



RETIREE RESOURCES

Report of the Retiree Resources Workgroup



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In sponsoring the workgroup, the Department of Civil Service and Governor's Office of Employee Relations in no way indicate endorsement of the perspectives, opinions, and recommendations presented in this report.

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Purpose Statement

In the years to come, the population of New York will change dramatically; population trends suggest that by 2015, one in five New Yorkers will be 60 or older. Similarly, the number of immigrants will continue to grow. Each will be customers or clients of one or more State government agencies and will have special needs for information and services.

The same predictors of population change tell us that employers will be challenged to provide the services these customers require; customer needs will strain a limited labor pool. Not surprisingly, the characteristics of the population-at-large are shared by the State government work force: many state employees are retirement eligible, will be retiring, and are not likely to be replaced at an equal pace. Finding qualified candidates may be difficult in a wide range of occupations since the number of available workers is declining.

As such, it is important for State government to consider alternative recruitment mechanisms, including the use of State employees who have retired. The Retiree Resource Work Group was convened to:

- Learn how State employee retirees are now being utilized by agencies and share what we learned;
- Understand agencies' views of the future need for this alternative labor pool;
- Understand the barriers as well as the inducements to hiring retirees; and,

- Suggest means to overcome those barriers.

In the context of this report, “retiree” is defined as a former employee who is now receiving benefits under any program administered by the New York State Employees’ Retirement System. As such, this includes, but is not limited to, employees of State agencies, SUNY, CUNY, local governments, and school districts. A glossary of terms can be found in Appendix A. The definitions include: Retiree, Section 211; Section 212; The Two Year Bar; The Lifetime Bar; and Social Security Employment.

Methodology and Preliminary Findings

The group designed and developed a survey that was distributed to agencies to gather information on their practices, attitudes, and issues in hiring State retirees. The survey focused on: return to work options, use of Section 211 and 212, agency interest, employee interest, appointment mechanisms, work schedules, outreach to retirees, and hiring practices.

Forty-four surveys were sent out and 42 were returned.

Summary Analysis

- 40 agencies reemploy retirees (many use retirees for several purposes):
 - 7 agencies hire retirees for seasonal jobs
 - 8 agencies hire retirees for emergency fill ins
 - 11 agencies hire retirees for training successors
 - 25 agencies hire retirees for special projects
 - 18 agencies hire retirees as subject experts
 - 2 agencies hire retirees as expert witnesses
 - 14 agencies hire retirees for a variety of other reasons
- How often retirees are hired is based on why they are hired:
 - seasonals return every year
 - others are hired for various lengths of time
- Outreach to employees from agencies varies:
 - 21 agencies do not reach out to employees for Section 211 or 212 employment
 - 19 agencies do reach out to employees for Section 211 or 212 employment
- Those who do reach out hire retirees for emergency fill ins, hard-to-fill positions, and special projects.
- Most retirees hired back are hired in the same location. However, the title that they fill is usually different from the original title they had prior to retirement.
- The earnings limitation has not inhibited 26 agencies' ability to hire retirees. However, the earnings limitation does impact some specific higher paying professional titles such as psychiatrists, physicians, engineers, and technology personnel.
- Most retirees are hired on a part-time basis and work until the monetary cap is reached.
- Retirees are hired by contract, on an hourly basis, or per diem.
- Motivation for retirees to come back to work includes the desire to remain productive, earn additional money, and make a gradual transition to full retirement.

- Eighteen agencies believe that the freeze waiver process inhibits hiring retirees.
- All 40 agencies believe that an expedited freeze waiver process would be beneficial to all.
- All 40 agencies who reemploy retirees reported that there is little resistance by their managers or unions to hire retirees.

The results of the survey prompted the group to seek more detail from eight agencies that routinely hired retirees. We conducted two focus groups. They were composed of a cross section of types of agencies and included the Department of Agriculture and Markets, Division of the Budget, Education Department, Office of Mental Health, Department of Motor Vehicles, Office of the State Comptroller, State University of New York, and Department of Taxation and Finance.

Each agency representative was sent a list of specific questions based on that agency's responses to the survey. Each agency prepared a short presentation that answered the questions posed and then entertained questions from the retiree resources group and from the other agency representatives present. The information gathered from the focus groups forms the basis for this report.

Agency Practices on Hiring Retirees

Rationale

Agencies hire retirees to support both ongoing operational needs and the implementation of new initiatives. Their decisions are most often driven by the desire or need to tap into the knowledge and expertise of a former employee; however, the desire to recruit for hard-to-fill positions, to fill temporary seasonal positions or for special projects (such as Y2K) also provides a rationale to tap this skilled resource.

Statutory Limitations

Agencies must recognize the implication of re-employment on State retirees' pension benefits. Restrictions on employment of retirees are set forth in Sections 211 and 212 of the Retirement and Social Security Law. These sections of law provide a means to mitigate or eliminate the impact on retirement benefits when agencies choose to hire retirees.

In order for a retired person to be employed in the public service, the prospective employer must submit a written request for approval to the Civil Service Commission demonstrating that:

1. The person is duly qualified.
2. There is a need for the person's services
3. Other qualified persons are not readily available
4. Employment is in the best interests of the government.

(See <http://assembly.state.ny.us/leg/?cl=104&a=22>).

Section 211 allows an agency to rehire a retiree without diminution of benefits or limits income by use of a formula tied to the value of the pension benefit and the proposed salary. Section 211 is used to hire professional staff for special projects, for knowledge transfer, and in significant emergency situations, but is also commonly used as an alternative recruitment mechanism to hire retired law enforcement professionals into peace and police officer positions in New York State agencies.

Section 212, which sets a cap on income, is primarily utilized to provide clerical support, to perform seasonal work, and to provide vacation and weekend coverage for both support and professional permanent staff. Those employed under Section 212 are generally paid a fixed hourly rate. Section 212 has been used in some situations where retirees could provide a means to bridge the gap during periods of fiscal uncertainty.

Recruitment Methodology

Although most agencies feel there is a need to formally advise retiring staff of re-employment opportunities, most do not have a mechanism to do so. Information is informally dispersed, usually by word of mouth.

If an agency's need is for specific knowledge and expertise or to fill difficult to recruit for positions, most organizations contact former employees directly. It is not common practice for agencies to recruit retirees from other agencies or to recruit them for a type of work they did not previously perform.

Schedules

The schedules worked by rehired employees vary. Some work flexible schedules depending on the agency's and their needs. Others work fixed schedules, which may be influenced by the salary earnings cap.

Future Trends

Agency representatives understand that demographic trends over the next decade will increasingly impact recruitment from typical sources. They are open to and interested in a variety of solutions to meet those needs. Among the areas of interest are the use of virtual offices and telecommuting, which would allow agencies to attract retirees who have relocated to other parts of the country. Similarly, agencies are interested in sharing best practices so that the recruitment of retirees can be timely and effective.

Challenges

In reviewing the survey and focus group responses, it was evident to the Retiree Resources Group that hiring a retiree is not a simple process. Some of the most common barriers agencies encounter are listed below:

Information

- Lack of awareness on the part of agencies and employees about the opportunities for and benefits of post-retirement employment
- Although information on post-retirement employment is available from a variety of sources, currently, there is no distribution of this information to employees prior to their separation from State service.

Data Bank

- Lack of an accessible, centralized data bank containing retiree contact information and a skills inventory.
- No systematic way of collecting and sharing agency experiences, strategies, successes, and failures in recruiting and hiring retirees to facilitate hiring them for a particular job.

Sections 211 and 212

- Lack of a simple comprehensive explanation of Sections 211 and 212 of the Retirement & Social Security Law for human resource professionals, supervisors, employees, and retirees.
- The current earnings formula for Section 211 of the Retirement and Social Security Law inhibits the ability to hire many professional-level retirees.
- The calculation formula and the resulting earnings cap in Section 212 of the Retirement and Social Security Law inhibits the amount of time many professional level retirees can spend on a return-to-work assignment.

Control Agencies

- Fiscal constraints limit filling or establishing positions for a limited duration, even though in the long run this saves money.
- The current classification process and structure limits options for agencies to hire a retiree (See Areas to Explore, Control Agencies, for recommendations to make the process more useful).

Individual Agencies

- Reluctance on the part of some agencies to allow flexible working arrangements and telecommuting, alternatives that are particularly appealing to retirees.
- Need for agencies to understand that tapping into retiree resources can help maintain continuity when historical knowledge goes out the door.
- Some agencies lack appreciation for retiree skills, which are often transferable to a wide range and level of duties.
- Currently, most agencies do not have long range plans that factor in the utilization of retirees for succession planning and knowledge transfer, “crunch” periods, and special projects.

Areas to Explore

Sections 211 and 212 of the Retirement and Social Security Law were enacted to place appropriate restrictions on the rehiring of former public employees. The law reflects the recognition that, under most circumstances, it is inappropriate for a former public employee to receive a publicly-funded pension and be simultaneously employed by a publicly-funded governmental agency.

By their language, these sections of law also recognize that in some circumstances no adequate labor pool exists to perform duties essential to the delivery of government services. In such circumstances, retirees may perform the required work.

The Retiree Resource Work Group embraces the philosophy inherent in these statutes. We also recognize, however, that hiring skilled retirees can help State agencies provide necessary services during times of crisis at a reduced rate, with little or no additional training and without creating an unnecessary, permanent employment relationship.

If current trends continue, it is incumbent upon State government to seek creative ways to meet its labor needs. Retirees provide a significant resource to us, and to the people we serve, one which should not be overlooked.

Based upon considerable review, exploration with several New York State agencies and projections of future trends, the Retiree Resource Work Group suggests the following recommendations:

Information

- Establish a New York State website for retirees (job listings, benefits, aging, health information). <http://www.colorado.edu/HumRes/retirees>, <http://www.princeton.edu/hr/policies/employment/213.htm>
- Establish a joint labor/management communication mechanisms for publicizing opportunities for retirees to return to work.
- Identify ways to increase manager and employee understanding of Sections 211 and 212 (brochures, staff development, leadership forums, and posters).

Data Bank

- Develop a statewide retiree skills bank for ongoing and special needs, e.g., disaster relief. <http://www.doc.state.nc.us/NEWS/cnews/0004/reup.html>, <http://hr.dop.wa.gov/geninfo/retire-rehire.htm>

Sections 211 and 212

- Explore whether the limits imposed by the earnings formula used for Section 211 are realistic in light of the need agencies will experience for skilled retirees. This can be done by applying the formula to a range of hypothetical salaries and then asking the question: Is it reasonable to expect that retirees will be willing to return given this limit on their earnings?
- Learn how the earnings cap in Section 212 (currently \$25,000) is determined. Ascertain if this is an arbitrary figure or if it is based on some reasonable formula.
- Use an annual maximum number of work hours in lieu of an annual earning cap for Section 212 hires to address salary needs in several titles.
<http://www.wa.gov/DRS/member/5937faq.htm>

Control Agencies

- When fiscal conditions restrict hiring generally, allow expedited and/or blanket waivers for re-hiring retirees as a strategy for addressing critical needs while achieving cost savings.
- Grant a waiver on the basis of an annualized FTE that could be shared by a rotating pool of retirees.
- Redefine the duration of temporary six-month positions to allow their use as needed within one fiscal year rather than being limited to six consecutive months.
- Create a generic Civil Service job title for employment of retirees, e.g., Knowledge Transfer Specialist, Special Program Assistant, etc.
- Revise OSC salary rules for employment of State retirees to permit hiring State retirees at the hourly rate of their former position if they are doing work at their former level.
- Create incentives not otherwise available to attract retirees to return to work, e.g., benefit coverage including dental insurance, hearing coverage, vision coverage, health insurance premium reduction.
<http://www.businesswire.com/webbox/bw.030101/210602360.htm>
- Establish enhanced flexible scheduling and phased retirement programs.
<http://www.businesswire.com/webbox/bw.030101/210602360.htm>

Individual Agencies

- Increase use of job shadowing to further knowledge transfer.
- Adopt a virtual office and/or telecommuting program.
<http://www.govexec.com/jobs>
- Include information on employment of State retirees in agency exit interviews and separation packages. <http://www.doc.state.nc.us/NEWS/cnews/0004/reup.html>

New York State Government is composed of talented, knowledgeable, and dedicated individuals. Many of these employees have recently, or will soon be, retired. It is hoped that agencies will benefit from the material and sources provided in this report, and that they will consider, explore, and expand upon ways to utilize this valuable human resource.

Appendix A – Definitions

- Retiree In the context of the report, “retiree” is defined as a former employee who is now receiving benefits under any program administered by the New York State Employees Retirement System. As such, this includes, but is not limited to, employees of State agencies, SUNY, CUNY, local governments, and school districts. (See definition provided in Article 7, Section 210a of the Retirement and Social Security Law, <http://assembly.state.ny.us/leg/?cl=104&a=22>).
- Section 211 A section of the New York State Retirement and Social Security Law which with certain restrictions, allows a public employee to return to public employment without diminution of his/her retirement benefit in response to a specific, hard-to-fill recruitment need. (See definition provided in Article 7, Section 210a of the Retirement and Social Security Law, <http://assembly.state.ny.us/leg/?cl=104&a=22>).
- Earnings are unlimited unless the retiree returns to a former employer. A “former employer” is any public employer that paid a salary or compensation at any time during the two years before retirement, provided the retirement allowance is based in part on that salary and/or service.
- Earnings from work for a former employer are subject to a set limit, which is the difference between the Option 0 retirement allowance and the retiree’s final salary. (Option 0 is the basic retirement allowance. It provides for the payment of the maximum benefit each month; payments cease at death.) If the retiree earns over the limit, the Retirement System will recover any retirement allowance overpayment and/or, in some cases, suspend the retirement allowance.
- In most cases, use of §211 also requires the approval of the Civil Service Commission.
(<http://nysosc3.osc.state.ny.us/retire/members/workingafterretirement-members.htm>) See Appendix C, page 17, for more information.
- Section 212 Under §212, a State retiree may return to public employment, earn up to the annual amount set by law, and continue to receive his or her retirement allowance in response to a specific, hard-to-fill recruitment need. In 2002, the amount is \$20,000; in 2003, \$25,000. (See definition provided in Article 7, Section 210a of the Retirement and Social Security Law, <http://assembly.state.ny.us/leg/?cl=104&a=22>).
- Beginning the calendar year a retiree turns 65, earnings are generally not limited by §212. Under the age of 65, a retiree who earns more than the §212 limit during a calendar year must pay back to the Retirement System an amount equal to the retirement allowance received after the

mandated limit was reached. If the retiree continues to work, the retirement allowance is suspended. The age limit was lowered from 70 to 65 in 2002.

<http://nysosc3.osc.state.ny.us/retire/members/workingafterretirement-members.htm>) See Appendix C, page 17, for more information.

The Two-Year Bar

The so-called “revolving door” prohibits State employees from appearing or practicing before their former agency for a period of two years. The restrictions of the two-year bar apply to appearing, practicing or working on matters **before an employee's former agency** while in the employ of another employer. As such, the two-year bar will generally not prohibit a State retiree from returning to work as an employee of his or her former agency or any other State agency; it will affect a retiree being hired as a consultant or through the auspices of another employing entity. For more information check the New York State Ethics Commission website: <http://www.dos.state.ny.us/ethc/rdr.html>

Lifetime Bar

The lifetime bar prohibits former State employees from appearing **before** any agency or being paid for work on matters or transactions in which they were directly concerned and personally participated while working in State government. This rule prohibits appearances before any government body, including the State Legislature, Congress, and federal, State and local executive branch agencies, where an appearance relates to a matter on which the employee worked while with the State. Again, the lifetime bar will generally not prohibit a State retiree from returning to work as the employee of a department or agency of the State, however, it may affect a retiree being hired as a consultant or through the auspices of another employing entity.

For more information check the New York State Ethics Commission website: <http://www.dos.state.ny.us/ethc/rdr.html>

Social Security

Employment following retirement can, depending on the age of the retiree, impact the social security benefits received. For more information check this site: <http://ssa-custhelp.ssa.gov>

Appendix B - Bibliography

Generic Interest - Employer Need for Retirees to Return to Work

- Times Union, Albany, New York. 3/24/02. A Graying Pool of Workers (General information on employers needing to rely on older workers and what public employers are doing) Reprinted with permission of Knight Ridder/Tribune Information Services.
- http://www.freep.com/voices/columnists/erdz27_20000827.htm (Prediction that around 2010 there will be a national “go back to work” campaign aimed at senior citizens)
- <http://www.ncpa.org/pd/economy/pd122399c.html> (Graying of government workers with younger applicants moving faster into the private sector)
- <http://www.ncpa.org/pd/economy/pd010401c.html> (National Center for Policy Analysis article on would-be retirees being asked to consider staying on the job)
- <http://www.ncpa.org/pd/economy/pd090299b.html> (National Center for Policy Analysis article on finding seniors want to work)
- <http://www.cnn.com/2001/CAREER/trends/01/23/seniors/> (Article by consultant at William M. Mercer, Inc., a human resources consulting firm)

What Other States and Employers Are Doing

- <http://www.doc.state.nc.us/NEWS/cnews/0004/reup.html> (North Carolina Department of Correction Retired Employee Utilization Program and description of the process)
- <http://www.tea.state.tx.us/taa/comm031402.html> (Employment of retired educators in Texas with no loss in pension)
- <http://www.wa.gov/DRS/member/5937faq.htm> (Post-Retirement Employment Law passed by the State of Washington)
- <http://www.utsystem.edu/ohr/policies/returnretirees.pdf> (Human Resources policy of the University of Texas on compensation of retirees returning to work)
- <http://www.colorado.edu/HumRes/retirees> (Website welcoming retirees, discussing employment opportunities, giving information to those ready to retire, and retiree perks)
- <http://hr.dop.wa.gov/geninfo/retire-rehire.htm> (State of Washington website on employment of retirees)

- <http://www.calpers.ca.gov/about/career/afterretirement.htm> (State of California website for retirees to search for work as a retired annuitant with the State of California; to create and store a resume for employers to view; to contact state agencies; and to review the rules of working after retirement)
- <http://www.princeton.edu/hr/policies/employment/213.htm> (Princeton University policy item on rehired retirees as casual or regular employees)
- Greenblat, Alan, "Maine Hires Retirees." *Governing*: Washington, D.C. (August 2002) 48

Retiree Recruitment Ideas

- <http://www.businesswire.com/webbox/bw.030101/210602360.htm> (Adecco survey showing that benefits influence retirees to return to work)
- <http://www.govexec.com/jobs> (US Government website with section on telecommuting policy)
- <http://www.doc.state.nc.us/NEWS/cnews/0004/reup.html> (North Carolina Department of Correction Retired Employee Utilization Program and description of the process)
- <http://www.shrm.org/hrmagazine> (December, 2001 Article on work place trends - Phased Retirement, Exit Strategies)
- <http://www.calpers.ca.gov/about/career/afterretirement.htm> (State of California website for retirees to search for work as a retired annuitant with the State of California; to create and store a resume for employers to view; to contact state agencies; and to review the rules of working after retirement)
- <http://www.colorado.edu/HumRes/retirees> (Website welcoming retirees, discussing employment opportunities, giving information to those ready to retire, and retiree perks)

New York State/Federal Publications for Retirees Interested in Returning to Work

- <http://www.osc.state.ny.us/retire/links.htm> (NYS website with information for retirees - aging, health insurance, deferred compensation, etc)
- <http://www.osc.state.ny.us/retire/pamphlts.htm> (NYS website with a variety of publications for retirees including explanations of Sections 211 and 212)
- <http://www.cs.state.ny.us> (NYS website with publication on retired employees and health insurance benefits)

- <http://www.dos.state.ny.us/ethc/ethics.html> Publication on ethics regulation and other excerpts from the NYS Public Officers Law)
- <http://www.ssa.gov/> (Social Security information on retirement)

Appendix C - SUNY Procedures for the Reemployment of Retired Public Employees

This document is provided for your information with the following caveat: It details the policy and procedures for the utilization of Section 211 and 212 by the State University of New York (SUNY). Certain information contained in it is generic and some applies specifically to SUNY recruitment processes.

Background

Section 150 of the Civil Service Law of New York State mandates that retired State or local employees may not be rehired by the State or a political subdivision and receive pension benefits while employed. Sections 211 and 212 of the Retirement and Social Security Law do provide for exceptions to this rule.

Section 212 allows a retired state or local government employee to earn up to \$25,000 on a calendar year basis and continue to receive full pension benefits. There is no earnings limit for persons age 65 or older. Retirees reemployed under Section 212 do not need advance approval; the Employees' Retirement System (ERS) and the Teachers Retirement System (TRS) send all retirees a mailing each year which includes a form on which to report Section 212 earnings for the previous year. *(Note: Retired persons must file a statement with the retirement system electing to apply Section 212. See <http://assembly.state.ny.us/leg/?cl=104&a=22>).*

Section 211 provides a waiver to the earnings limitation of \$20,000 (\$25,000 in 2003). The NYS Civil Service Commission may grant waivers under Section 211 for retired employees to be employed in positions in the classified service. The Presidents of State University of New York campuses may grant waivers under Section 211 for retired employees to be employed in positions in the unclassified service of the State University of New York, the professional service at the statutory colleges of Alfred and Cornell, and the unclassified service of the Community Colleges. However, certain criteria must be met in order to grant a waiver under the statute. Those criteria are:

1. the retired person is duly qualified, competent, and physically fit for performance of the duties of the position in which the retiree is to be employed;
2. that there is a need for the retiree's service in such position;
3. that there are not readily available for recruitment persons qualified to perform the duties of such position; and
4. the employment of the retiree is in the best interest of the government.

The clear intent of the law is to restrict the circumstances in which an individual can simultaneously receive both a salary and a pension from the State. This is important to avoid any appearance of impropriety. Thus, it is incumbent upon all campuses to ensure that requests for Section 211 waivers are limited to those cases where no other

alternative (such as hiring a new employee or training an existing employee) is available.

Knowledgeable, older workers are a tremendous asset to the State, and campuses are encouraged to consider ways in which these individuals can provide their expertise and experience on a voluntary basis. However, the legal requirements must be complied with when hiring individuals who have previously retired from government employment.

In order to comply with the statutory requirements, before resorting to hiring a retiree pursuant to Section 211, the prospective employer must conduct a search to determine whether there are “readily available for recruitment persons qualified to perform the duties” of the position. In addition, the request that is submitted to the Civil Service Commission or the campus president must, at a minimum:

1. describe the duties of the position to be filled;
2. set forth the qualifications required of any individual to fill that position;
3. describe the recruitment efforts which have been undertaken;
4. certify that the recruitment efforts failed to locate any qualified non-retired individuals to fill the position;
5. certify that the retiree is duly qualified, competent, and physically fit to perform the duties of the position; and
6. explain why the employment of the retiree is in the best interests of the government service, including why the position cannot be filled through the transfer or training of existing State personnel.

Under Section 211 of the Retirement and Social Security Law, waivers may be granted for periods up to two years. As noted above, however, requests for such waivers should be made only rarely, and should be sought only for the time period that is absolutely necessary. If a request must be made to renew the employment of any individual after the completion of the two-year period, a new application with the necessary information must be submitted, and the prospective employer must again attest that no qualified persons are available for recruitment other than the retiree. A new search should be conducted before that attestation is made.

If a retiree exceeds their earning limit under Section 212 and does not receive approval under Section 211, their pension may be reduced.

Definition of Retiree

For the purpose of Section 211/212, a retiree is a person who is receiving a service retirement from ERS, TRS, or a NYC Public Retirement System. A member of the Optional Retirement Program (ORP) who separated from service at normal retirement age (55, or 50 in an incentive program) or older and has 10 years of service will be considered a retiree if they have received a retirement incentive or have begun to withdraw funds from their pension, either through annuitization or cash withdrawal.

Special rules apply to persons receiving a disability pension from a retirement system. They are not covered by Section 211/212. Other laws limit how much a disability pensioner may earn with the same or different employer. The rules are quite complex. If you are considering hiring a disability pensioner, you should check with the system from which they retired to determine their earnings limit prior to making an offer.

Definition of Earnings

Earnings for purposes of the earnings limit calculation are amounts actually earned in the year in question. Earnings do not include money earned in a prior year and received in the current year. Example: an employee retires on December 31, 2001 and in January 2002, receives a lump sum payment for unused vacation. That payment does not have to be included in 2002 earnings because it was earned in 2001.

In the year of retirement, earnings refers only to money earned after the date of retirement. Example: if an employee retires on September 1, 2002, only earnings for the period September – December, 2002 count towards the earnings limit.

Earnings in private employment (ex: the SUNY Research Foundation) do not count towards the earnings limit.

Earnings paid on Form 1099 count towards the earnings limit.

Re-Employment with the Same/Different Employer – Limited vs. Unlimited Earnings

Under Section 211, retirees re-employed by the same employer from which they retired are subject to an earnings limitation. Retirees re-employed by a different employer are not subject to an earnings limitation.

For this purpose, all New York State agencies, including SUNY campuses, are considered one employer. Other entities are generally considered separate and distinct employers. For example, each school district is a separate employer. So is each local government, public authority, Board of Cooperative Educational Services, and public benefit corporation. Each community college is considered a separate employer, except that in most cases, a community college and its sponsoring county are considered the same employer (exception: Corning and Jamestown Community Colleges are considered independent). City University of New York is considered a separate employer. Here are some examples:

- ◆ A retiree from a SUNY campus is re-employed at the same campus – earnings are limited.
- ◆ A retiree from the NYS Dept. of Transportation is re-employed at a State-operated campus – earnings are limited.
- ◆ A retiree from the NYS Dept. of Transportation is re-employed at a community college – earnings are not limited.

- ◆ A retiree from Monroe County is re-employed at Monroe Community College – earnings are limited.
- ◆ A retiree from a public school is reemployed at a SUNY campus (State-operated or community college) – earnings are not limited.

If a retiree was primarily employed by another employer but employed on a part-time basis at a SUNY campus, earnings will be limited if the campus employment occurred within two years of the employee's retirement date, and if the employee's pension is based in part on the campus service.

Some examples:

- ◆ A retiree from a school district also taught until the date of retirement at a SUNY campus (State-operated or community college). Anyone in this situation should have had their SUNY service reported to TRS, so earnings are limited.
- ◆ A school district employee retired in 2001. He/she last taught at a SUNY campus in 1995, and now wants to be re-employed by that campus. Earnings are unlimited.
- ◆ A NYC firefighter who taught on an adjunct basis at a SUNY campus wants to be re-employed at the same campus. As the firefighter would have been in the NYC Fire Department Pension Fund, and could not possibly have participated in that system at SUNY, the earnings are unlimited.

Questions about whether a given employee's earnings are limited should be referred to the retirement system from which they retired or to the SUNY University-wide Benefits Manager for ORP retirees.

Calculation Of Earnings Limitation

When an earnings limitation applies, it is calculated as follows:

- 1) Determine the salary the employee would be making if they had not retired. To do this, take the employee's base pay as of their retirement date and add any salary increases they would have received had they not retired. Include across-the-board increases but not discretionary increases.

Note: if the employee was employed by two or more employers, salaries from all employers should be combined.

- 2) If the employee was in ERS/TRS, ask ERS/TRS to provide the final average salary.
- 3) Subtract from whichever is higher in 1 or 2 above, the employee's highest possible pension option. In ERS/TRS, this is the option 0 amount. In the ORP, assume the employee began annuity income upon retirement and selected a single life annuity with no guaranteed period. In all cases, this figure is provided by the retirement system.

- 4) Round the result up to the next multiple of \$500.

Note: Sometimes ERS and TRS are not able to provide final pension figures at the time you ask. They may still be in the process of calculating the employee's pension. In that case, they will give you estimated figures. It is important to follow up in several months to request the final figures. Estimated figures will almost always be on the low side, so make sure the employee stays well under the earnings limit until you can obtain final figures.

If an employee's service will continue beyond the period specified on the original UP-211 and a new UP-211 is to be submitted, it may be necessary to contact the retirement system again to see if there are adjustments to the pension figures. ERS and TRS provide Cost of Living Adjustments (COLAs) to retirees age 62 or older and retired for five (5) or more years. If an employee might be eligible for a COLA, you should contact the retirement system to update pension figures at the time a new UP-211 is submitted. Pension figures in the ORP are based on a hypothetical annuity starting date and do not need to be updated.

Pension Membership

Employees rehired under Sections 211 and 212 may not rejoin their previous retirement system or elect to participate in a new retirement system. They may, however, participate in a tax-deferred savings program.

Effective Date of Reemployment

There are no regulations requiring a person be off the payroll a certain amount of time before being reemployed. However, the Office of State Comptroller (OSC) will not pay a retiree a lump sum payment for unused vacation unless they are off the payroll for at least one day.

Procedures for Processing Form UP-211 for Unclassified Service Employees

UP-211s may be approved for up to two years at a time. As the earnings limits are by calendar year, it is preferable that UP-211s be submitted by calendar year rather than academic year.

1. Determine if a UP-211 is necessary. If the employee will earn less than the Section 212 limit (\$20,000 in 2002), a UP-211 is not necessary. If the employee will earn less than the Section 212 limit with one employer, but the combined total salary with multiple employers will exceed the Section 212 limit, then a UP-211 should be completed.
If the employee is over age 70 or will turn 70 during the year in question, their earnings are unlimited under Section 212 and a UP-211 is not necessary.

2. Determine if the employee's salary is limited under Section 211. The employee's salary is limited if they are returning to work for the same employer. See above for definition of "same employer." If the salary is limited, the employee can only earn in post-retirement employment the difference between the salary they would be making had they not retired and their highest possible pension option.
3. Make sure the form is filled out completely. Information about final salary needs to be provided only when the salary is limited.
4. If the salary is not limited, the form is ready for approval by the president.
5. If the salary is limited, send a request to the appropriate retirement system for information. For ERS and TRS, ask them to provide the final average salary and the Option 0 pension amount. The final average salary may be used in place of the final salary if it is higher. For the Optional Retirement Program, ask TIAA-CREF to provide a calculation of the income available from a single life annuity with no guaranteed period, effective on the date of retirement or the first day of the following month if the retirement was mid-month. In performing this calculation, TIAA-CREF is to include all ORP money (including that transferred to an Alternate Funding Vehicle), but not the employee's tax-deferred annuity contributions.

Note: if the employee is receiving a pension from two retirement systems, requests for information should be sent to both.

6. When information is received from the retirement system, complete the appropriate boxes on the UP-211, and calculate the Section 211 limit. It is rounded up to the next multiple of \$500. If the employee's anticipated salary is higher than the Section 211 limit, the employee's salary must be reduced to the limit. The UP-211 is now ready for the president's approval.
7. If the pension figure is "estimated," follow up to recheck with the retirement system in several months.
8. Once the form has been signed, a copy should be sent to ERS or TRS for members of those systems. For members of the ORP, a copy should be sent to the Office of University-wide Human Resources, SUNY System Administration. A copy should also be sent to the employee.

(Editor's note: We have deleted information on contacts in the ERS and SUNY.)

Reemployment of Classified Service Employees under Section 211

Approval of the reemployment of classified service employees under Section 211 rests with the NYS Civil Service Commission. State-operated campuses should refer to the State Personnel Management Manual, Advisory Memorandum #99-06 and form CSC-1.

Community Colleges should use form CSC-20. Questions on procedures should be referred to the Department of Civil Service which interprets Section 211 very strictly.

For more information, contact SUNY Personnel Office at (518) 443-5192.

Appendix D - Work Group Members

Lori Csontos	Department of Civil Service
Deborah Dammer	Department of Taxation and Finance
Janet Leahey-Daniels	Office for the Aging
Mercy Dugan-White	Division of Budget
Kathleen Economides	Office of Mental Health
Lisa Fitzmaurice	Division of Budget
Steven R. Hurley	Department of Health
Maureen Nylis, Team Leader/Facilitator	Governor's Office of Employee Relations
Renee Rosa	Department of Health
Marylyn Sullivan	Division of Criminal Justice Services

Appendix E – Background on the Workgroups

In January 2002, the Governor's Office of Employee Relations and the Department of Civil Service formed eight interagency workgroups, organized around selected workforce and succession planning topics. The mission of the workgroups was to compile and share information that might be useful to agencies in their workforce and succession planning efforts. This was a follow-up to issuance of the planning guide, "Our Workforce Matters," and activation of the workforce and succession planning website, both of which were made available in October 2001.

Each of the workgroups was comprised of volunteers who continued to have full-time responsibilities in their agencies. A six-month time limit was set to ensure that reports could be written before burnout set in and other priorities took precedence. The workgroups agreed to get as much done as possible in the time allotted. Their reports are being added to the workforce and succession planning website, <http://www.goer.state.ny.us/workforce> or <http://www.cs.state.ny.us/workforce> as they are completed. In addition to Retiree Resources, the workgroups included:

- Recruitment and Selection
- Retention
- Competencies
- Staff Development
- Mentoring
- Management Mobility
- Knowledge Management and Transfer