

# AUDIT REPORT

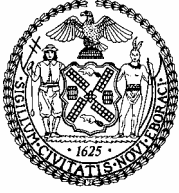


CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BUREAU OF FINANCIAL AUDIT  
**WILLIAM C. THOMPSON, JR., COMPTROLLER**

## **Audit Report on NYC Pensioners Working for New York State After Their Retirement January 1, 2004 – December 31, 2004**

*FL06-101A*

**June 30, 2006**



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 reemployed by New York State and illegally collecting a pension, 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 2004.

A retiree of any of the five New York City retirement systems who is reemployed in State or City government service may not continue to collect pension benefits except in accordance with conditions established by the New York State Retirement and Social Security Law, the New York City Administrative Code, and the New York City Charter. Audits such as this provide a means of ensuring that pensioners are complying with all laws pertaining to public service reemployment and that appropriate steps are taken to recoup improper payments to individuals after retirement.

The results of our audit, which are presented in this report, have been discussed with officials of the five New York City retirement systems, and their comments have been considered in preparing this report. Their complete responses are attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at [audit@Comptroller.nyc.gov](mailto:audit@Comptroller.nyc.gov) or telephone my office at 212-669-3747.

Very truly yours,

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

William C. Thompson, Jr.

WCT/fh

**Report: FL06-101A**

**Filed: June 30, 2006**

*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, 2004—December 31, 2004**

**FL06-101A**

**AUDIT REPORT IN BRIEF**

The objective of this audit was to identify New York City pensioners who may be reemployed by New York State and illegally collecting a pension from a New York City retirement system—known as “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 2004.

**Audit Findings and Conclusions**

The audit found that 20 individuals who received \$335,425 in pension payments during 2004 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**

The audit made four recommendations, that New York City retirement systems officials should:

- Investigate those individuals identified as receiving pensions while being reemployed 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 reemployment.

## **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 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 reemployed in New York public service and who exceeds the §212 salary limitations may have his or her pension benefits denied, unless the service retiree requests that the prospective employer apply for a waiver from the State or municipal Civil Service Commission or other authorized agency. The prospective employer must set forth the reasons for the application 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)
- Municipal Civil Service Commission of the City of New York (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 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). For calendar year 2004, 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 2004, the earnings limitation for a service retiree who filed a Statement of Election under §212 was \$27,500. Accordingly, any service retiree earning more than \$27,500 in 2004 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 reemployment 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 reemployment 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 reemployment 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, §13-172), provides for the reemployment 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 reemployed by New York State and illegally collecting a pension from a New York City retirement system—known as “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 2004.

### **Scope and Methodology**

Our audit period was January 1, 2004 through December 31, 2004. 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 reemployed by New York State agencies, the New York State Bureau of Payroll Audit (Office of the State Comptroller, Albany) performed a computer match of the approximately 277,000 New York City pensioners against a listing of all New York State workers (approximately 392,000 annually) who received a W-2 wage statement for the year 2004.<sup>1</sup> This matching process identified 295 individuals under age 65 who either received more than \$27,500 in 2004 (service retirees), or \$1,800 in 2004 (disability retirees). These individuals were then sorted by retirement system and investigated to determine the reasons why 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 2004, 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 2004. 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 295 matches, 173 were individuals collecting POLICE pensions, 78 were individuals collecting TRS pensions, 42 were individuals collecting NYCERS pensions, 2 were individuals collecting FIRE pensions, and there were no individuals collecting BERS pensions. For 295 individuals from POLICE, TRS, FIRE, and NYCERS we:

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<sup>1</sup> 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 2004: the five audits of City workers are FL06-096A (TRS), FL06-097A (BERS), FL06-098A (NYCERS), FL06-099A (POLICE), and FL06-100A (FIRE).

- obtained additional detailed information about their individual year 2004 pension and payroll payments;
- analyzed the timing, and, to some extent, the types of payments received;
- verified the amounts shown on the computer match listing; and
- met with retirement system representatives, who assisted us in searching their files for waivers and other relevant information.

Initial investigations eliminated 275 of these 295 individuals. The remaining 20 individuals appeared to lack valid reasons for being on both lists. Of the 20 individuals, 8 are service retirees and 12 are disability retirees. The total amount of improper pension payments is \$335,425 consisting of \$72,084 in improper pension payments to service retirees, and \$263,341 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	1	9	10	\$ 243,648
TRS	3	0	3	\$ 41,061
NYCERS	4	2	6	\$ 40,307
FIRE	<u>0</u>	<u>1</u>	<u>1</u>	<u>\$ 10,409</u>
<b>Total</b>	<b><u>8</u></b>	<b><u>12</u></b>	<b><u>20</u></b>	<b><u>\$ 335,425</u></b>

For those pensioners who appeared to lack valid reasons for receiving both pension and payroll checks, we calculated the apparent pension overpayments, based on our analyses of when these reemployed pensioners reached the legal earnings limitations of \$27,500 for service retirees, and \$1,800 for disability pensioners. The annuity portions of the pension payments, if any, are not affected by RSSL §211 and §212 and 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 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, and TRS. 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. This audit was performed in accordance with the audit responsibilities of the Comptroller 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 16, 2006, 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 16, 2006, 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 19, 2006, we received a response from the TRS Deputy Director, stating: "Please be advised that the Teachers' Retirement System (TRS) is in full compliance with your recommendations."

***FIRE Response:*** On June 21, 2006, we received a response from the FIRE Audit Manager, 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 15, 2006, 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.

## FINDINGS

### Overpayment of Pension Benefits

This audit identified 20 individuals who received \$335,425 in pension payments during 2004 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 20 pensioners and their current employers.)

As stated previously, we identified 20 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 20 individuals received improper pension payments of \$335,425, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
2004 §211/212 Violators	8	\$ 72,084
2004 §1117 Violators	<u>12</u>	<u>263,341</u>
Total	<u>20</u>	<u>\$ 335,425</u>

Our total represents the amount of improper 2004 pension payments based on an analysis of when the reemployed pensioners reached the legal earnings limitations of (\$27,500 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 disability retiree who was found to be working at a State agency for nine months of calendar year 2004:

**CASE #1:** 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 2004, totaling \$98,040. He worked as an Adjunct Lecturer for John Jay College for nine months of 2004 (January through May and September through December) and collected a salary of \$4,909. 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 2004 make the disability pension payments for that year improper. Thus, it appears that 8 months of disability checks (February through May and September through December 2004), totaling \$65,360 may have been improperly received and cashed in 2004.

The following is an example of a TRS service retiree who was found to be working at a State agency for the whole of calendar year 2004:

**CASE #2:** A Teacher who retired in August 1988, collected 12 pension checks (one each month) in calendar year 2004, totaling \$47,569. He worked as a Hearing Examiner for the Office of Court Administration, Ninth Judicial District for twelve months of 2004 (January through December) and collected a salary of \$92,091. This individual had a waiver for the period January 1, to March 2, 2004. He exceeded the \$27,500 cumulative salary earnings limit for service retirees on June 16, 2004. Therefore, it appears that six pension checks (July through December 2004) totaling \$23,790 may have been improperly received and cashed in calendar year 2004.

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 2004:

**CASE #3:** A Sanitation worker who retired in August 2001, collected 12 pension checks (one each month) in calendar year 2004, totaling \$32,067. He worked as a Correction Officer for the New York State Department of Correctional Services for twelve months of 2004 (January through December) and collected a salary of \$39,007. We found no evidence of a waiver for him for any portion of calendar year 2004. On September 16, 2004, his year 2004 cumulative salary earnings exceeded the \$27,500 limit for service retirees. Therefore, it appears that three pension checks (October through December 2004) totaling \$8,017 may have been improperly received and cashed in calendar year 2004.

The following is an example of a NYCERS disability retiree who was found to be working at a State agency for the whole of calendar year 2004:

**CASE #4:** A Correction Officer who retired in November 1992 on a disability, collected 12 pension checks (one each month) in calendar year 2004, totaling \$13,551. He worked as a Chaplain for the New York State Department of Correctional Services for twelve months of 2004 (January through December) and collected a salary of \$18,138. He began working for the Department of Correction in 1982, and therefore, cannot qualify for the “Disability Safeguards” provisions beyond 2002. Accordingly, any earnings above the \$1,800 for 2004 make the disability pension payments for that year improper. Thus, it appears that 10 months of disability

checks (March through December 2004), totaling \$11,300 may have been improperly received and cashed in 2004.

## RECOMMENDATIONS

Officials of the New York City retirement systems should:

1. Investigate those individuals identified as concurrently receiving pensions while being reemployed 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 six pensioners named four were in violation of §212 of the RSSL and one was in violation of the Personal Service Income limitations pursuant to §605 of the RSSL. All five were suspended by the May 2006 payroll. The other pensioner named is retired as a disability pursuant of §507a of the RSSL and was not in violation, as the Personal Service Income Limitation was \$23,500 for calendar year 2004 and the pensioner only earned \$13,100. See enclosed memo by the NYC Law Department, dated December 9, 2005, that addresses income limitations for reemployed retirees that retired pursuant of §605 or §507a of the RSSL.”

**Auditor Comment:** While we are pleased that NYCERS has investigated the cited pensioners, we disagree with NYCERS interpretation of RSSL § 605 and §507a. RSSL § 605 and §507a do not give NYCERS the authority to create its own income limitation for disability pensioners that is contrary to the amount set by § 1117 of the New York City Charter.

In addition, the Comptroller’s General Counsel’s Office has reviewed the Law Department’s opinion dated December 9, 2005 and opined as follows:

The Law Department’s reliance in its December 9 opinion on RSSL §605, “Disability retirement,” to create an exception to Charter §1117 is unpersuasive. Section 605 provides only that a criterion for eligibility for a disability pension from NYCERS and other non-uniformed services’ public pension plans is that the member “is physically or mentally incapacitated for the performance of gainful employment...” The Law Department opinion argues that this phrase allowed NYCERS to “set an

amount of personal service income which a disability retiree could earn after retirement before being considered ‘gainfully employed’ and, therefore, subject to pension suspension.” That RSSL §605 language, however, refers only to the member’s physical or mental condition; it does not in any way refer to allowing a plan to set a level of State or City employment income that a disability retiree would be permitted to earn without triggering Charter §1117. Indeed, there is no mention whatsoever in RSSL §605 (or in §§507-a or –c) of setting an earned income limitation for any purpose, let alone of creating an exception to Charter §1117. Accordingly, there is also no support for the further statement in the Law Department’s December 9 opinion that “the requirement of the later-enacted [RSSL] statutes supersede the \$1,800 earnings cap of Charter §1117” for City disability retirees.

We maintain that all six NYCERS pensioners 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, NYCERS, and FIRE 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, NYCERS, and FIRE agreed with this recommendation.

There were no BERS pensioners cited in this report.

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 reemployment.

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

APPENDIX I

SUMMARY OF 2004 OVERPAYMENTS

	SERVICE		DISABILITY		TOTAL	
	Persons	Amount	Persons	Amount	Persons	Amount
<b>POLICE</b>	1	10,428	9	233,220	10	243,648
<b>TEACHER</b>	3	41,061	0	0	3	41,061
<b>NYGERS</b>	4	20,595	2	19,712	6	40,307
<b>FIRE</b>	0	0	1	10,409	1	10,409
<b>TOTAL</b>	<b>8</b>	<b>\$72,084</b>	<b>12</b>	<b>\$263,341</b>	<b>20</b>	<b>\$335,425</b>

**APPENDIX II  
2004 PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND  
SERVICE RETIREES**

Pension Number	Date Retired	2004 Pension	Months Overpaid	Amount Overpaid	2004 Employer	Payroll Code	2004 Salary	Waiver Issuing Agency	Waiver in 2004
P-025576-0	04/29/85	\$ 13,889	9	\$ 10,428	OFF OF COURT ADMIN FIN MAN	5609	\$125,864	CAC	NO

Total Individuals: 1                                  Total:     \$ 10,428

**NOTES:**

CAC                                  OFF OF COURT ADMIN FIN MAN     Office of Court Administration Financial Management  
 Chief Administrator of the Courts

**APPENDIX III**  
**2004 PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND**  
**DISABILITY RETIREES**

Pension Number	Date Retired	2004 Pension	Months Overpaid	Amount Overpaid	2004 Employer	Payroll Code	2004 Salary	Disability Safeguards
Case #1 *P-051789-0	08/31/02	\$ 98,040	8	\$ 65,360	John Jay Coll Adj	70061	\$ 4,909	NO
<P-021976-0	10/20/82	\$ 42,078	11	38,576	Long Island Park Comm	49220	11,257	NO
^P-022920-0	07/04/83	\$ 30,780	11	28,220	Palisades Inter Park Comm	49059	30,578	NO
**P-010350-0	02/15/75	\$ 29,733	11	27,260	Mass Count Supre Court	5519	136,987	NO
					Queens Coll Adj	70041		
P-026931-0	01/31/86	\$ 29,441	11	26,992	Supreme Court	5979	136,987	NO
@P-020114-0	11/06/81	\$ 18,128	11	16,622	SUNY System Admin	28650	83,988	NO
P-046549-0	12/31/99	\$ 41,883	4	13,961	Div of Mil & Naval Aff	1071	9,792	NO
					Div of Mil & Naval Aff SAD	1072		
P-026258-0	07/31/85	\$ 34,758	4	11,611	State Univ Coll at Farm	28390	4,484	NO
*P-052119-0	11/23/02	\$ 102,720	DS	4,617	South Beach Psy Center	50790	5,474	YES

**Total Individuals: 9**

**Total: \$ 233,220**

**Notes:**

- |                            |   |
|----------------------------|---|
| John Jay Coll Adj          | City University of New York John Jay College Adjunct              |
| Long Island Park Comm      | Office of Parks & Recreation Long Island Park Commission          |
| Palisades Inter Park Comm  | Office of Parks & Recreation Palisades Interstate Park Commission |
| Mass Count Supre Court     | Office of Court Administration Nassau County Supreme Court        |
| Queens Coll Adj            | City University of New York Queens College Adjunct                |
| SUNY System Admin          | State University of New York System Administration                |
| Div of Mil & Naval Aff     | Division of Military & Naval Affairs                              |
| Div of Mil & Naval Aff SAD | Division of Military & Naval Affairs SAD                          |
| State Univ Coll at Farm    | State University of New York at Farmingdale                       |
| South Beach Psy Center     | Office of Mental Health South Beach Psychiatric Center            |
| Supreme Court              | Office of Court Administration Supreme Court                      |
| DS                         | Disability Safeguards   |
- \* This individual was also cited in our prior audit for 2003.  
\*\* This individual was also cited in our prior audits for 2002 and 2003  
@ This individual was also cited in our prior audits for 1993 to 1996, 2002, and 2003  
^ This individual was also cited in our prior audits for 1995 to 1997, and 2001 to 2003.  
< This individual was also cited in our prior audits for 1993 to 1998, and 2000 and 2003



**APPENDIX IV  
2004 PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM  
SERVICE RETIREES**

Pension Number	Date Retired	2004 Pension	Months Overpaid	Amount Overpaid	2004 Employer	Payroll Code	2004 Salary	Waiver Issuing Agency	Waiver in 2004
Case #2 U-705453-0	08/02/88	\$ 47,569	6	\$ 23,790	NINTH JUDICI	5597	\$92,091	CAC	3/2/02-3/2/04
U-023071-0	09/10/90	\$ 10,721	5	\$ 10,721	NYC FAM COURT	5627	\$50,912	CAC	NO
U-708601-0	07/01/01	\$ 90,677	1	\$ 6,550	QUEENS COL ADJ	70041	\$29,214	CUNY	NO
					STONY BROOK	28050		SUNY	
					DOE	747		DOEC	

**Total Individuals: 3**

**Total: \$ 41,061**

**NOTES:**

QUEENS COL ADJ  
 STONY BROOK  
 NYC FAM COURT  
 DOE  
 NINTH JUDICI  
 CUNY  
 DOEC  
 SUNY  
 CAC

City University of New York Queens College Adjunct  
 State University of New York at Stony Brook  
 Office of Court Administration NYC Family Court  
 Department of Education  
 Office of Court Administration Ninth Judicial District  
 City University of New York  
 Department of Education Chancellor  
 State University of New York  
 Chief Administrator of the Courts

**APPENDIX V  
2004 PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM  
SERVICE RETIREES**

Pension Number	Date Retired	2004 Pension	Months Overpaid	Amount Overpaid	2004 Employer	Payroll Code	2004 Salary	Waiver Issuing Agency	Waiver in 2004
Case#3 N-318012-0	08/02/01	\$ 32,067	3	\$ 8,017	DEPT OF CORR ART KILL	10150	\$39,007	NYSCSC	NO
* N-313002-0	10/05/94	\$ 22,219	4	7,406	OFF OF CHILD AND FAM SERV	25000	46,649	NYSCSC	NO
N-241220-0	04/30/95	\$ 12,929	3	3,232	BROOK CHILD PSY CENT	50520	41,291	NYSCSC	NO
N-231754-0	04/01/94	\$ 7,760	3	1,940	NYS ALCO TREAT CTR	53500	41,587	NYSCSC	NO

**Total Individuals: 4**

**Total: \$ 20,595**

**Notes:**

DEPT OF CORR ART KILL                      Department of Correctional Services Arthur Kill Correctional Facility  
OFF OF CHILD AND FAM SERV              Office of Child and Family Services  
NYS ALCO TREAT CTR                        NYS Alcohol Treatment Centers  
BROOK CHILD PSY CENT                    Office of Mental Health Brooklyn Children's PSY Center

NYSCSC

New York State Civil Service Commission

\*

This individual was also cited in our prior audits for 2003 and 2002.

**APPENDIX VI**  
**2004 PENSION OVERPAYMENTS - NYC EMPLOYEES' RETIREMENT SYSTEM**  
**DISABILITY RETIREES**

Pension Number	Date Retired	2004 Pension	Months Overpaid	Amount Overpaid	2004 Employer	Payroll Code	2004 Salary	Disability Safegaurds
Case #4 N-302457-0	11/23/1992	\$ 13,551	10	\$ 11,300	DEPT OF COR	10160	\$ 18,138	NO
* N-313070-0	6/26/1999	\$ 10,067	10	\$ 8,411	DEPT OF HEALTH	12150	\$ 29,973	NO

**Total:**      \$ 19,712

Total Individuals: 2

**NOTES:**

DEPT OF HEALTH      Department of Health - St. Albans Home for Veterans  
DEPT OF COR      Department of Correctional Services - State Office Campus

\* This individual was also cited in our prior audit for 2003.

APPENDIX VII  
 2004 PENSION OVERPAYMENTS - NYC FIRE DEPARTMENT PENSION FUND  
 DISABILITY RETIREES

Pension Number	Date Retired	2004 Pension	Months Overpaid	Amount Overpaid	2004 Employer	Payroll Code	2004 Salary	Disability Safeguards
R-014064-0	8/1/1990	\$ 41,696	3	\$ 10,409	JOHN JAY COLL	70061	\$ 2,412	NO

Total Individuals: 1                      Total:    \$ 10,409

NOTES:

JOHN JAY COLL    City University of New York John Jay College

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

<b>Current State Employer</b>	<b>Payroll Code</b>	<b>Individuals Paid under Code</b>				<b>TOTAL</b>
		<b>NYCERS 2004</b>	<b>TRS 2004</b>	<b>POLICE 2004</b>	<b>FIRE 2004</b>	
Department of Education	747		1			1
Division of Military & Naval Affairs	1071			1		1
Division of Military & Naval Affairs SAD	1072			1		1
Office of Court Administration Nassau County Supreme Court	5519			1		1
Office of Court Administration Ninth Judicial District	5597		1			1
Office of Court Administration Financial Management	5609			1		1
Office of Court Administration NYC Family Court	5627		1			1
Office of Court Administration Supreme Court	5979			1		1
Department of Correctional Services Arthur Kill Correctional Facility	10150	1				1
Department of Correctional Services - State Office Campus	10160	1				1
Department of Health - St. Albans Home for Veterans	12150	1				1
Office of Child and Family Services	25000	1				1
State University of New York at Farmingdale	28390			1		1
State University of New York System Administration	28650			1		1
Office of Parks & Recreation Palisades Interstate Park Commission	49059			1		1
Office of Parks & Recreation Long Island Park Commission	49220			1		1
Office of Mental Health Brooklyn Children's PSY Center	50520	1				1
Office of Mental Health South Beach Psychiatric Center	50790			1		1
NYS Alcohol Treatment Centers	53500	1				1
Suny at Stony Brook	28050 / 28058		1			1
Cuny Queens College / Adjunct	70040 / 70041		1	1		2
Cuny John Jay College / Adjunct	70060 / 70061			1	1	2
<b>Total</b>		<b>6</b>	<b>5</b>	<b>12</b>	<b>1</b>	<b>24</b>



# New York City Police Pension Fund

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

Executive Director-Michael D. Wolsome

**June 14, 2006**

**John Graham  
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, 2004 – December 31, 2004  
FL06-101A**

**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.**

Regarding the 10 retirees listed by the Comptrollers Office in the June 2, 2006 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**

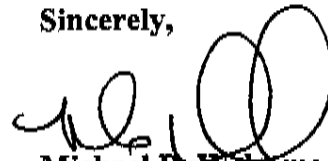
Send special reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service re-employment.

**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', written in a cursive style.

**Michael D. Welsome  
Executive Director  
Police Pension Fund**

**MDW:hdm**





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

Date: June 19, 2006

Mr. 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 for the State  
January 1, 2004 to December 31, 2004  
FL06-101A

Dear Mr. Brooks:

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 type of action that was being 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 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 (212) 612-5503.

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Charles", written over a circular stamp or seal.

Stan Charles  
Deputy Director  
Internal Audit Division

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

# 2004 EARNINGS AFTER RETIREMENT (EAR) STATE REPORT

2004 EAR Limit = \$27,500

## PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM

### 2004 STATE MATCHES

Name	S.S.#	Pension #	Date Retiree	2004 Pension	Mths Ovpd	Amount Ovpd	2004 Employer	OTC Salary	TRS Salary	TRS Response/Findings	211 Waiver	Status
1	[REDACTED]	U-023071-0	09/10/90	\$ 10,721	5	\$ 10,721	NYC FAM COURT	\$ 50,912	\$50,912	6/12/06 - Mailed out IA15	NO	Pending Review
2	[REDACTED]	U-708601-0	07/01/01	\$ 90,677	1	\$ 6,550	QUEENS COL ADJ STONY BROOK DOE	\$ 29,214	\$29,214	6/12/06 - Mailed out IA15	NO	Pending Review
3	[REDACTED]	U-705453-0	08/02/88	\$ 47,569	6	\$ 23,790	NINTH JUDICI	\$ 92,091	\$92,091	Approved 211 waiver on file	3/2/02- 3/2/04	Pending Review

Total Individuals : 3

Total : \$ 41,061

# 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: DIANE D'ALESSANDRO

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

June 16, 2006  
Audit Report FL06-101A

Dear Mr. Graham:

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 six pensioners named four were in violation of §212 of the RSSL and one was in violation of the Personal Service Income limitations pursuant to §605 of the RSSL. All five were suspended by the May 2006 payroll. The other pensioner named is retired as a disability pursuant to §507a of the RSSL and was not in violation, as the Personal Service Income Limitation was \$23,500 for calendar year 2004 and the pensioner only earned \$13,100. See enclosed memo by the NYC Law Department, dated December 9, 2005, that addresses income limitations for re-employed retirees that retired pursuant to §605 or §507a of the RSSL.

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.

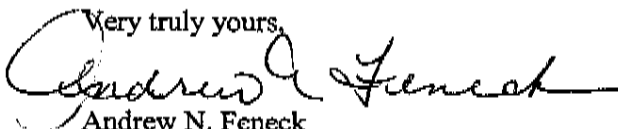
In addition, all pension overpayments for individuals cited in previously audit reports have either been fully recouped or are in the process of being recouped.

As part of our audit plan, NYCERS suspends the retirement allowance when the pensioner exceeds the earning 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.

It is NYCERS responsibility and the Comptrollers Office as Custodian of the Fund to minimize pension overpayments. 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 for the State, to share this limited information with one another. By the time we are notified of violations a year or so has passed, which could translate into large overpayments.

Enclosed are our detailed responses for each pensioner cited in this audit report. If you have any questions, I can be reached at the telephone number below.

Very truly yours,



Andrew N. Feneck  
Director, Benefit Disbursements

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

Visit our Website at:  
[www.nycers.org](http://www.nycers.org)

# NYCERS

RETIREMENT AND BENEFITS

NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM

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

ALL OTHER SERVICES:  
340 JAY STREET,  
MEZZANINE LEVEL  
BROOKLYN, NY 11201-3751

TEL: (347) 643-3000

EXECUTIVE DIRECTOR: DIANE D'ALESSANDRO

**To: Karl Bloom**

**From: Salwa Boutros**

**Date: 06/16/06**

**Subject: NYCERS follow up to Comptroller's Report # FL06-101A**

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

Year 2004 NY State Matches (Lack of Waivers)

**Service retirees working for New York State**

P# 318012

[REDACTED] retired from Department of Sanitation. He was overpaid from October 2004 through December 2004 pursuant to §212 of the RSSL. Therefore, his pension allowance was suspended for 3 months starting 5/2006.

P# 313002

[REDACTED] retired from Department of Correction. He was overpaid from October 2004 to December 2004 pursuant to §212 of the RSSL. Therefore, his pension allowance was suspended for 3 months from 3/2006 through 5/2006.

P# 241220

[REDACTED] retired from Department of Social Services. He was overpaid from October 2004 through December 2004 pursuant to §212 of the RSSL. Therefore, his pension allowance was suspended for 3 months starting 5/2006.

P# 231754

[REDACTED] retired from Department of Social Services. He was overpaid from October 2004 through December 2004 pursuant to §212 of the RSSL. Therefore, his pension allowance was suspended for 3 months starting 5/2006.

**Disability Retirees working for New York State:**

P# 302457

[REDACTED] who retired under §507a of the RSSL did not exceed the income limitation for the year 2004 as he only earned \$13,100. The personal service income limitation for 2004 was \$23,500.

P# 313070

[REDACTED] retired from Queens Borough Community College pursuant to §605 of the RSSL. She was overpaid for 12 months in calendar year 2004. Therefore, her pension allowance was suspended effective 03/2006 through 02/2007.



# FIRE DEPARTMENT

9 MetroTech Center, 8<sup>TH</sup> Floor - Brooklyn N. Y. 11201-3857

**Ray Saylor**  
*Internal Audit Manager*



June 21, 2006

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

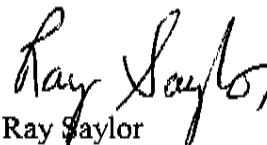
**Re: Audit Report on New York City Pensioners working for New York State after Retirement. January 1, 2004 – December 31, 2004. FL06-101A .**

Dear Mr. Graham:

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,

  
Ray Saylor

cc: M. Vecchi  
M. Basso

**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. FDNY will 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 70, 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.*

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



CHRISTINE BAILEY  
EXECUTIVE DIRECTOR

718-935-6400  
OUTSIDE NEW YORK STATE  
1-800-843-5575

June 12, 2006

Mr. John Graham, Deputy Comptroller  
Policy, Audits Accountancy & Contracts  
1 Centre Street – 5<sup>th</sup> 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, 2004 - December 31, 2004  
FL06-101A

Dear Mr. Graham:

We have reviewed 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, 2004 through December 31, 2004. 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 continuous adherence to the existing laws. Lastly, we would like to acknowledge the efforts of all parties involved in conducting this audit. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bailey", written over a horizontal line.

Christine Bailey  
Executive Director

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