

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on NYC Pensioners Working for New York State After Their Retirement January 1, 2003 – December 31, 2003

FL05-104A

June 30, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office conducted an audit to identify New York City pensioners who may be illegally re-employed by New York State (“double-dippers” or “disability violators”), and to quantify the amounts of any improper payments to individuals who appear to be violators of New York State Retirement and Social Security Law, § 211 and § 212, or New York City Charter § 1117, during calendar year 2003.

The results of our audit, which are presented in this report, have been discussed with officials of each retirement system, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that pensioners are complying with all laws pertaining to public service re-employment and that appropriate steps are taken to recoup improper payments to individuals after retirement.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/gr

Report: FL05-104A
Filed: June 30, 2004

*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on New York City Pensioners
Working for New York State after Retirement
January 1, 2003—December 31, 2003**

FL05-104A

AUDIT REPORT IN BRIEF

The Comptroller's Office performed an audit to identify New York City pensioners who may be illegally re-employed by New York State ("double-dippers" or "disability violators"), and to quantify the amounts of any improper payments to individuals who appear to be violators of New York State Retirement and Social Security Law (RSSL) § 211 and § 212, or New York City Charter § 1117, during calendar year 2003.

Audit Findings and Conclusions

The audit found that 27 individuals who received \$429,251 in pension payments during 2003 that appear to violate applicable sections of State and City laws. These individuals were in apparent violation of RSSL § 211 or § 212 because they were under age 65 and received excess State wages above the limitations without having a waiver on file at one of the five City retirement systems, or were in violation of § 1117 of the New York City Charter because they were collecting disability pensions while earning more than \$1,800 (including pension payments) a year at a New York State agency.

Audit Recommendations

New York City retirement systems should:

- Investigate those individuals identified as concurrently receiving pensions while being re-employed in New York State public service. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.
- Forward to the Department of Investigation, if the circumstances warrant such action, the name of those individuals found to be illegally collecting pensions.
- Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as "double-dippers" or "disability violators."

- Send special reminders to service retirees under the age of 65, and to all disability retirees that clearly state their responsibilities regarding public service re-employment.

INTRODUCTION

Background

A New York City service retiree who is re-employed by New York State or any of its political subdivisions may not continue to collect pension benefits, except in accordance with conditions established by the New York State Retirement and Social Security Law (RSSL), § 210 through 216. In the case of New York City disability retirees, the governing regulations are the New York City Administrative Code (Volume 3, Title 13) and the New York City Charter (§ 1117). If a post-retirement employee does not comply with the relevant laws, the practice is termed “double-dipping.”

Pursuant to § 211, a service retiree (a person receiving an ordinary service retirement rather than a disability retirement) who is re-employed in New York public service and who exceeds the § 212 salary limitations may have his or her pension benefits denied, unless the prospective employer has requested a waiver from the State or municipal Civil Service Commission or other authorized agency. The prospective employer must set forth the reasons for the request and obtain a waiver from that agency.

New York State law grants the authority to issue waivers to the following seven agencies:

- New York State Civil Service Commission (NYS)
- Commissioner of Education (NYS)
- New York City Civil Service Commission (NYC)
- Chancellor of the Department of Education (NYC)
- Board of Higher Education (CUNY) (NYC)
- Chancellor of State University (SUNY) (NYS)
- Administrator of Courts (NYS-NYC)

To obtain a waiver for an employee, the prospective employer of the retiree must show that the person’s skills are unique and in the best interests of the government service, and that no other qualified persons are readily available for recruitment to perform the duties of the position to be filled. Initial or renewed waivers may be for periods of up to two years.

An exception to this restriction is provided by RSSL § 212, which permits a service retiree to be re-employed in New York public service if the retiree earns no more than the amount prescribed by that section and files a “Section 212 Statement of Election” with his or her retirement system (see below). For calendar year 2003, the earnings limitation does not apply after the retiree reaches the age of 65.

There are five New York City retirement systems that provide benefits for their employees and the employees of various City agencies. They are:

- New York City Employees' Retirement System (NYCERS)
- New York City Teachers' Retirement System (TRS)
- New York City Board of Education Retirement System (BERS)
- New York City Police Department Pension Fund (POLICE)
- New York City Fire Department Pension Fund (FIRE)

This report includes New York City pensioners from the above retirement systems.

For calendar year 2003, the earnings limitation for a service retiree who filed a Statement of Election under § 212 was \$25,000. Accordingly, any service retiree earning more than \$25,000 in 2003 should have received a § 211 waiver to prevent suspension of the retirement allowance during that year. Failure to comply with these requirements can result in the forfeiture of pension benefits in subsequent years.

Disability retirees are not subject to RSSL § 211 and § 212. However, the New York City Administrative Code, the New York State Education Law, and the New York City Charter (§ 1117) provide for the re-employment of New York City disability retirees in New York State public service. The following regulations are applicable to each of the five New York City retirement systems:

TRS:

The New York City Administrative Code (Volume 3, Title 13, Chapter 4, § 13-553) combined with the New York City Charter (§ 1117), prohibits a TRS disability retiree from earning more than \$1,800 a year (including pension payments) in New York public service, unless the retiree's disability pension is suspended during the time of such employment.

POLICE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 2, § 13-254), provides for the re-employment of New York City Police Department disability retirees in New York public service. These provisions (also known as "Disability Safeguards") apply up to only the minimum period for service retirement elected by the employee (usually 20 years, but 25 years may be elected), subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board report and certification of the extent to which the retiree is able to work (the Board must then place the retiree's name on a civil service list as a "preferred eligible"), and (3) the Board reduces the retiree's pension to an amount which, when added to the retiree's salary, does not exceed the current maximum salary for the next higher title than that held by the person at retirement.

After the minimum (20- or 25-year) period for service retirement has expired, disability retirees in New York City are subject to the New York City Charter § 1117, which prohibits a retiree from earning more than \$1,800 a year (including pension payments) in New York public

service unless the retiree's disability pension is suspended during the time of such employment.

FIRE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 3, § 13-356 and § 13-357), provides for the re-employment of New York City Fire Department disability retirees in New York public service. These provisions (also known as "Disability Safeguards") apply up to only the minimum period for service retirement elected by the employee (usually 20 years, but 25 years may be elected), subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board report and certification of the extent to which the retiree is able to work (the Board must then place the retiree's name on a civil service list as a "preferred eligible"), and (3) the Board reduces the retiree's pension to an amount which, when added to the retiree's salary, does not exceed the current maximum salary for the next higher title than that held by the person at retirement.

After the minimum (20- or 25-year) period for service retirement has expired, disability retirees in New York City are subject to the New York City Charter § 1117, which prohibits a retiree from earning more than \$1,800 a year (including pension payments) in New York public service unless the retiree's disability pension is suspended during the time of such employment.

BERS:

The New York State Education Law (Title 2, Article 52, § 2575), combined with the New York City Charter (§ 1117), prohibits a New York City Department of Education non-pedagogical disability retiree from earning more than \$1,800 a year (including pension payments) in New York public service, unless the retiree's disability pension is suspended during the time of such employment.

NYCERS:

The New York City Administrative Code (Volume 3, Title 13, Chapter 1, § 13-171), provides for the re-employment of New York City Employees' Retirement System disability retirees in New York State public service. These provisions (also known as "Disability Safeguards") apply up to only the minimum period for service retirement elected by the employee, subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board report and certification of the extent to which the retiree is able to work (the Board must then place the retiree's name on a civil service list as a "preferred eligible"), and (3) the Board reduces the retiree's pension to an amount which, when added to the retiree's salary, does not exceed the current maximum salary for the next higher title than that held by the person at retirement.

After the minimum period for service retirement has expired, disability retirees in New York City are subject to the New York City Charter § 1117, which prohibits a retiree from earning more than \$1,800 a year (including pension payments) in New York public service, unless the retiree's disability pension is suspended during the time of such employment.

With regard to disability retirees of the five City retirement systems, waivers superseding the above provisions may not be granted.

Objective

The objective of this audit was to identify any New York City pensioners who may be illegally re-employed by New York State (“double-dippers” or “disability violators”), and to quantify the amounts of any improper payments to individuals who appear to be violators of RSSL § 211 and § 212, or New York City Charter § 1117, during calendar year 2003.

Scope and Methodology

Our audit period was January 1, 2003 through December 31, 2003. We met with officials of the five New York City retirement systems (TRS, POLICE, FIRE, BERS, and NYCERS) to review their monitoring processes for individual pensioners.

To determine the extent to which retired New York City employees were being improperly re-employed by New York State agencies, we asked the New York State Bureau of Payroll Audit (Office of the State Comptroller, Albany) to perform a computer match of the approximately 272,000 New York City pensioners against a listing of all New York State workers (approximately 250,000 annually) who received a W-2 wage statement for the year 2003.¹ This matching process identified 331 individuals under age 65 who either received more than \$25,000 in 2003 (service retirees), or \$1,800 in 2003 (disability retirees). We then sorted these lists by retirement system and investigated the reasons those individuals received a pension check and a payroll check concurrently.

Among the valid reasons individuals received both pension checks and payroll checks are the following: some had been granted waivers; some had their pensions suspended at the appropriate times; and some were not actually employed during 2003, but instead received lump-sum payments for accrued vacation and sick leave or for having selected an early retirement program that provided subsequent cash payments in 2003. Because of the magnitude of the task, we did not match the retirees against the other New York City, New York State, and local government employees paid by municipalities, counties, and systems other than those integrated with the State or FISA.

Of the 331 matches, 108 were individuals collecting TRS pensions, 175 were individuals collecting POLICE pensions, 46 were individuals collecting NYCERS pensions, 2 were individuals collecting FIRE pensions, and there were no individuals collecting BERS pensions. For 331 matches from TRS, POLICE, FIRE, and NYCERS we obtained additional detailed information about their individual year 2003 pension and payroll payments. We analyzed the timing, and, to some extent, the types of payments received. We verified the amounts shown on

¹ This audit report is exclusive of the five separate audit reports of New York City pensioners working for New York City after their retirement in 2003: the five audits of City workers are FL05-098A (POLICE), FL05-099A (FIRE), FL05-100A (NYCERS), FL05-101A (BERS), and FL05-102A (TRS).

the computer match listing. In addition, we met with retirement system representatives, who assisted us in searching their files for waivers and other relevant information.

Initial investigations eliminated 304 of these 331 matches. The remaining 27 matches (27 individuals) appeared to lack valid reasons for being on both lists. Of the 27 individuals, 16 are service retirees and 11 are disability retirees. The total amount of improper pension payments is \$429,251 consisting of \$187,594 in improper pension payments to service retirees, and \$241,657 in improper pension payments to disability retirees.

The breakdowns for the five New York City retirement systems are as follows:

<u>Retirement System</u>	<u>Service Retirees</u>	<u>Disability Retirees</u>	<u>Total Retirees</u>	<u>Improper Pension Payments</u>
POLICE	8	9	17	\$ 369,427
NYCERS	4	1	5	\$ 15,348
TRS	4	0	4	\$ 28,580
FIRE	<u>0</u>	<u>1</u>	<u>1</u>	<u>\$ 15,896</u>
Total	<u>16</u>	<u>11</u>	<u>27</u>	<u>\$ 429,251</u>

For those retirees for whom we could find no evidence of a waiver or other acceptable alternative documentation, we calculated their apparent overpayments based on our analyses of when these re-employed pensioners reached the legal earnings limitations of \$25,000 for service retirees, and \$1,800 for disability pensioners. The annuity portions of the pension payments, if any, that are not affected by RSSL § 211 or § 212, and New York City Charter § 1117, were not excluded; rather, they were estimated to be less than five percent of the total overpayments. The exact annuity portion for each individual, if any, can be determined only by retirement system officials.

In accordance with § 13-103, §13-202, § 13-302, and § 13-507 of the New York City Administrative Code, and § 2575 of the New York State Education Law, Boards of Trustees head NYCERS, POLICE, FIRE, TRS, and BERS. The Comptroller is one of the trustees of NYCERS, POLICE, FIRE, TRS, and BERS. The Comptroller sits on each of these Boards through a designee. The Comptroller's designee was not involved in planning or conducting this audit, or in writing or reviewing the audit report.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of records and other auditing procedures that we considered necessary. The audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with officials of the five City retirement systems during and at the conclusion of this audit. A preliminary draft report was sent to officials of the five City retirement systems and the applicable employing and waiver-issuing agencies, and discussed at exit conferences with officials of each system. We submitted a draft report to the five City retirement systems with a request for comments. Each of the five retirement systems provided us with separate responses to a draft of our audit, which are summarized as follows:

POLICE Response: On June 23, 2005, we received a response from the POLICE Executive Director, in which he described the actions POLICE has taken to address the report's recommendations.

NYCERS Response: On June 23, 2005, we received a response from the NYCERS Director of Benefit Disbursements, in which he described the actions NYCERS has taken to address the report's recommendations.

TRS Response: On June 17, 2005, we received a response from the TRS Deputy Director, stating: "Please be advised that the Teachers' Retirement System of the City of New York (TRS) is in full compliance with your recommendations."

FIRE Response: On June 17, 2005, we received a response from the FIRE Chief Compliance Officer, in which he either agreed to implement or stated that FIRE was already in the process of implementing all four recommendations.

BERS Response: On June 22, 2005, we received a response from BERS Executive Director, in which she described the actions BERS has taken to address the report's recommendations.

The full texts of these written responses are included as addenda to this report.

* * * * *

Our previous report (FL04-115A, issued June 30, 2004) covering City retirement systems pensioners for calendar years 2001 (BERS and NYCERS) and 2002 (all five New York City retirement systems), reported that there were 33 individuals who were in apparent violation of RSSL § 211 or § 212 and 11 individuals who were in apparent violation of § 1117. These individuals received improper pension payments of approximately \$802,000, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
§ 211/212 Violators	33	\$603,970
§ 1117 Violators	11	\$198,319
Total	<u>44</u>	<u>\$802,289</u>

FINDINGS

Overpayment of Pension Benefits

This audit identified 27 individuals who received approximately \$429,000 in pension payments during 2003 that appear to violate applicable sections of State and City laws. (See Appendices I through VIII for the agency summaries and detailed listings of the 27 pensioners and their current employers.)

As stated previously, we identified 27 pensioners who were in apparent violation of RSSL § 211 or § 212 because they were under age 65 and received excess State wages above the limitations without having a waiver on file at one of the five City retirement systems, or were in violation of § 1117 of the New York City Charter because they were collecting disability pensions while earning more than \$1,800 (including pension payments) a year at a New York State agency and were past their applicable anniversary dates. These 27 individuals received improper pension payments of approximately \$429,000, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
2003 § 211/212 Violators	16	\$ 187,594
2003 § 1117 Violators	<u>11</u>	<u>241,657</u>
Total	<u>27</u>	<u>\$ 429,251</u>

Our total represents the amount of improper 2003 pension payments based on an analysis of when the re-employed pensioners reached the legal earnings limitations of (\$25,000 for service retirees, and \$1,800 for disability pensioners). Allowances were made for those retirees who worked only part of that year. Moreover, the annuity portions of the pension payments, if any, that are not affected by RSSL § 211 or § 212, were not excluded; rather, they were estimated to be less than five percent of the total calculated payments. The exact annuity portion, if any, for each individual can be determined only by City retirement systems officials. Immediate action by the five City retirement systems and employing State agencies is needed to investigate and recoup, when appropriate, any improper payments made to those retirees identified as possible "double-dippers." (The applicable employing agencies involved in this audit appear in Appendix VIII.)

The following is an example of a POLICE service retiree who was found to be working at a State agency for the whole of calendar year 2003:

CASE #1: A Lieutenant who retired in March 1994 collected 12 pension checks (one each month) in calendar year 2003 totaling \$50,051. He worked as the Director of Campus for State University of New York Health Science Center at Brooklyn for all of 2003 (January through December) and collected a salary of \$93,940. We found no evidence of a waiver for him

for any portion of calendar year 2003. On April 23, 2003, his year 2003 cumulative salary earnings exceeded the \$25,000 limit for service retirees. Therefore, it appears that eight pension checks (May through December 2003) totaling \$33,367 may have been improperly received and cashed in calendar year 2003.

The following is an example of a POLICE disability retiree who was found to be working at a State agency during calendar year 2003:

CASE #2: A Captain designated as an Inspector who retired in August 2002 on a disability pension, collected 12 pension checks (one each month) in calendar year 2003, totaling \$112,440. He worked as an Adjunct Lecturer for John Jay College for eight months of 2003 (February through May and September through December) and collected a salary of \$7,772. He began working for the Police Department in 1982, and therefore, cannot qualify for the "Disability Safeguards" provisions beyond 2002. Accordingly, any earnings above the \$1,800 for 2003 make the disability pension payments for that year improper. Thus, it appears that 7 months of disability checks (March through May and September through December 2003), totaling \$57,190 may have been improperly received and cashed in 2003.

The following is an example of a TRS service retiree who was found to be working at a State agency during calendar year 2003:

CASE #3: A Teacher who retired in July 2000, collected 12 pension checks (one each month) in calendar year 2003 totaling \$68,446. He worked as an Adjunct Lecturer for Queens College and York College for eleven months of 2003 (January through July and September through December) and collected a salary of \$36,816. We found no evidence of a waiver for him for any portion of calendar year 2003. On September 4, 2003, his year 2003 cumulative salary earnings exceeded the \$25,000 limit for service retirees. Therefore, it appears that three pension checks (October through December 2003) totaling \$17,111 may have been improperly received and cashed in calendar year 2003.

The following is an example of a NYCERS service retiree who was found to be working at a State agency for the whole of calendar year 2003:

CASE #4: A Captain who retired in October 1999, collected 12 pension checks (one each month) in calendar year 2003 totaling \$22,219. He worked as a Youth Counselor for the Office of Children and Family Services for all of 2003 (January through December) and collected a salary of \$43,600. We found no evidence of a waiver for him for any portion of calendar year 2003. On August 13, 2003, his year 2003 cumulative salary earnings exceeded the \$25,000 limit for service retirees. Therefore, it appears that four pension checks (September through December 2003) totaling \$7,406

may have been improperly received and cashed in calendar year 2003.

RECOMMENDATIONS

Officials of the New York City retirement systems should:

1. Investigate those individuals identified as concurrently receiving pensions while being re-employed in New York State public service. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

Agency Responses: POLICE, TRS and FIRE agreed with this recommendation.

There were no BERS pensioners cited in this report.

The NYCERS Director of Benefit Disbursements stated:

“We have investigated all pensioners cited working for New York State and determined that of the five (5) pensioners named, four (4) were in violation of §211 and §212 of the RSSL, §13-171 of the Administrative Code or §1117 of the NYC Charter. Of the four (4) two (2) have been fully recouped. The other two (2) pensioners will be suspended starting June 2005. The other pensioner cited retired on a disability under §507a of the RSSL and is not in violation.” Specifically, NYCERS stated that this pensioner “did not exceed the income limitation for year 2003. The personal service income limitation was \$22,600. See §507a of the RSSL as well as Resolution # 73 that was adopted by the Board of Trustees in 1985.”

Auditor Comment: While we are pleased that NYCERS has investigated its cited pensioners, we disagree with NYCERS interpretation of RSSL § 507-a. RSSL §507-a (3) (c) states that “Each retirement system shall be entitled to adopt appropriate procedures for . . . continued entitlement to a disability retirement allowance.” RSSL §507-a (3) (c) does not give NYCERS the authority to create its own income limitation for disability pensioners which is contrary to the amount set by § 1117 of the New York City Charter. Therefore, we maintain that all five individuals cited in this report were in violation of RSSL § 211 and § 212, or New York City Charter §1117 and should be required to repay the amount of improper payments they received.

2. Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.

Agency Responses: POLICE, TRS, FIRE, and NYCERS agreed with this recommendation.

There were no BERS pensioners cited in this report.

3. Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators.”

Agency Responses: POLICE, TRS and FIRE agreed with this recommendation. NYCERS and BERS did not respond to this recommendation.

4. Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service re-employment.

Agency Responses: POLICE, TRS, FIRE, NYCERS, and BERS agreed with this recommendation.

APPENDIX 1

SUMMARY OF 2003 OVERPAYMENTS

	SERVICE		DISABILITY		TOTAL	
	Persons	Amount	Persons	Amount	Persons	Amount
POLICE	8	146,149	9	223,278	17	369,427
TEACHERS	4	28,580	0	0	4	28,580
FIRE	0	0	1	15,896	1	15,896
NYCERS	4	12,865	1	2,483	5	15,348
TOTAL	<u>16</u>	<u>\$187,594</u>	<u>11</u>	<u>\$241,657</u>	<u>27</u>	<u>\$429,251</u>

**PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND
2003 STATE MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	2003 Salary	Waiver Issuing Agency	Waiver in 2003
CASE # 1 P-041764-0	3/19/1994	50,051	8	33,367	HEALTH SCIENCE	28100	\$93,940	SUNY	NO
***P-040653-0	4/9/1993	39,793	8	26,780	CITY COLLEGE	70020	\$93,064	CUNY	NO
P-040437-0	1/17/1993	44,355	6	22,252	DEPT OF HEALTH	12000	\$58,816	NYSCSC	NO
P-038962-0	2/28/1991	37,108	7	21,646	TEMP COMM OF	21450	\$88,750	NYSCSC	NO
**P-044322-0	9/30/1996	39,698	5	16,541	INSURANCE DEPT	13000	\$44,511	NYSCSC	NO
P-044297-0	9/25/1996	43,113	4	14,371	WORKERS' COMP	14010	\$86,257	NYSCSC	8/21/03-8/20/05
**P-036505-0	7/6/1989	40,999	2	6,817	HEALTH SCIENCE	28100	\$40,700	SUNY	NO
P-035271-0	7/6/1988	26,349	2	4,375	CAPITAL DEF	21400	\$60,246	NYSCSC	9/1/03-8/31/05

Total: \$ 146,149

NOTES:

CAPITAL DEF Capital Defender Office
CITY COLLEGE City University of New York - City College
DEPT OF HEALTH Department of Health
HEALTH SCIENCE State University of New York Health Science Center
INSURANCE DEPT Insurance Department
TEMP COMM OF Temp. Comm. Of Investigation
WORKERS' COMP Worker's Compensation Board

CUNY City University of New York
NYSCSC New York State Civil Service Commission
SUNY State University of New York

** This individual was also cited in our prior audit for 2002

*** This individual was also cited in our prior audits for 1998, 1999, and 2002

**PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND
2003 STATE MATCHES (DISABILITY RETIREES)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	2003 Salary
CASE # 2 P-051789	8/31/2002	\$ 112,440	7	\$ 57,190	JOHN JAY ADJ	70061	\$ 7,772
>>P-021976	10/20/1982	\$ 41,826	11	\$ 38,348	LI PARK COMM	49220	\$ 11,195
>P-022920	7/4/1983	\$ 30,528	11	\$ 27,992	PALISADES PK COMM	49059	\$ 30,471
*P-010350	2/15/1975	\$ 29,481	11	\$ 27,032	QUEENS COLL ADJ	70041	\$ 136,038
					OCA - NASSAU	5519	
P-026931	1/31/1986	\$ 29,189	11	\$ 26,764	OCA - SUPREME CT	5979	\$ 136,038
**P-020114	11/6/1981	\$ 17,878	11	\$ 16,396	SUNY - SYSTEM ADM	28650	\$ 79,621
P-037916	5/18/1990	\$ 57,001	3	\$ 14,226	DEPT OF HEALTH	12030	\$ 1,760
P-044202	8/31/1996	\$ 31,715		\$ 12,244	STATE INSPECTOR GEN	21700	\$ 49,829
					JOHN JAY COLL	70060	
					JOHN JAY ADJ	70061	
P-052119	11/23/2002	\$ 106,240		\$ 3,086	OFFICE OF MENTAL HLTH	50790	\$ 3,943

Total: \$ 223,278

NOTES:

DEPT OF HEALTH Department of Health
JOHN JAY ADJ John Jay College Adjunct
JOHN JAY COLL John Jay College
LI PARK COMM Office of Parks and Recreation - Long Island Park Commission
OCA - NASSAU Office of Court Administration - Nassau County Supreme Court
OCA - SUPREME CT Office of Court Administration - Supreme Court
OFFICE OF MENTAL HLTH Office of Mental Health - South Beach Psychiatric Center
PALISADES PK COMM Office of Parks and Recreation - Palisades Interstate Park Commission
QUEENS COLL ADJ Queens College Adjunct
STATE INSPECTOR GEN Office of State Inspector General
SUNY - SYSTEM ADM State University of New York - System Administration

* This individual was also cited in our prior audit for 2002.

** This individual was also cited in our prior audits for 1993, 1994, 1995, 1996 and 2002.

> This individual was also cited in our prior audits for 1995, 1996, 1997, 2001 and 2002.

>> This individual was also cited in our prior audits for 1993, 1994, 1995, 1996, 1997, 1998, 2000, 2001 and 2002.

**PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM
2003 STATE MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	2003 Salary	Waiver Issuing Agency	Waiver in 2003
CASE # 3 *U-004733-0	7/1/2000	\$ 68,446	3	\$ 17,111	YORK COLLEGE	70082	\$ 36,816	CUNY	NO
					QUEENS COLL ADJ	70041		CUNY	NO
					YORK COLLEGE ADJ	70081		CUNY	NO
U-712356-0	7/1/2001	\$ 69,657	1	\$ 4,727	DEPT OF EDUCATION	746	\$ 37,976	DOEC	NO
					COLL OF SI ADJ	70101		CUNY	NO
**T-097934-0	8/31/1996	\$ 47,442	1	\$ 3,953	MANHATTAN CC	466	\$ 29,502	CUNY	NO
					AUTHUR KILL	10150		NYSCSC	NO
					COLL OF SI ADJ	70101		CUNY	NO
U-015703-0	9/5/2002	\$ 20,339	2	\$ 2,788	DEPT OF EDUCATION	742	\$ 33,988	DOEC	NO
					DEPT OF LABOR	14020		NYSCSC	NO

Total: \$28,580

NOTES:

AUTHUR KILL Department of Correctional Services - Authur Kill Correctional Services
 COLL OF SI ADJ City University of New York - College of Staten Island Adjunct
 DEPT OF LABOR Department of Labor
 DEPT OF EDUCATION Department of Education
 MANHATTAN CC City University of New York - Manhattan Community College
 QUEENS COLL ADJ City University of New York - Queens College Adjunct
 YORK COLLEGE City University of New York - York College
 YORK COLLEGE ADJ City University of New York - York College Adjunct

CUNY Board of Higher Education - City University of New York
 DOEC Department of Education, Chancellor's Office
 NYSCSC New York State Civil Service Commission

* This individual was also cited in our prior audit for 2001

** This individual was also cited in our prior audit for 1999

APPENDIX V

**PENSION OVERPAYMENTS - NYC FIRE DEPARTMENT PENSION FUND
2003 STATE MATCHES (DISABILITY RETIREES)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	2003 Salary
* R-007343	10/8/1979	\$ 30,887	6	\$ 15,896	SUNY FARMINGDALE	28390	\$ 1,887

Total: \$ 15,896

NOTES:

SUNY FARMINGDALE State University of New York College of Technology at Farmingdale

* This individual was also cited in our prior audits for 2000, 2001 and 2002.

**PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
2003 STATE MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	2003 Salary	Waiver Issuing Agency	Waiver in 2003
CASE # 4 *N-313002-0	10/05/99	22,219	4	7,406	OFF. OF CHILD & FAM.	25000	43,600	NYSCSC	NO
N-226219-0	12/31/97	23,134	1	2,892	SUNY DOWNSTATE	28108	49,937	SUNY	NO
N-236168-0	01/01/02	26,997	9	2,050	OFF. OF STATE COMP	2000	143,306	NYSCSC	NO
N-315870-0	11/20/00	6,203	1	517	OMRDD METRO NY	51450	30,362	NYSCSC	NO

Total: \$ 12,865

NOTES:

OFF. OF CHILD & FAM Office of Children & Family Services
OFF. OF STATE COMP Office of State Comptroller
OMRDD METRO NY Office of Mental Retardation and Developmental Disabilities - Metro New York Developmental Disabilities Services Offices
SUNY DOWNSTATE State University of New York - SUNY Downstate Medical at Brooklyn

NYSCSC New York State Civil Service Commission
SUNY State University of New York

* This individual was also cited in our prior audits for 2002.

PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
2003 STATE MATCHES (DISABILITY RETIREES)

Pension Number	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	2003 Salary
N-313070-0	6/26/1999	\$ 9,932	3	\$ 2,483	DEPT OF HEALTH	12150	\$ 6,114

Total: \$ 2,483

NOTES:

DEPT OF HEALTH Department of Health - St. Albans Home for Veterans

**RE-EMPLOYED NYC PENSIONERS
TOTAL BY CURRENT EMPLOYER**

<u>Current State Employer</u>	<u>Payroll Code</u>	<u>NYCERS</u>	<u>TRS</u>	<u>POLICE</u>	<u>FIRE</u>	<u>TOTAL</u>
		2003	2003	2003	2003	
Capital Defender Office	21400			1		1
CUNY City College	70020			1		1
CUNY College of Staten Island Adjunct	70101		2			2
CUNY John Jay College/Adjunct	70060/70061			3		3
CUNY Manhattan Community College	466		1			1
CUNY Queens College/Adjunct	70040/70041		1	1		2
CUNY York College/Adjunct	70081/70082		2			2
Department of Correctional Services - Arthur Kill Correctional Services	10150		1			1
Department of Education	742/746		2			2
Department of Health/St. Albans Home for Veterans	12000/12030/12150	1		2		3
Department of Labor	14020		1			1
Insurance Department	13000			1		1
Office of Children & Family Services	25000	1				1
Office of Court Administration - Nassau County Supreme Court	5519			1		1
Office of Court Administration - Supreme Court	5979			1		1
Office of Mental Health - South Beach Psychiatric Center	50790			1		1
Office of Mental Retardation and Developmental Disabilities - Metro New York Developmental Disabilities Services Offices	51450	1				1
Office of Parks and Recreation - Long Island Park Commission	49220			1		1
Office of Parks and Recreation - Palisades Interstate Park Commission	49059			1		1
Office of State Comptroller	2000	1				1
Office of State Inspt. General	21700			1		1
State Insurance Fund	640					0
SUNY System Administration	28650			1		1
SUNY College of Technology at Farmingdale	28390				1	1
SUNY Downstate Medical at Brooklyn	28108	1				1
SUNY Health Science Center	28100			2		2
Temporary Commission of Investigation	21450			1		1
Worker's Compensation Board	14010			1		1
Total:		5	10	20	1	36



New York City Police Pension Fund

ADDENDUM I

1 of 3

233 BROADWAY
NEW YORK, NEW YORK 10279
(212) 693-5100

Executive Director-Michael D. Welsome

June 11, 2005

Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
Executive Offices
1 Centre Street
New York, NY 10007-2341

Re: Audit Report on New York City
Pensioners working for New York
State after their Retirement
January 1, 2003 – December 31, 2003
FL05-104A

Dear Mr. Brooks:

In regards to the above referenced audit report, the following status report is forwarded.

Recommendation #1

Investigate those individuals identified as concurrently receiving pensions while being re-employed in New York State public service. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

Response

The Police Pension Fund is in total agreement that recoupment of pension benefits received in violation of the law should be commenced immediately. It should be noted, however, that this Retirement System does not exercise control over its Pension payroll data tape. We are requesting that the Comptrollers Office, as custodian of Police Pension payroll records, supply a list to my office on a semi-annual basis of all retirees found to be "double-dipping." This will afford the Police Pension Fund an opportunity to fully investigate all identified violators on a timely basis.

-2-

Regarding the 17 retirees listed by the Comptrollers Office in the May 23, 2005 audit report as possible violators, the Police Pension Fund will investigate all members in question to determine if they are in violation of Section 1117 of the New York City Charter. Those in violation will be given the opportunity to obtain retro-active 211 waivers, as the current law permits. Should such approval be denied, the Police Pension Fund will recover all pension moneys received from the period in question.

Recommendation #2

Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.

Response

The Police Pension Fund concurs with recommendation #2, however, no retiree investigated was deemed appropriate for such a referral.

Recommendation # 3

Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as "double-dippers" or "disability violators."

Response

The Police Pension fund has in the past and will continue to suspend or reduce the pension benefit of all identified service or vested interest retirees who elect to continue employment with the State of New York without the benefit of Section 211. Additionally, as noted in our response to previous audits, this fund has recovered over six hundred thousand dollars from members of this System identified as violators of these statutes.

Recommendation #4

Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service re-employment.

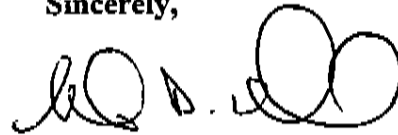
-3-

Response

Upon retirement, each member receives the restrictions on employment after retirement in a special handout of the retirement package. In 2001, a letter outlining this policy was prepared and mailed to all retirees. In addition, the Police Pension Fund's website provides a special reminder to all retirees with access to the internet and this topic is covered in depth in all retirement seminars conducted by Police Pension Fund personnel as well as in the plan summary description provided to all members.

I hope this response will aid in the development of a program to insure the integrity of all City Retirement Systems.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Welsome". The signature is fluid and cursive, with the first name "Michael" and last name "Welsome" clearly distinguishable.

Michael D. Welsome
Executive Director
Police Pension Fund

MDW:hdm



TEACHERS' RETIREMENT BOARD
TEACHERS' RETIREMENT SYSTEM
55 Water Street, New York, N.Y. 10041

ADDENDUM II
1 of 2

June 16, 2005

Mr. Greg Brooks
Deputy Comptroller Policy Audit Accountancy and Contracts
Bureau of Audit
One Centre Street, Room 500
New York, NY 10007-2341

Re: Audit Report on NYC Teachers' Retirement System
Pedagogical Pensioners Working for New York State after Retirement
January 1, 2003 – December 31, 2003
FL05 – 104 A

Dear Mr. Brooks:

Please be advised that the Teachers' Retirement System of the City of New York (TRS) is in full compliance with your recommendations. Attached, please find a TRS updated status report, which describes the types of action that was to be taken by TRS.

Again, as part of the TRS original audit plan, it is customary for TRS to suspend a member's pension allowance when that member exceeds his/her earnings after the limitation as cited under Section RSSL 212, RSSL 211, or NYC Chapter 1117 in an appropriate and timely fashion. TRS will continue its vigilance in seeking total adherence to existing laws. In conclusion, we would like to acknowledge the efforts to comply were feasible.

If you have any further questions regarding this status report, please feel free to contact me at (212) 612-5503.

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Charles".

Stan Charles
Deputy Director
Internal Audit Division

Cc: N. Serrano, P. Raucci, A. Scully, S. Morrison-Goldfine, S. Kupferman, G. Davis III

2003 EARNINGS AFTER RETIREMENT (EAR) STATE REPORT

2003 EAR Limit = \$25,000

PENSION OVERPAYMENTS – NYS TEACHERS' RETIREMENT SYSTEM													
2003 STATE MATCHES													
	Name	S.S.#	Pension #	Date Retired	2003 Pension	Months Overpaid	Amount Overpaid	2003 Employer	Payroll Code	OTC Salary	TRS Response/ Findings	211 Waiver on File	Status
1	[REDACTED]	[REDACTED]	U0047330	7/1/00	\$68,446	3	\$17,111	York Coll.	70082	\$36,816	No reported wages	N	Ltr will be sent
								Queens Coll. Adj.	70041				
								York Coll. Adj.	70081				
2	[REDACTED]	[REDACTED]	U7123560	7/1/01	69,657	1	4,727	DOE	746	37,976	No reported wages	N	Ltr will be sent
								Coll. of S.I. Adj.	70101				
3	[REDACTED]	[REDACTED]	T0979340	8/31/96	47,442	1	3,953	Manhattan Com. Coll.	466	29,502	No reported wages	N	Ltr will be sent
								Authur Kill	10150				
								Coll. of S.I. Adj.	70101				
4	[REDACTED]	[REDACTED]	U0157030	9/5/02	20,339	2	2,788	DOE	742	33,988	No reported wages	N	Ltr will be sent
								Dept. of Labor	14020				

* N = No EAR wages



FIRE DEPARTMENT

9 METROTECH CENTER BROOKLYN, N.Y. 11201-3857

FRANK J. BUCCELLATO
Chief Compliance Officer
Strategic Planning, Audit & Review Room #58-9

ADDENDUM III
1 of 2

June 17, 2005

Mr. Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

Re: Audit Report on New York City Pensioners Working for New York State after their Retirement. January 1, 2003 – December 31, 2003. FL05-104A .

Dear Mr. Brooks:

Attached is FDNY's comments on the above mentioned report, as well as our response and Agency Implementation Plan for each of the recommendations. Please thank your audit staff for the assistance they have provided to the Department in this review.

If you wish to discuss any portion of our response or AIP, please contact me at (718) 999-2033.

Sincerely,

Frank J. Buccellato

Cc: M. Vecchi
M. Basso

Audit FL05-104A

Audit Recommendations / FDNY Response – Agency Implementation Plan

- 1) Investigate those individuals identified as concurrently receiving pensions while being re-employed in New York State public service. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

FDNY Response – The Department agrees that it should investigate and take action against the identified individual(s). FDNY has already initiated recoupment proceedings where appropriate.

- 2) Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.

FDNY Response – The Department agrees to do so when circumstances warrant such action.

- 3) Ascertain whether previous pension overpayments have been recouped and whether current pensions have been suspended for those individuals who have been cited in previous audits as “double-dippers” or “disability violators”.

FDNY Response – All previously identified pension overpayments have already been or are in the process of being recouped.

- 4) Send Special reminders to service retirees under the age of 65, and to all disability retirees, that clearly state their responsibilities regarding public service re-employment.

FDNY Response – Special reminders on the subject are sent out on a routine basis.

NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM

MAIL ONLY:
335 ADAMS STREET,
SUITE 2300
BROOKLYN, NY 11201-3751

ADDENDUM IV
ALL OTHER SERVICES:
335 ADAMS STREET,
MEZZANINE LEVEL
BROOKLYN, NY 11201-3751

TEL: (347) 643-3000

ACTING EXECUTIVE DIRECTOR: MILTON ARON

Greg Brooks
Deputy Comptroller
Office of the Comptroller
1 Centre Street Rm 1300N
New York, N.Y. 10007-2341

June 23, 2005
Audit Report FL05-104A

Dear Mr. Brooks:

This is in response to your request regarding the progress this office has made in implementing the recommendations contained in the above-mentioned Audit Report.

We have investigated all pensioners cited working for New York State and determined that of the five (5) pensioners named, four (4) were in violation of §211 and §212 of the RSSL, §13-171 of the Administrative Code or §1117 of the NYC Charter. Of the four (4) two (2) have been fully recouped. The other two (2) pensioners will be suspended starting June 2005. The other pensioner cited retired on a disability under §507a of the RSSL and is not in violation. Attached are our detailed responses for each pensioner.

NYCERS will refer all cases to the Department of Investigation that involve individuals who continuously and knowingly violate RSSL §211 or §212, NYC Administrative Code Sec §13-171 or NYC Charter §1117. A special notice regarding re-employment after retirement is sent to our pensioners each year in September.

As part of our audit plan, NYCERS suspends the retirement allowance when the pensioner exceeds the earnings limitation as set forth in §211 and §212 of the RSSL, §13-171 of the NYC Administrative Code or §1117 of the NYC Charter. Our present monitoring program includes New York City payroll and Public Benefit Corporations. NYCERS receives New York State payroll information from your office.

Very truly yours,



Andrew N. Feneck
Director, Benefit Disbursements

cc: Milton Aron
Karl Bloom

Andrew N. Feneck
Director, Benefit Disbursements
Tele # 347- 643-3114
Fax #: 347- 643-3114
E-Mail: afeneck@nycers.nyc.gov

www.nycers.org

NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM
201 2
MAIL ONLY: 335 ADAMS STREET, SUITE 2300, BROOKLYN, NY 11201-3751
ALL OTHER SERVICES: 340 JAY STREET, MEZZANINE LEVEL, BROOKLYN, NY 11201-3751
TEL: (347) 643-3000
ACTING EXECUTIVE DIRECTOR: MILTON ARON

To: Andrew Feneck & Karl Bloom

From: Salwa Boutros

Date: 6/10/05

Subject: NYCERS follow up to Comptroller's Report # FL05-104A

The following report contains our investigation of those pensioners identified as being re-employed with the State of New York.

FL05 -104A

Year 2003 NY State Matches (Lack of Waivers)

Service retirees working for New York State

P# 313002-0

██████████ retired from Department of Correction. He was overpaid from September 2003 to December 2003. Therefore, his pension allowance will be suspended for 4 months starting 6/2005.

P# 226219-0

██████████ retired from Health & Hospital Corp. He was overpaid from September 2003 to December 2003. Therefore, his pension allowance was suspended for 4 months starting 9/2003. See copy attached.

P# 236168-0

██████████ retired from Comptroller's Office. He was overpaid from April 2003 to December 2003. Therefore, his pension allowance was suspended for 9 months starting 4/2003. See copy attached.

P# 315870-0

██████████ retired from Health & Hospital Corp. He was overpaid for December 2003, one month only. Therefore, his pension allowance will be suspended for one month starting 06/2005.

2003 Disability Retirees:

P#313070

██████████ did not exceed the income limitation for year 2003. The personal service income limitation was \$22,600. See §507a of the RSSL as well as Resolution # 73 that was adopted by the Board of Trustees in 1985.



CHRISTINE BAILEY
EXECUTIVE DIRECTOR

BOARD OF EDUCATION RETIREMENT SYSTEM
OF THE CITY OF NEW YORK
65 COURT STREET
BROOKLYN, NEW YORK 11201-4965

ADDENDUM V
1 of 1

718-936-6400
OUTSIDE NEW YORK STATE
1-800-843-6676

June 14, 2005

Mr. Greg Brooks
Deputy Comptroller
Policy, Audits Accountancy & Contracts
1 Centre Street – 5th Floor
New York, N.Y. 10007-2341

Re: Audit Report on New York City Pensioners
Working for New York State after their Retirement
January 1, 2003 - December 31, 2003
FL05-104A

Dear Mr. Brooks:

We are in receipt of the above referenced draft audit report on re-employment of "New York City Pensioners Working for New York State after their Retirement", during the period January 1, 2003 through December 31, 2003. In your audit report no retiree of the Department of Education was found to have violated the Retirement and Social Security Law (RSSL) (section 211 and 212) or the New York City Charter (section 1117).

We believe that our intense efforts to inform all our retirees and prospective ones of the existing laws governing re-employment in the public sector and of the strict consequences for violating these laws may have contributed to such positive results.

Although no violators have been found in this audit, BERS will continue its vigilance in seeking total adherence to the existing laws. Lastly, we would like to acknowledge the efforts of all parties involved in conducting this audit. Thank you.

Sincerely,

Christine Bailey
Executive Director

cc: Anthony Scully, Bureau of Audit
Board of Trustees
Rimma Stanton