeting following the Plan’s receipt of the appeal, but in no instance more than 120 days following receipt of the appeal.

The decision will be in writing (or in electronic form, if in compliance with Department of Labor regulations), will include the specific reason or reasons for the decision; will contain references to the specific Plan provisions upon which the decision is based; will inform you that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim; and state that you may have a right to bring a civil action under Section 502(a) of ERISA. Whether a document, record or other information is deemed relevant for this purpose shall be determined by the Appeals Committee in its sole discretion, in accordance with Department of Labor regulations.

You may designate an authorized representative to act on your behalf in pursuing your claim or appeal. The Trustees may establish reasonable procedures for determining whether an individual who purports to be your authorized representative has, in fact, been authorized to act on your behalf.

No person may bring an action in any court challenging, or seeking review of, the Appeals Committee’s decision on appeal more than 90 days after the decision is rendered by the Appeals Committee. Additionally, if any person wishes to file suit against the Plan or its Trustees, they must file suit in the United States District Court for the District of Columbia.

TERMINATION OR AMENDMENT OF PLAN

The Trustees reserve the right to amend the Plan at any time, to any extent, and in any manner that they deem advisable. However, a termination of the Plan shall require a resolution of the Executive Council of SMART. Upon termination of the Plan, all assets of the Plan will revert to SMART.

STATEMENT OF ERISA RIGHTS

As a participant in the DIPP, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974, as amended (ERISA). ERISA provides that all Plan Participants shall be entitled to:

- Obtain copies of all Plan documents and other Plan information upon written request to the Plan Administrator. The Trustees may make a reasonable charge for the copies.
- Receive a summary of the Plan’s annual financial report. The Trustees are required by law to furnish each participant with a copy of this summary annual report.

In addition to creating rights for Plan Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate the Plan, called “fiduciaries” of the Plan, have a duty to do so prudently and in the interest of you and other Plan Participants and beneficiaries. No one, including your employer, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

If your claim for benefits is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the Plan review and reconsider your claim.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Trustees to provide the materials and pay you up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If it should happen that Plan fiduciaries misuse the Plan’s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or the Trustees, they must file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

QUESTIONS OR INFORMATION ABOUT THE PLAN

If you have any questions about your Plan, you should contact the Plan Administrator:

- Examine without charge, at the Plan Administrator’s office, all Plan documents, and copies of all documents filed by the Plan with the U.S. Department of Labor, such as detailed annual reports and Plan descriptions.