

AUDIT REPORT



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

Audit Report on New York City Pensioners Working as Consultants for the City after Retirement January 1, 2002–December 31, 2002

FL04-148A

June 30, 2004



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 have illegally returned to public service as consultants (“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 2002.

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: FL04-148A
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 as Consultants for the City
after Retirement**

January 1, 2002–December 31, 2002

FL04-148A

AUDIT REPORT IN BRIEF

The Comptroller's Office performed an audit to identify New York City pensioners who may have illegally returned to public service as consultants (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 2002.

Audit Findings and Conclusions

The audit identified 11 individuals who received \$117,282 in pension payments during 2002 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 payments from the City for professional services that exceeded the limitations without having a waiver on file at their retirement system, 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 City agency and had surpassed their applicable employment anniversary dates.

Audit Recommendations

To address these issues the report recommended that officials of each of the five New York City retirement systems:

- Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement systems 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 names of individuals found to be illegally collecting pensions.

- Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

INTRODUCTION

Background

A New York City service retiree who is reemployed 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), §210–216. 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). When a post-retirement employee does not comply with the relevant laws, the practice is termed “double-dipping.”

According to RSSL §211, a service retiree (a person receiving an ordinary service retirement rather than a disability retirement) who is reemployed in New York public service and who exceeds the RSSL §212 salary limitations may be denied pension benefits, 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.

With regard to consultants, RSSL §211, Subdivision 4, (consultant amendment) states:

“A retired person who returns to public service on or after January first, nineteen hundred seventy-four, as a consultant shall be subject to the limitations applicable to a reemployed retiree as specified in this section or in any other provision of law.”

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

- New York State Civil Service Commission
- Commissioner of Education (New York State)
- New York City Civil Service Commission
- Chancellor of Board 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 reemployed 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). This 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 own employees and the employees of various City agencies after their retirement. They are:

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

For calendar year 2002, the earnings limitation for a service retiree who filed a Statement of Election under §212 was \$20,000. Accordingly, any service retiree earning more than \$20,000 in 2002 should have received a §211 waiver in order 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 reemployment of New York City disability retirees in New York State public service.

In addition, the New York City Corporation Counsel stated in an opinion that:

“[A] retiree of a retirement system maintained by the City, whose last retirement system membership prior to such retirement commenced on or after May 31, 1973, returns to service as a consultant on or after January 1, 1974, . . . will be subject to the provisions of City Charter §1117 as to suspension and forfeiture of the pension portion of his retirement allowance. . . except to the extent that he qualifies under §211 or §212 of the Retirement and Social Security law for an exemption from such suspension and forfeiture.”

The following regulations are applicable to each of the five City retirement systems:

POLICE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 2, §13-254) provides for the reemployment of POLICE disability retirees in New York public service. These provisions (also known as “Disability Safeguards”) apply only up to 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’s report and certification as to 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 title next higher than that held by the person at retirement.

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

TEACHERS:

The New York City Administrative Code (Volume 3, Title 13, Chapter 4, §13-553), combined with the New York City Charter (§1117), prohibits a TEACHERS disability retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless the 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 reemployment of NYCERS disability retirees in New York State public service. These provisions (also known as "Disability Safeguards") apply only up to 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's report and certification as to 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 title next higher than that held by the person at retirement.

After the minimum (20- or 25-year) period for service retirement has expired, NYCERS disability retirees are subject to the New York City Charter (§1117), which prohibits a retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless the 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 reemployment of FIRE disability retirees in New York public service. These provisions (also known as "Disability Safeguards") apply only up to 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's report and certification as to 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 title next higher than that held by the person at retirement.

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

With regard to disability retirees of all five New York City retirement systems, waivers that supersede the above provisions may not be granted.

Objective

The objective of our audit was to identify those New York City pensioners who may have illegally returned to public service as consultants (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 2002.

Scope and Methodology

Our audit period was January 1, 2002, through December 31, 2002. We met with officials of the five New York City retirement systems (POLICE, TEACHERS, NYCERS, FIRE, and BERS) to review their monitoring processes for individual pensioners.

To determine how many New York City pensioners returned to public service as City consultants, we asked the Audit Bureau's EDP Unit to perform a computer match of the approximately 300,000 New York City pensioners against a listing of all individuals (approximately 23,000) who received a Form 1099. This matching process identified 663 individuals who received non-employee compensation for professional services (as indicated on Form 1099-MISC Box 7) from the City as well as City pension checks. Of the 663 matched individuals, 358 were TEACHERS retirees, 180 were NYCERS retirees, 82 were POLICE retirees, and 30 were BERS retirees, and 13 were FIRE retirees.

A total of 11 individuals appeared to lack valid reasons for being on both lists: 10 service retirees and one disability retirees. For these 11 individuals, we calculated their apparent pension overpayments based on our determination of the date on which they reached the legal earnings limitations of \$20,000 for service retirees and \$1,800 for disability retirees. Additionally, the annuity portions of the pension payments, if any, are not affected by RSSL §211 or §212 or New York City Charter §1117 and therefore should be excluded from the overpayments cited in this report. The annuity portions, which are estimated to be less than five percent of the total overpayments, can be determined only by City retirement system officials.

This audit was conducted in accordance with generally accepted government auditing

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

Agency Responses

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 was discussed at an exit conference. On June 4, 2002, 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:

NYCERS Response: On June 18, 2004, 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 23, 2004, we received a response from the TRS Deputy Director, stating: "Please be advised that the Teachers' Retirement System (TRS) is in full compliance with all your recommendations."

POLICE Response: On June 11, 2004, we received a response from the POLICE Executive Director, in which he described the actions POLICE has taken to address the report's recommendations.

BERS Response: On June 24, 2004, we received a response from BERS Executive Director, in which she described the actions BERS has taken to address the report's recommendations.

FIRE Response: On June 18, 2004, 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 three recommendations.

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

FINDINGS

Overpayment of Pension Benefits

This audit identified 11 New York City pensioners who returned to public service as consultants and received a total of approximately \$117,000 in pension payments during 2002 that appear to violate applicable sections of State and City laws. (See Appendices I through VII for the agency summaries and detailed listings of the 11 pensioners who returned to public service as consultants and their current City agency.) The breakdown of the 11 pensioners and the improper pension payments they received from 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>
NYCERS	4	1	5	\$67,176
TEACHERS	3	0	3	32,214
POLICE	2	0	2	15,147
BERS	1	0	1	2,745
FIRE	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>10</u>	<u>1</u>	<u>11</u>	<u>\$117,282</u>

The 11 individuals were in apparent violation of RSSL §211 or §212 because they were under age 65 and received payments from the City for professional services that exceeded the limitations without having a waiver on file at their retirement system, 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 City agency and had surpassed their applicable employment anniversary dates. These 11 individuals received improper pension payments of approximately \$117,000, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
§211 or §212 Violators	10	\$ 92,783
§1117 Violators	1	24,499
Total	<u>11</u>	<u>\$117,282</u>

Our total represents the amount of improper 2002 pension payments based on our determination of the date on which the pensioners reached the 2002 legal earnings limitations of \$20,000 for service retirees and \$1,800 for disability pensioners. Allowances were made for those retirees who worked only part of that year. Additionally, the annuity portions of the pension payments, if any, are not affected by RSSL §211 or §212 or New York City Charter §1117 and therefore should be excluded from the overpayments cited in this report. The annuity portions, which are estimated to be less than five percent of the total overpayments, can be

determined only by City retirement system officials. Immediate action by the five City retirement systems and the employing City agencies is needed to investigate and recoup, where appropriate, any improper payments made to these retirees identified as possible “double-dippers” or “disability violators.” (The applicable employing City agencies for this audit are listed in Appendix VII.)

The following is an example of a NYCERS service retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2002:

Case #1: An Assistant District Attorney who retired on December 31, 2000, collected 12 pension checks in 2002 (one each month) totaling \$65,230. This individual worked all of 2002, received compensation totaling \$34,842. We found no evidence of a waiver for this individual for any portion of 2002. This person’s 2002 cumulative earnings exceeded the \$20,000 limitation on June 11, 2002; therefore, six pension checks (July through December 2002) totaling \$32,615 may have been improperly received and cashed in 2002.

The following is an example of a NYCERS disability retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2002:

Case #2: An individual who retired on May 18, 1994, on a disability pension collected 12 pension checks in 2002 (one each month) totaling \$26,721. This individual worked all of 2002, received compensation totaling \$29,221. This person became a member of NYCERS in 1979, and therefore does not qualify for the “Disability Safeguards” provisions beyond 1999. Accordingly, any earnings above \$1,800 for 2002 make the disability pension payments for that year (after that point in time) improper. Thus, it appears that 11 months’ of disability pension checks (February through December) totaling \$24,499 may have been improperly received and cashed in 2002.

The following is an example of a TRS service retiree who was found to be providing professional services as a consultant for a City agency during calendar year 2002:

Case #3: A teacher who retired on September 10, 1998, collected 12 pension checks in 2002 (one for each month) totaling \$43,528. This individual worked eleven months of 2002, January through July and September through December, received compensation totaling \$41,025. We found no evidence of a waiver for this individual for any portion of 2002. This person’s 2002 cumulative earnings exceeded the \$20,000 limitation on June 11, 2002; therefore, five pension checks (July and September through December 2002) totaling \$17,914 may have been improperly received and cashed in 2002.

RECOMMENDATIONS

Officials of each of the five New York City retirement systems should:

1. Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement systems officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

Agency Responses: TRS, POLICE, BERS and FIRE agreed with this recommendation. The NYCERS' Director of Benefit Disbursements stated:

“We have investigated all pensioners cited and determined that of the twenty eight (28) pensioners named, twenty one (21) were in violation of §211 and §212 of the RSSL, 13-171 of the NYC Administrative Code or § 1117 of the NYC Charter. In all twenty one (21) cases the overpayments are in the process of being recouped. One pensioner cited has been referred to Corporation Counsel for an opinion regarding disability retirees re-employed as a consultant.”

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

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

3. Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

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

SUMMARY OF 2002 OVERPAYMENTS

	<u>SERVICE</u>			<u>DISABILITY</u>			<u>TOTAL</u>		
	Persons	Amount		Persons	Amount		Persons	Amount	
NYCERS	4	42,677		1	24,499		5	67,176	
TRS	3	32,214		0	0		3	32,214	
POLICE	2	15,147		0	0		2	15,147	
BERS	1	2,745		0	0		1	2,745	
TOTAL	<u>10</u>	<u>\$92,783</u>		<u>1</u>	<u>\$24,499</u>		<u>11</u>	<u>\$117,282</u>	

**APPENDIX II
PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
2002 MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2002 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
CASE #1 N-233336-0	12/31/00	\$ 65,230	6	\$ 32,615	SUPREME CT	921	\$ 34,842
N-216162-0	6/2/95	32,627	3	8,219	SUPREME CT	921	26,576
N-315837-0	7/14/94	8,208	2	1,368	SUPREME CT	921	29,240
N-306842-0	12/1/95	5,695	1	475	HRA/DSS	069	33,764
Total				\$ 42,677			

NOTES:

HRA/DSS
SUPREME CT

Human Resources Administration/Department of Social Services
Supreme Court - 1st Judicial District

**APPENDIX III
PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM
2002 MATCHES (DISABILITY RETIREES)**

Pension Number	Date Retired	2002 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payments	Appointment Year
CASE #2 N-210377-0	5/18/94	\$ 26,721	11	\$ 24,499	SUPREME CT	938	\$ 29,221	1979

Total \$ 24,499

NOTES:

SUPREME CT

Supreme Court - Appellate Division

**APPENDIX IV
PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM
2002 MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2002 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
CASE #3 U-701716-0	9/10/98	\$ 43,528	5	\$ 17,914	SUPREME CT	921	\$ 41,025
U-704126-0	7/1/99	51,269	3	12,597	BOE	040	11,850
					BRONX-CC	463	10,280
					QNS-CC	464	4,609
U-001962-0	10/1/98	27,037	1	1,703	BOE	040	31,500

Total \$ 32,214

NOTES:

BOE	Board of Education
BRONX-CC	Bronx Community College
QNS-CC	Queensboro Community College
SUPREME CT	Supreme Court - 1st Judicial District

**APPENDIX V
 PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND
 2002 MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2002 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
P-045692-0	9/30/98	\$ 28,245	5	\$ 11,769	NYPD	056	\$ 77,233
P-040164-0	8/31/92	40,590	1	3,378	COMPTROLLER	015	549,236

Total \$ 15,147

NOTES:

NYPD New York City Police Department
 COMPTROLLER Office of the Comptroller

APPENDIX VI
PENSION OVERPAYMENTS - NYC BOARD OF EDUCATION RETIREMENT SYSTEM
2002 MATCHES (LACK OF WAIVERS)

Pension Number	Date Retired	2002 Pension	Months Overpaid	Amount Overpaid	Agency	Payroll Code	Payroll
E-015866-0	7/29/00	\$ 32,937	1	\$ 2,745	BOE	040	\$ 23,400

Total \$ 2,745

NOTES:

BOE Board of Education

APPENDIX VII

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

<u>Current Employer</u>	<u>Payroll Code</u>	<u>Total from the Following Retirement Systems</u>				
		<u>BERS</u>	<u>POLICE</u>	<u>TEACHERS</u>	<u>NYCERS</u>	<u>TOTAL</u>
Board of Education (BOE)	040	1		2		3
Office of the Comptroller	015		1			1
NYC Police Department	056		1			1
HRA/Department of Social Services	069				1	1
Bronx Community College	463			1		1
Queensboro Community College	464			1		1
Supreme Court - 1st Judicial District	921			1	3	4
Supreme Court - Appellate Division	938				1	1
Total:		<u>1</u>	<u>2</u>	<u>5</u>	<u>5</u>	<u>13</u>

NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM

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

EXECUTIVE DIRECTOR: JOHN J. MURPHY

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

June 18, 2004
Audit Reports: FL04-113A,
FL04-115A, FL04-148A

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 Reports.

We have investigated all pensioners cited and determined that of the twenty eight (28) pensioners named, twenty one (21) were in violation of §211 and §212 of the RSSL, 13-171 of the NYC Administrative Code or §1117 of the NYC Charter. In all twenty one (21) cases the overpayments are in the process of being recouped. One pensioner cited has been referred to Corporation Counsel for an opinion regarding disability retirees re-employed as a consultant. Attached are our detailed responses for each pensioner by audit report.

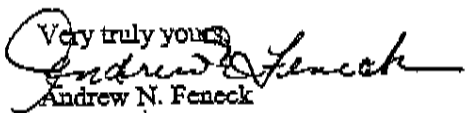
NYCERS will refer all cases to the Department of Investigation that involve individuals who continuously and knowingly violate RSSL §211 or §212, NYC Administrative Code Sec 13-171 or NYC Charter §1117. A special notice regarding re-employment after retirement is sent to our pensioners each year in September.

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.

Of the twenty eight (28) pensioners named eighteen (18) were retirees working for the State of New York. To prevent or minimize pension overpayments for re-employed retirees working for the State it is necessary that we have the required payroll information on a regular basis, not at the time the audit is in progress. By the time we are notified of violations a year or so has passed, which could translate into large overpayments. Before the State implemented their new payroll system, PAYSR, we would receive "non-member" payroll information from the bi-weekly payroll tapes. This non-member information was very helpful in isolating and preventing overpayments. Since their payroll conversion the State has been very reluctant in supplying this information.

It is NYCERS responsibility, and Comptrollers as custodian of the fund, to minimize if not eliminate pension overpayments all together. To attain that goal I am requesting your services and influence in attaining New York State payroll information on a regular basis. It is in our best interest, as I believe it is with the State, to share this limited information with one another.

Very truly yours,


Andrew N. Feneck

Director, Benefit Disbursements

cc: John Murphy
Milton Aron
Karl Bloom

NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM

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

EXECUTIVE DIRECTOR: JOHN J. MURPHY

MEMORANDUM

To: Andrew Feneck, Karl Bloom

From: Salwa Boutros

Date: 6/16/04

Subject: NYCERS follow-up to Comptroller's Report # FL04-148A

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

Service Retirees working as Consultants for New York City & State

██████████ retired from Bronx District Attorney Office and works for the Supreme Court. He exceeded the limitation in June 2002 and was overpaid for 6 months. We will collect the overpayment starting from the month of June 2004.

██████████ retired from the City. He is working as a consultant for the Supreme Court. ██████████ has no earning limitation because his membership date for his State transferred time was 07/01/1962 which is prior to the cutoff date of 05/31/1973. A transfer to NYCERS from another NYSPERS is considered a deemed member with the effective date of the transferred membership. Please see the attached memo. †

██████████ retired from a Public Benefit Corporation and is working for the Supreme CT. He exceeded the limitation in October, 2002 and was overpaid for two months. We will recover the overpayment starting from 06 /2004.

██████████ retired from Dept of Social Services. She is working for the Dept of Social Services. She exceeded the limitation in August 2002 and was overpaid for one month. We will recover the overpayment starting from 06 /2004.

Disability Retirees Working as Consultants.

██████████ retired from the Housing Authority and is not subject to Section 13-171 of the NYC Administrative Code, since he has met the minimum service required for his plan. Please Note: No action will be taken at this time as we are waiting for an opinion from NYC Corporation Counsel regarding the status of disability retiree's eligibility as consultants with regard to Section 1117 of the NYC Charter.

██████████ retired from the Transit Authority and is not subject to Section 13-171 of the Administrative Code, since he met the minimum service required for his plan. Section 1117 of the NYC Charter does not apply in this case because he retired from the Transit Authority.



New York City Police Pension Fund

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

Executive Director-Michael D. Walsome

June 11, 2004

Greg Brooks
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
1 Centre Street Room 500
New York, NY 10007-2341

Re: Audit Report on NYC Pensioners
Working as Consultants for New
York City After Retirement
January 1, 2002 to December 31, 2002
FL04-148A

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 receiving payments from the City for providing professional services as consultants. City retirement system officials should also commence prompt recoupment action against those individual 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 2 retirees listed by the Comptrollers Office in the May 24, 2004 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 and/or Section 211.1(a) of the New York State Retirement & Social Security Law.

Recommendation #2

Forward to the Department of Investigation, if the circumstances warrant such action, the names of individual sound 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

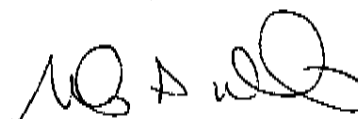
Send special reminders to all retirees that clearly state their responsibilities when returning to public service after retirement.

Response

Upon retirement, each member receives the restrictions on employment after retirement in a special handout. A letter outlining this policy was prepared and mailed to all retirees in the calendar year 2001 and a new letter will be mailed out this fall. 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,



Michael D. Welsome
Executive Director
Police Pension Fund

MDW:hdm



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

June 23, 2004

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

RE: Audit Report on NYC Teachers' Retirement System
Pedagogical Pensioners Working as Consultants
January 1, 2002 to December 31, 2002
FL 04-148A

Dear Mr. Brooks,

We are in receipt of the above referenced draft audit report on re-employment of "New York City Pensioners Working as Consultants for the City of New York after Retirement," for the period of January 1, 2002 through December 31, 2002. The three pensioners, identified as currently receiving a pension benefit while re-employed in public service with the City of New York has been fully investigated. We are in the process of recouping the overpayments.

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

Again, as part of the TRS original audit plan, it is customary for the 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 the existing laws. In conclusion, we would like to acknowledge the efforts to comply where feasible.

If you have any further questions regarding this status report, please feel free to contact me at 1 (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, and M. Mullany

REPORT #3 - CONSULTANT

PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM
CONSULTANT 2002 MATCHES (LACK OF WAIVERS)

Seq #	S.S.#	Name	Pension #	Date Retired	2002 Pension	Months Overpaid	Amount Overpaid	2002 Employer	OTC Salary	TRS Salary	TRS Response / Findings	211 Waiver on File	Status
1	[REDACTED]	[REDACTED]	U701716-0	9/10/98	\$43,528	5 Lump Sum	\$17,914 * 21,025	SUPREME CT	\$41,025	0	Exceeded No Reported wages in UFS Warning letter sent Member called 6/21/04 stating did not exceed * OTC salary \$41,025	N	Exceed
2	[REDACTED]	[REDACTED]	U001962-0	10/1/98	27,037	1 Lump Sum	1,703 * 11,500	DOE	31,500	0	Exceeded No Reported wages in UFS Warning letter sent * OTC salary \$31,500	N	Exceed
3	[REDACTED]	[REDACTED]	U704126-0	7/1/99	51,269	3 Lump Sum	12,597 * 16,739	DOE BRONX CC QNS-CC	11,850 10,280 4,609	9,633	Exceeded As per TRS record member did not exceed Warning letter sent * OTC salary \$26,739	N	Exceed



* Lump sum payment option
** IA15 letters were sent 6/9/04

- 1 -
Internal Audit Division



FIRE DEPARTMENT

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

FRANK J. BUCCELLATO
Chief Compliance Officer
Strategic Planning, Audit & Review

Room #85-9

June 18, 2004

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 as Consultants for the City after Retirement. January 1, 2002 – December 31, 2002. FL04-148A .

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 FL04-148A**Audit Recommendations / FDNY Response – Agency Implementation Plan**

- 1) Investigate those individuals identified as concurrently receiving pensions while receiving payments from the City for providing professional services as consultants. City retirement system officials should also commence prompt recoupment action against those individuals found to be illegally collecting pensions.

FDNY Response – Not applicable. The Department agrees that it should investigate and take action against any identified individuals, however none were identified in the audit.

- 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) Send special reminders to service retirees that clearly state their responsibilities when returning to public service after retirement.

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

BOARD OF EDUCATION RETIREMENT SYSTEM
OF THE CITY OF NEW YORK

ADDENDUM V
1 of 1



CHRISTINE BAILEY
EXECUTIVE DIRECTOR

KATHLEEN GRIMM, Co-Chair

REBECCA MARSTON, Co-Chair

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THOMAS J. MALANGA
RICHARD L. MENSCHEL
MARITA REGAN
AUGUSTA SOUZA KAPPNER
TRUSTEES

June 18, 2004

Greg Brooks
Deputy Comptroller
For Audits and Engineering
1 Centre Street – 5th Floor
New York, N.Y. 10007-2341

**Re: Audit Report on NYC Board of Education
Pensioners Working as Consultants for
The City After Their Retirement
January 1, 2001, to December 31, 2002
FL 04-148A**

Dear Mr. Brooks:

We are in receipt of the above referenced audit draft audit report on re-employment of “New York City Board of Education Pensioners Working as Consultants for the City of New York After Their Retirement”, for the period January 1, 2001 through December 31, 2002.

In your report you identified one pensioner of the Board of Education Retirement System (BERS) who was found to have violated the New York State Education Law (Title 2, Article 52, § 2575), combined with the New York City Charter (§ 1117) during calendar year 2002.

As recommended, we will conduct our own investigation of the pensioner cited in your report. Upon completion of our investigation, and as further proof that the pensioner did indeed violate the laws we will commence recoupment actions.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bailey".

Christine Bailey
Executive Director

c: Anthony Scully
Board of Trustees