

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
1800 Appointments
1850(G) Employment of Retired Public Employees**

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SUMMARY OF REVISIONS OR NEW MATERIAL

- .112 The maximum amount that may be earned without the need for a section 211 waiver is \$30,000; there is no earnings limitation in the year the retiree reaches age 65 and in any year thereafter; the Retirement System no longer requires form RS-4260 to be completed.
- .113 Section 211 should only be used for retirees under age 65.
- .211 Section 211 should only be used for retirees under age 65.
- .213 The wording has been revised to mirror Retirement and Social Security Law and now states that Commission approval may be granted for a period up to two-years.
- .214 Section 211 approval may be valid for a period up to two years.
- .411 Part A and B are obsolete and are recommended for deletion.
- .412 Part A through F are obsolete and are recommended for deletion. These sections are replaced by two links on the Department’s web site. The first link provides access to the section 211 waiver application (CSC-1) and the second link provides access to the State Commission’s Guidelines for Approval of Requests pursuant to RSSL 211.

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File this material in the section of the manual referenced above.

.1 BACKGROUND

.110 Legal Basis

.111 Sections 211 and 212 of Article 7 of the Retirement and Social Security Law provide statutory authority for the reemployment in the public service of retired public employees without suspension or diminution of retirement allowance. A "retiree" as defined in section 210 of the Article is "a retired member of a retirement system or pension plan administered by the state (New York) or any of its political subdivisions who is receiving a retirement allowance for other than physical disability."

- A. Section 210 of the Article also defines various other terms which relate to such reemployments.
 - B. In addition, retirees employed pursuant to sections 211 or 212 must meet the normal legal requirements for appointment.
- + .112 Section 212 of Article 7 provides for a "retiree" to earn up to the maximum entitled under the New York State Retirement Law without diminution of retirement allowance, pursuant to section 203 of the Federal Social Security Act. The current maximum is \$30,000 annually (as of 2013). However, there are no limitations on maximum earnings under section 212 during the calendar year the retiree reaches the age of 65 or in any year thereafter.
- + .113 Section 211 of Article 7 provides for a retiree to earn more than the maximum entitlement under 212, subject to some limitations determined on a case-by-case basis, with the approval of the appropriate body. In cases of State employment in the Classified Service, this body is the State Civil Service Commission. Section 211 should only be used for retirees under 65 years of age. Section 211 (2) (a) identifies the proper authority in the case of unclassified service positions in the State University system and certain positions in the municipal service and the judicial system.

.2 POLICY

.210 Limitations

- + .211 Section 211 should only be used for retirees **under** 65 years of age.
- .212 Disability retirees are not eligible for approval under Section 211.
- + .213 Commission approval may be granted for a period up to two years. Once the approval has expired, a new request must be submitted. In those cases where approval under section 211 is not granted by the Civil Service

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Commission, the retiree who wishes to be employed should contact the Retirement System to determine the effect on retirement benefits.

- + .214 Approval for employment under section 211 and appointment to a position are separate and distinct from each other. While the section 211 approval may be valid for a period up to two years, the appointment is not guaranteed for two years. If, for instance, the appointment were not permanent and a mandatory eligible list comes into existence for the position before the end of the two year period, the employee would have to be replaced by an individual appointed from the eligible list even though he or she had section 211 approval. Conversely, someone with section 211 approval could receive a permanent list appointment and, while the appointment would likely exist for more than two years, the section 211 approval could not. Once the section 211 waiver expired, that person would then have the following options:
 - A. resign and continue to collect full retirement benefits;
 - B. remain in the position with his/her retirement benefits affected; or,
 - C. apply through the agency for a new Section 211 approval.

.4 PROCEDURE

.410 Requests

- + .411 Section 212 – The retiree communicates with the Retirement System directly. No agency involvement is necessary.
- + .412 Section 211 – The agency must initiate the request by completing the section 211 waiver application form (CSC-1) available on the Department of Civil Service web site at: <http://www.cs.ny.gov/retirees/>.

Before doing so, the agency should determine if the retiree is eligible to be employed under section 211 by reviewing the State Civil Service Commission's Guidelines for Approval of Requests pursuant to Retirement and Social Security Law section 211. The Guidelines are available on the Department of Civil Service web site at: <http://www.cs.ny.gov/commission/211guidelines.cfm>

Formal notification will be made by the Commission staff by e-mail to the requesting agency and the NYS Retirement System when the Commission determination has been made.