

City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



FINANCIAL AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the Pedagogical
Pensioners of the New York City
Teachers' Retirement System Working
for the City after Retirement
January 1, 2014 to December 31, 2014

FN15-082A

March 29, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, NY 10007

SCOTT M. STRINGER
COMPTROLLER

March 29, 2016

To the Residents of the City of New York:

My office has audited the New York City Teachers Retirement System (TRS) to identify New York City pensioners who may be re-employed by a City agency and simultaneously illegally collecting a pension from TRS and to quantify the amount of any improper payments to such individuals who appear to be violators of the New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during Calendar Year 2014. We audit the City's pension funds to ensure that pensioners are complying with all laws pertaining to public service re-employment and that appropriate steps are taken to recoup any improper payments made to individuals after retirement.

This audit found 11 TRS pensioners who violated sections of RSSL §211-§212. According to RSSL §211 and §212, service retirees who are under the age of 65, re-employed in New York public service without a waiver, and whose salary exceeds the income limitations of \$30,000 in Calendar Year 2014, should have their pension benefits suspended, except in limited circumstances. The audit determined that these 11 pensioners received \$111,913 in pension overpayments in violation of the RSSL.


In addition, instead of suspending the retirement benefits of the pensioners who received excess income, TRS instructed the employer to recoup excessive wages above the \$30,000 threshold from those pensioners. However, the audit found the recoupment of wages from three of the 10 retirees to have been insufficient. Finally, the audit identified 154 TRS pensioners for whom the birth dates maintained in the City's Pension Payroll Management System (PPMS) were different from the birth dates found in TRS' records.

The audit recommends that TRS investigate the propriety of the payments to the 11 individuals identified in this report, and if they are confirmed to have received pension payments in violation of State or City law, recoup the overpayments. We further recommend that TRS send reminders to service retirees under the age of 65 and to all disability retirees that clearly state the applicable income limitations and the retirees' responsibilities regarding public service re-employment. Finally the audit recommends that TRS take appropriate action to correct the birth dates in PPMS and/or TRS records for the 154 pensioners identified in the report.

The results of this audit have been discussed with TRS officials and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,



Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Pedagogical Pensioners of the New York City Teachers' Retirement System Working for the City after Retirement January 1, 2014 – December 31, 2014

FN15-082A

EXECUTIVE SUMMARY

The objectives of this audit are: (1) to identify New York City pensioners who may be reemployed by a City agency and simultaneously illegally collecting a pension from the New York City Teachers Retirement System (TRS); and (2) to quantify the amount of any improper payments to such individuals who appear to have violated New York State Retirement and Social Security Law (RSSL) §211 and §212 or New York City Charter §1117 during Calendar Year 2014.

TRS provides retirement benefits to pedagogical civil service employees who were employed by the City of New York.¹ The reemployment of retired public employees in public service is governed by the RSSL.² Specifically, under RSSL Article 7, §212, a service retiree (a person receiving retirement benefits rather than a disability retirement) who is under the age of 65 can be reemployed in New York public service subject to an annual \$30,000 earning limitation. This means that a TRS member who is not collecting a disability pension, under age 65, may collect his/her pension and work for the City or State so long as he/she does not earn in excess of \$30,000 per year from a public service position. If an under-65 service retiree earns in excess of \$30,000 per year from a City or State public service position, the pension payments should be suspended unless the retiree has obtained a waiver under the RSSL.³

Disability retirees are not subject to RSSL §211 and §212, but rather 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 in New York public service unless the retiree's disability pension is suspended during the

¹ Pedagogical employees are defined as teachers and other educators.

² RSSL §210 defines "public service" as the service of the state or any political division, including a special district, district corporation, school district, board of cooperative educational services or county vocational education and extension board, or the service of a public benefit corporation or public authority created by or pursuant to laws of the state of New York, or service of any agency or organization which contributes as a participating employer in a retirement system or pension plan administered by the state or any of its political subdivisions.

³ The earnings limitation does not apply after the retiree reaches the age of 65.

time of such employment. A retiree's disability payments are included in the calculation of whether the \$1,800 cap has been exceeded.

Audit Finding and Conclusion

Our audit found 11 TRS pensioners who violated RSSL §211-§212. These pensioners were under the age of 65 and received a total of \$379,032 in post-retirement earnings for Calendar Year 2014. Those earnings resulted in \$111,913 of pension overpayments to the 11 pensioners. In addition, we found that instead of suspending the retirement benefits of these the pensioners it identified as receiving excess income, TRS instructed the employer to recoup excessive wages above the \$30,000 threshold from those pensioners. However, we found the recoupment of wages from three service retirees to be insufficient because TRS used incorrect wage data to determine the recoupment amount. In each of these three cases, TRS erroneously based its calculations on the amounts paid in 2014 rather than the amounts earned in 2014, i.e., it included prior-year earnings that were paid in Calendar Year 2014 and excluded current-year earnings that were paid in 2015 when determining the recoupment amount. As a result, the recoupment amounts were not accurately calculated.

Finally, the birthdates for 154 out of approximately 81,000 TRS pensioners whose birth dates are maintained in the City's Pension Payroll Management System (PPMS) were different from the birth dates found in TRS' records. We informed TRS officials of the birth-date discrepancies. TRS stated that the discrepancies we found occurred as a result of their transfer of old pension data from two different systems. Upon TRS' review of the birth-date discrepancies, TRS officials determined that the majority of them were the result of incorrect data in TRS' database.

Audit Recommendations

To address the non-compliance issue, we recommend that TRS:

- Investigate those individuals identified in this report; if they are in violation of State or City regulations, commence recoupment action against them.
- Send special reminders to its service retirees under the age of 65 and its disability retirees to detail their responsibilities regarding compliance with public service reemployment requirements.
- Use earned wages when: (i) determining whether a retiree is violating RSSL or NYC Charter, and (ii) calculating the recoupment amount.
- Take appropriate action, including but not limited to contacting the pensioners and requesting them to submit appropriate documentation to determine the correct birth dates of the 154 pensioners identified in this report and correct the birth dates in PPMS and/or TRS's records.

Agency Response

TRS officials generally agreed with the recommendations in the report and provided us with information detailing the steps that they had taken and will be taking to recoup the overpayments, inform their members regarding the reemployment restrictions and correct birth-date inconsistencies. As to the third recommendation, TRS officials stated that they used the correct earning data to calculate the recoupment of excess wages.

AUDIT REPORT

Background

TRS provides retirement benefits to pedagogical civil service employees who were employed by the City of New York.⁴ The reemployment of retired public employees in public service is governed by the RSSL. Specifically, under RSSL Article 7, §212, a service retiree (a person receiving retirement benefits rather than disability retirement benefits) who is under age of 65 can be reemployed in New York public service subject to an annual \$30,000 earning limitation. This means that a member of TRS who retires before the age of 65 and is under the age of 65, and who is not collecting a disability pension, may collect his/her pension and work for the City or State, so long as he/she does not earn in excess of \$30,000 per year from a New York State public service position.

If a retiree's post-retirement earnings in a New York City or State public service position exceeds the annual earnings limitation, the retiree's pension benefits should be suspended unless the retiree has obtained a waiver under RSSL §211. For a service retiree to obtain a waiver, the prospective employer must submit a request to the appropriate authorizing agency. Waiver requests must include a statement setting forth the reasons for the waiver application. Further, the application must show that the person's skills are unique, that the person's hire would be 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 waivers and any renewals may be for periods of up to two years.

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)
- Chancellor of State University (SUNY)
- Administrator of Courts (NYS-NYC)

There are five New York City retirement systems, each of which provide benefits to different employees of the City of New York. They are:

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

⁴ TRS is a multiple-employer pension plan. The primary employers include the City of New York, the City University of New York, and 12 charter schools. Substantially, all teachers in the public schools of The City become members of the Plan.

- New York City Teachers' Retirement System (TRS)

Disability retirees are not subject to RSSL §211 and §212, but rather 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 in New York public service unless the retiree's disability pension is suspended during the time of such employment. A retiree's disability payments are included in the calculation of whether the \$1,800 cap has been exceeded.

When a retired employee subject to RSSL §211-§212 does not obtain a waiver and collects a pension while earning in excess of \$30,000 in a public service job or, similarly, when a disabled pensioner who is subject to New York City Charter §1117 receives pension payments and earnings from a public sector position in excess of \$1,800, the retiree is said to be "double-dipping."

Objectives

The audit's objectives are: (1) to identify New York City pensioners who may be reemployed by a City agency and simultaneously illegally collecting a pension from TRS; and (2) to quantify the amount of any improper payments to such individuals who appear to be violators of RSSL §211 and §212 or New York City Charter §1117 during Calendar Year 2014.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Although our audit did not include local government employees paid by systems other than those integrated with Financial Information Services Agency (FISA), we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

In accordance with §13-507 of the New York City Administrative Code, the Comptroller is one of seven trustees of the TRS Board. The Comptroller sits on the Board through a representative. Neither the Comptroller nor his representative on the Board were involved in the audit process.

The scope period of this audit was Calendar Year 2014. Please refer to the Detailed Scope and Methodology section at the end of this report for the specific audit procedures and detailed tests conducted during the course of this audit.

Discussion of Audit Results

The matters covered in this report were discussed with TRS officials during and at the conclusion of this audit. A preliminary draft report was submitted to TRS on January 14, 2016 and was discussed at an exit conference held on February 1, 2016. Subsequently, we submitted a draft report to TRS with a request for written comments. We received a written response from TRS officials on March 23, 2016.

In their response, TRS officials generally agreed with the recommendations in the report and provided us with information detailing the steps that they had taken and will be taking to recoup the overpayments, including the methods that they are using to inform their members regarding

the reemployment restrictions, and the steps they are taking to correct birth-date inconsistencies. In response to our third recommendation, TRS officials stated that they used the correct earning data to calculate the recoupment of excess wages. Their written response is attached as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Overpayment of Pension Benefits

Our audit found 11 TRS pensioners who violated provisions of RSSL §211-§212. These pensioners were under the age of 65 and received a total of \$379,032 in post-retirement earnings for Calendar Year 2014. We determined that this resulted in \$111,913 in pension overpayments to the 11 pensioners (see Appendix I for details concerning the retirees and their current employers).⁵

Law Violated	Number of Violators	Total Earnings	Overpayment Amount
RSS §211 – §212	11	\$379,032*	\$111,913

* Included \$18,451 in payments from New York State agencies.

The total amount of improper 2014 pension payments was calculated based on an analysis of when the reemployed pensioners reached the legal earnings limits (\$30,000 for service retirees). The following are two examples of the 11 TRS service retirees who were found to be working in New York public employment positions during Calendar Year 2014:

Example #1: A TRS pensioner under the age of 65 was rehired as an adjunct professor at the Borough of Manhattan Community College (BMCC) and earned a salary of \$32,589 while collecting 12 pension checks. According to RSSL §211 and §212, a service retiree who is under the age of 65, reemployed in New York public service, and whose salary exceeds the annual income limitations of \$30,000, will have his or her pension benefits suspended, unless the service retiree requests that the prospective employer apply for a waiver or where certain limited exceptions apply.⁶ Our review of the records found that no exceptions to the earning limits existed and no evidence that the pensioner obtained a waiver to cover any portion of his 2014 earnings. As a result of exceeding the earning limits without obtaining a waiver, four pension payments (September to December) totaling \$8,850 were improperly received by this pensioner during Calendar Year 2014.

Example #2: A pensioner retired as a Principal for the Department of Education (DOE) in July 2006 and was rehired by DOE as a teacher. During Calendar Year 2014, this pensioner received \$30,510 in salary from the City. In addition to receiving income from the City, this pensioner also worked for the State University of New York, Empire State College and received \$4,428 in salary. Our review of the records found that no exceptions to the earning limits existed and no evidence that the pensioner obtained a waiver to cover any portion of the 2014 earnings. As a result of exceeding the earning limits without obtaining a waiver, six pension payments (May to September and November) totaling \$46,128 were improperly received by this pensioner during Calendar Year 2014.

Recoupment of Wages was Insufficient

We found that TRS' recoupment of wages from three pensioners was insufficient. During our audit, we identified 27 pensioners who appeared, potentially, to have violated provisions of RSSL

⁵ The annuity portions of the pension payments, if any, are not covered by RSSL §211 and §212 or New York City Charter §1117 and therefore were excluded from the overpayments cited in this report.

⁶ This suspension does not apply to certain types of reemployment, such as being elected to public office.

§211-§212, and we sent the names of all the potential violators we found to TRS officials for their review. Prior to the exit conference, TRS officials provided documents to show that they had already identified 10 pensioners whose earnings exceeded \$30,000 during Calendar Year 2014. TRS officials told us that they identified those violators by reviewing earnings information for every retiree who was reemployed by DOE. Instead of suspending the retirement benefits, TRS instructed DOE to recoup excess wages paid from these pensioners and so after recoupment, the retirees' earnings were reduced to \$30,000.

However, we found that although DOE had recouped excess wages from these retirees, the recouped amount for three of the pensioners was insufficient because TRS used DOE payment records of the amounts *paid* in the calendar year instead of the amounts *earned* in the calendar year. As a result, the amounts earned for Calendar Year 2014 were incorrectly calculated and so the recoupment amounts were incorrect.

Based on our comparison of payment data that TRS used and the payment data based on earned dates, we found shortage on the amount that the three pensioners should be recouped as follow:

Pension #	Amount Paid during 2014 [^]	Amount Earned during 2014	Amount Recouped	Recoupment Deficiency
U-297790	\$32,479	\$32,802	\$2,479	\$ 323
U-518630	\$34,639	\$35,830	\$4,639	\$1,191
U-547860	\$37,054	\$37,169	\$7,054	\$ 115

[^] After certain adjustments, such as retroactive payments resulted from collective bargaining agreement.

Other Issue

Inaccurate Pensioners' Birth Dates Maintained in PPMS

During our audit we found 154 out of approximately 81,000 TRS pensioners whose birth dates maintained in the City's PPMS were different from TRS' records. We informed TRS officials of the birth-date discrepancies. They stated that the discrepancies we found in birth dates occurred as a result of their transfer of old pension data from two different systems. Upon TRS' review of the birth-date discrepancies, TRS officials determined that the majority resulted from incorrect data in TRS' database.

Inaccurate birth dates maintained in TRS' system could affect their analysis to determine whether a pensioner may be in violation of RSSL §211 and §212 or New York City Charter §1117. Accordingly, TRS officials should ensure the pensioners' information is accurately maintained in both PPMS and at TRS.

Recommendations

TRS should:

1. Investigate those individuals identified in this report; if they are in violation of State or City regulations, TRS should commence recoupment action against them.

Agency Response: "We agree with this recommendation. Upon investigation, we noted that six of the individuals identified exceeded the earnings limitation due to earnings from CUNY or SUNY. Note that we do not receive payroll data from all CUNY

and SUNY employers. We request that the Comptroller's Office provide TRS with a list of all retirees found to be "double-dipping" on a regular basis so that we can more timely investigate any potential violators. Of the remaining individuals, we have already recouped the overpayment from one pensioner, suspended the pension of another, and are actively pursuing repayment from three others."

2. Send special reminders to TRS' service retirees under the age of 65 and its disability retirees to detail their responsibilities regarding compliance with public service reemployment requirements.

Agency Response: "We agree with this recommendation. TRS provides notification and training to new retirees of their responsibilities regarding compliance with public service reemployment requirements. In addition, we mail a newsletter with relevant articles to retirees twice per year, which is also posted to the TRS website. Articles related to earnings after retirement have appeared most recently in the Spring 2015 as well as the Spring 2014 issues of the newsletter. We also plan to reemphasize this topic in the Spring 2016 newsletter."

3. Use earned wages when (i) determining whether a retiree is violating RSSL or NYC Charter, and (ii) calculating the recoupment amount.

Agency Response: "As discussed with the audit team, we do use earned wages when determining whether a retiree is violating RSSL or NYC Charter and in calculating the recoupment amount. The earned wages information is provided directly by the Department of Education (DOE). We have also contacted the DOE to verify the earned wages information for the individuals listed in Appendix I, and they agreed with the data we used."

Auditors' Comment: Since there are discrepancies between DOE and PMS earning data for the three pensioners identified in this report, we would strongly recommend that TRS officials request DOE reconcile any discrepancies before DOE provides the information to them.

4. Take appropriate action, including but not limited to contacting the pensioners and requesting them to submit appropriate documentation to determine the correct birth dates of the 154 pensioners identified in this report and correct the birth dates in PPMS and/or TRS' records.

Agency Response: "We agree with this recommendation. We are currently examining TRS records to retrieve evidence of the birth dates to determine any necessary actions."

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Although our audit did not include local government employees paid by systems other than those integrated with FISA, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

In accordance with §13-507 of the New York City Administrative Code, the Comptroller is one of seven trustees of the TRS Board. The Comptroller sits on the Board through a representative. Neither the Comptroller nor his representative on the Board were involved in the audit process.

The scope period of this audit was Calendar Year 2014. We met with TRS officials to obtain an understanding of their payment processes for individual pensioners. To discover the extent to which retired City employees were improperly receiving pension payments from the retirement systems, we obtained the following information:

- payments summary for active New York City pensioners from PPMS (the City's pension payroll management system);⁷
- member records from all five retirement systems;
- City workers who received a W-2 wage statement; and
- waiver information from the three authorized agencies who may issue waivers for TRS retirees: New York State Civil Service Commission, New York City Department of Citywide Administration, and City University of New York.⁸

To determine the accuracy of the PPMS members' information, we compared the members' social security numbers and birthdates with the data provided by each retirement system. We then eliminated the pensioners who were over or turning 65 in 2014 because the earnings limitation does not apply after a retiree reaches the age of 65. We identified 90,356 pensioners who were under age 65 during Calendar Year 2014 and received payments through PPMS.

We matched the 90,356 New York City pensioners against a listing of all City workers who received a W-2 wage statement.⁹ This matching process identified 413 individuals who:

- collected TRS pensions during Calendar Year 2014;
- were under age 65; and

⁷ The information was provided by FISA, which is the custodian of the City's Payroll Management System.

⁸ According the Personnel Rules and Regulations of the City of New York, Department of Citywide Administration shall have all the powers and duties of the Municipal Civil Service Commission provided in the civil service law or in any other statute or local law. Board of Higher Education became CUNY's Board of Trustees.

⁹ A separate audit report will be issued for each of the five New York City retirement systems; the other four audits are FN15-084A (BERS), FN15-083A (POLICE), FN15-085A (NYCERS), and FN15-086A (FIRE).

- are either service retirees who retired prior to January 1, 2014, and received more than \$30,000 in wages during 2014, or disability retirees who received more than \$1,800 in pension payments and wages from the City during 2014.

We excluded the service retirees who had waivers that covered Calendar Year 2014 and then determined the reasons for the remaining individuals to receive 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 their pensions suspended at the appropriate times, and some were not actually reemployed by the City agencies during 2014, but instead received lump-sum payments for accrued vacation, sick leave, or selected an early retirement program that provided subsequent cash payments in 2014.¹⁰ Although the match did not include local government employees paid by systems other than those integrated with FISA, we are presently conducting Calendar Year 2014 matches of City pensioners (TRS, NYCERS, FIRE, POLICE, and TRS) against New York State workers; the results of this match will be covered in a separate report (Audit # FN15-087A).

For the 27 individuals we identified who appear to have violated the RSSL's prohibitions on reemployment, we :

- obtained additional detailed information about their individual pension and payroll payments;
- analyzed the timing, and the types of payments received that were considered as earned income;
- verified the amounts shown on the computer-match listing; and
- contacted retirement system representatives, who assisted us in searching the pensioner's file for waivers and other relevant information (if any).

For the 11 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 the reemployed pensioners reached the legal earnings limit of \$30,000 or \$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.

¹⁰ Information for payroll checks is limited to the City agencies that use the City's Payroll Management System to process their payrolls.

**2014 PENSION OVERPAYMENTS - NEW YORK CITY TEACHERS' RETIREMENT SYSTEM
SERVICE RETIREES**

Pension Number	Date Retired	2014 Pension	Months Overpaid	*Pension Amount Overpaid	2014 Employer	Payroll Code	2014 Earnings	Agency Responsible for Issuing Waiver	Waiver in 2014?
U -752411	7/1/2012	\$ 62,399	1	\$ 5,206	DOE	746 / 747	\$ 32,041	DCAS	NO
U - 38844	10/6/2008	\$ 5,662	3	\$ 1,416	DOE	746 / 747	\$ 39,570	DCAS	NO
U - 53017	6/9/2012	\$ 25,711	4	\$ 8,850	BMCC	466	\$ 32,589	CUNY	NO
U - 42686	9/1/2009	\$ 76,995	1	\$ 6,416	BCC	463	\$ 32,361	CUNY	NO
U - 53737	2/4/2013	\$ 66,783	1	\$ 5,565	DOE	746 / 747	\$ 32,278	DCAS	NO
U - 54813	7/1/2013	\$ 99,543	1	\$ 8,295	DOE	463	\$ 33,655	CUNY	NO
U - 56454	11/21/2013	\$ 59,763	2	\$ 9,960	DOE	746	\$ 33,768	DCAS	NO
U - 56666	7/1/2010	\$ 48,152	2	\$ 8,755	DOE	746 / 747	\$ 35,410	DCAS	NO
U-50331	11/1/2011	\$ 19,526	3	\$ 4,881	DOE	746/747	\$ 29,593	DCAS	NO
					CUNY - York College	70081	\$ 11,671	NYSCSC	NO
U-40998	7/1/2009	\$ 77,286	1	\$ 6,441	BMCC	466	\$ 28,806	CUNY	NO
					NYS DOE	11010	\$ 2,352	NYSCSC	NO
U-732362	7/1/2006	\$ 92,132	6	\$ 46,128	DOE	746	\$ 30,510	DCAS	NO
					SUNY - Empire State College	28280	\$ 4,428	NYSCSC	NO

Total Individual(s) **11** **Total:** **\$111,913** **\$379,032**

Notes:

DOE New York City Department of Education
DCAS New York City Department of Citywide Administrative Services
CUNY City University of New York
NYS DOE New York State Department of Education
BCC Bronx Community College
BMCC Borough of Manhattan Community College
NYSCSC New York State Civil Service Commission

*Amount of pension overpayment after individual exceeded \$30,000 earnings limitation per New York State Retirement and Social Security Law (RSSL) §211 and §212



TEACHERS' RETIREMENT SYSTEM OF THE CITY OF NEW YORK
55 Water Street, New York, NY 10041 • www.trsnyc.org • 1 (888) 8-NYC-TRS

March 23, 2016

Ms. Marjorie Landa
Deputy Comptroller for Audit
Bureau of Audit
Office of the Comptroller
1 Center Street, Room 1100
New York, NY 10007

Re: Audit Report on the Pedagogical Pensioners of the New York City Teachers' Retirement System
Working for the City after Retirement January 1, 2014 – December 31, 2014 FN15-082A

Dear Ms. Landa:

Please see below for our response to your recommendations on the report referenced above.

Recommendation #1

Investigate those individuals identified in this report; if they are in violation of State or City regulations, TRS should commence recoupment action against them.

Response #1

We agree with this recommendation. Upon investigation, we noted that six of the individuals identified exceeded the earnings limitation due to earnings from CUNY or SUNY. Note that we do not receive payroll data from all CUNY and SUNY employers. We request that the Comptroller's Office provide TRS with a list of all retirees found to be "double-dipping" on a regular basis so that we can more timely investigate any potential violators. Of the remaining individuals, we have already recouped the overpayment from one pensioner, suspended the pension of another, and are actively pursuing repayment from three others.

Recommendation #2

Send special reminders to its service retirees under the age of 65 and its disability retirees to detail their responsibilities regarding compliance with public service reemployment requirements.

Response #2

We agree with this recommendation. TRS provides notification and training to new retirees of their responsibilities regarding compliance with public service reemployment requirements. In addition, we mail a newsletter with relevant articles to retirees twice per year, which is also posted to the TRS website. Articles related to earnings after retirement have appeared most recently in the Spring 2015 as well as the Spring 2014 issues of the newsletter. We also plan to reemphasize this topic in the Spring 2016 newsletter.

Recommendation #3

Use earned wages when (i) determining whether a retiree is violating RSSL or NYC Charter, and (ii) calculating the recoupment amount.

Response #3

As discussed with the audit team, we do use earned wages when determining whether a retiree is violating RSSL or NYC Charter and in calculating the recoupment amount. The earned wages information is provided directly by the Department of Education (DOE). We have also contacted the DOE to verify the earned wages information for the individuals listed in Appendix I, and they agreed with the data we used.

Recommendation #4

Take appropriate action, including but not limited to, contacting the pensioners and requesting them to submit appropriate documentation to determine the correct birth dates of the 154 pensioners identified in this report and correct the birth dates in PPMS and/or TRS's records.

Response #4

We agree with this recommendation. We are currently examining TRS records to retrieve evidence of the birth dates to determine any necessary actions.

If you have any questions or concerns regarding our response, please contact me at (212) 612-5502.

Sincerely,



Kate Chen
Deputy Director

cc: Patricia Reilly, Executive Director
Paul Raucci, Chief Accountant