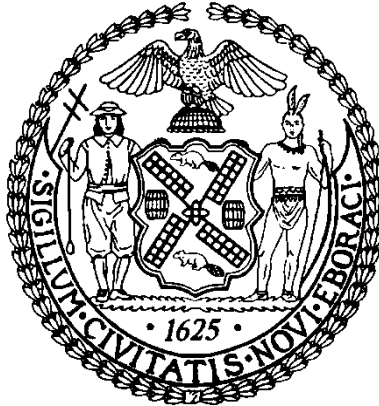


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

FINANCIAL AUDIT

**Tina Kim
Deputy Comptroller for Audit**



**Audit Report on New York City Pensioners
Working for New York State After Retirement
January 1, 2009 – December 31, 2009**

FL11-102A

June 30, 2011

<http://comptroller.nyc.gov>



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

John C. Liu
COMPTROLLER

June 30, 2011

To the Residents of the City of New York

My office has audited the five New York City retirement systems to identify New York City pensioners 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 2009. These individuals —known as “double-dippers” or “disability violators”—have been re-employed by a State agency and may be illegally collecting a pension from one of the five retirement systems.

The audit found five pensioners working for State agencies who appeared to violate RSSL §211 - §212 or New York City Charter §1117. One pensioner appeared to violate RSSL §211 - §212 because he was under age 65 and received City wages exceeding the limitations without having a waiver on file, while four additional pensioners appeared to violate §1117 of the New York City Charter, which prohibits a 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. These five individuals received \$88,275 in pension over payments during 2009.

The audit recommended that officials of the five retirement systems investigate those individuals identified in this report and, if in violation of State or City regulations, commence recoupment action against said individuals; forward to the Department of Investigation, if the circumstances warrant such action, the names of individuals found to be illegally collecting pensions; and send reminders to service retirees under the age of 65 and to all disability retirees that clearly state their responsibilities regarding public service re-employment.

The results of the audit 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 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,

A handwritten signature in black ink, appearing to read "John C. Liu".

John C. Liu

Table of Contents

AUDIT REPORT IN BRIEF	1
Audit Findings and Conclusions.....	1
Audit Recommendations.....	1
New York City Retirement Systems Responses.....	2
INTRODUCTION	3
Background.....	3
Objective.....	5
Scope and Methodology	6
Discussion of Audit Results.....	7
FINDINGS	8
Overpayment of Pension Benefits	8
RECOMMENDATIONS	9
APPENDIX I Summary of 2009 Overpayments	
APPENDIX II 2009 Pension Overpayments, New York City Employees’ Retirement System, Disability Retirees	
APPENDIX III 2009 Pension Overpayments, New York City Teachers’ Retirement System, Service Retirees	
APPENDIX IV 2009 Pension Overpayments, New York City Police Department Pension Fund, Disability Retirees	
APPENDIX V Re-employed New York City Pensioners, Totals by Current Employer	
ADDENDUM I New York City Employees’ Retirement System Response	
ADDENDUM II Teachers’ Retirement System Response	
ADDENDUM III Police Department Pension Fund Response	
ADDENDUM IV Fire Department Pension Fund Response	
ADDENDUM V Board of Education Retirement System Response	

The City of New York
Office of the Comptroller
Financial Audit

**Audit Report on New York City Pensioners
Working for New York State after Retirement
January 1, 2009—December 31, 2009**

FL11-102A

AUDIT REPORT IN BRIEF

The objective of this audit was to identify New York City pensioners working for various New York State agencies (State agencies) 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 2009. These individuals—known as “double-dippers” or “disability violators”—have been re-employed by a State agency and may be illegally collecting a pension from a New York City retirement system.

Audit Findings and Conclusions

The audit found five pensioners working for State agencies who appeared to violate RSSL §211 - §212 or New York City Charter §1117. One pensioner appeared to violate RSSL §211 - §212 because he was under age 65 and received State wages exceeding the limitations without having a waiver on file while four additional pensioners appeared to violate §1117 of the New York City Charter, which prohibits a 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. These five individuals received \$88,275 in pension over payments during 2009.

Audit Recommendations

The audit made three recommendations, that officials of the New York City retirement systems should:

- Investigate those individuals identified in this report and, if in violation of State or City regulations, commence recoupment action against said individuals.
- 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.
- Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.

New York City Retirement Systems' Responses

In their responses, officials from each of the five New York City retirement systems generally agreed to implement or stated that they were already in the process of implementing the audit's recommendations.

INTRODUCTION

Background

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

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

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)

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

An exception to this restriction is provided by RSSL §212, which permits a service retiree to be re-employed in New York public service if the retiree earns no more than the amount prescribed by that section and files a “Section 212 Statement of Election” with his or her retirement system (see below). 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 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)

For calendar year 2009, the earnings limitation for a service retiree who filed a Statement of Election under §212 was \$30,000. Accordingly, any service retiree earning more than \$30,000 in 2009 should have received a §211 waiver to prevent suspension of the retirement allowance during that year. Failure to comply with these requirements can result in the forfeiture of pension benefits in subsequent years.

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

TRS:

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

POLICE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 2, §13-254) provides for the re-employment of POLICE 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, POLICE disability retirees are subject to the New York City Charter §1117, which prohibits a retiree from earning more than \$1,800 a year (including pension payments) in New York public service unless the retiree's disability pension is suspended during the time of such employment.

FIRE:

The New York City Administrative Code (Volume 3, Title 13, Chapter 3, §13-356 and §13-357) provides for the re-employment of FIRE 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, FIRE disability retirees 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 BERS disability retiree from earning more than \$1,800 a year (including pension payments) in New York public service unless the retiree's disability pension is suspended during the time of such employment.

NYCERS:

The New York City Administrative Code (Volume 3, Title 13, Chapter 1, §13-171) provides for the re-employment of NYCERS 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, NYCERS disability retirees 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.

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

Objective

The objective of this audit was to identify New York City pensioners working for State agencies who appear to be violators of RSSL §211 and §212 or New York City Charter §1117 during calendar year 2009. These individuals—known as "double-dippers" or "disability violators"—have been re-employed by a State agency and may be illegally collecting a pension from a New York City retirement system.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS) except for organizational independence as disclosed in the following paragraph. 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. 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.

We are issuing a modified GAGAS compliance statement because of the Comptroller's mandated non-audit responsibility in connection with the retirement system boards for NYCERS, POLICE, FIRE, and TRS. 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, and TRS. 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 this audit report. Accordingly, we feel that the above issue has had no impact on the objectivity of this audit or on the conclusions and associated findings disclosed in this report.

Our audit period was January 1, 2009, through December 31, 2009. 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 how many New York City pensioners returned to public service as New York State employees, the New York State Bureau of Payroll Audit (Office of the State Comptroller, Albany) performed a computer match of 329,601 New York City pensioners against a listing of 330,978 New York State workers who received a W-2 wage statement for the year 2009.¹ This matching process identified 239 individuals under age 65 who either received more than \$30,000 in 2009 (service retirees) or \$1,800 in 2009 (disability retirees). These individuals were then sorted by retirement system and investigated to determine the reasons why they 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, and some had their pensions suspended at the appropriate times. 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.

Initial investigations found that 234 of these 239 pensioners, identified by the New York State match, had valid reasons for receiving both pension checks and payroll checks. For the

¹ This audit report is exclusive of the five separate audit reports of New York City pensioners working for New York City after their retirement in 2009. The five audits of City workers are FL11-097A (FIRE), FL11-099A (BERS), FL11-100A (TRS), FL11-098A (NYCERS), and FL11-096A (POLICE).

remaining five pensioners (two NYCERS pensioners, one TRS pensioner, and two POLICE pensioners) who appeared to lack valid reasons for receiving both pension and payroll checks, we calculated their apparent pension overpayments based on our determination of the date on which they reached the legal earnings limitations of \$30,000 for service retirees and \$1,800 for disability pensioners. The annuity portions of the pension payments, if any, are not affected by RSSL §211 or §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 5 percent of the total overpayments, can be determined only by City retirement system officials.

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 was discussed at exit conferences with officials of the five retirement systems. We submitted this draft report to the five City retirement systems with a request for comments. Each of the five retirement systems provided separate responses, which are summarized as follows:

NYCERS Response: On June 29, 2011, we received a response from the NYCERS Director of Finance, in which he agreed with the audit's recommendations. However, the Director contends that the two NYCERS pensioners cited in this report were retired under disability pursuant to §507a of the Retirement and Social Security Law (RSSL), and were not in violation. We disagree with NYCERS position as subsequently noted.

TRS Response: On June 24, 2011, 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 22, 2011, we received a response from the POLICE Executive Director, in which he described the actions POLICE has taken to address the report's recommendations.

FIRE Response: On June 16, 2011, we received a response from the FIRE Chief Compliance Officer in which he stated "The Fire Pension Fund diligently ensures that retirees are made aware of the rules regarding post-retirement employment. As a result, we have had no violators in the 12 audit reports of retirees working for the State, City or as Consultants for the past 4 calendar years 2006 thru 2009."

BERS Response: On June 29, 2011, we received a response from the BERS Internal Auditor, in which he described the actions BERS has taken to address the report's recommendations.

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

FINDINGS

Overpayment of Pension Benefits

This audit identified five New York City pensioners who received \$88,275 in pension overpayments during 2009, thus appearing to violate applicable sections of State and City laws. (See Appendices I through V for details concerning the five pensioners and their current employers.) The breakdowns of the five pensioners and the improper pension payments they received from three New York City retirement systems are as follows:

Retirement System	Service Retirees	Disability Retirees	Total Retirees	Improper Pension Payments
NYCERS	0	2	2	\$ 27,233
TRS	1	0	1	\$ 9,520
POLICE	<u>0</u>	<u>2</u>	<u>2</u>	<u>\$ 51,522</u>
Total	<u>1</u>	<u>4</u>	<u>5</u>	<u>\$ 88,275</u>

The audit found that one pensioner was in apparent violation of RSSL §211 or §212 because he was under age 65 and received State wages exceeding the limitations without having a waiver on file at his City retirement system. The audit found four other pensioners who 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) at a State agency.

Our total represents the amount of improper 2009 pension payments based on an analysis of when the re-employed pensioners reached the legal earnings limitations (\$30,000 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 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 5 percent of the total overpayments, can only be determined by City retirement systems officials. Immediate action by the three City retirement systems and the employing State agencies is needed to investigate and recoup, if appropriate, any improper payments made to these retirees identified as possible “double-dippers.” (The applicable employing agencies involved in this audit appear in Appendix V.)

The following is an example of a NYCERS disability retiree who was found to be working at a State agency during calendar year 2009:

CASE #1: A corrections officer, who retired in July 1997 on a disability pension, collected 12 pension checks (January through December) in calendar year 2009, totaling \$16,349. This individual worked all of 2009 for Queens College and collected a salary of \$13,007. As of February 1, 2009, this disability pensioner’s year 2009 earnings from Queens College exceeded the NYC Charter §1117 income limitation of \$1,800 per year (including pension payments). Therefore, it appears

that 11 pension checks (February through December), totaling \$14,992, may have been improperly received and cashed in calendar year 2009.

The following is an example of a POLICE service retiree who was found to be working at a State agency during calendar year 2009:

CASE #2: This teacher, who retired from the Board of Education in September 2004, collected 12 pension checks (one for each month) in calendar year 2009, totaling \$113,204. This individual worked for Hunter College for 12 months in 2009 (January through December) and collected a salary of \$83,391. We found that there were waivers for this individual for January 26, 2006, through January 25, 2009, and for September 1, 2009, to August 31, 2010. On July 2, 2009, this person's cumulative salary earnings for the year exceeded the \$30,000 limit for service retirees. Therefore, it appears that one pension check (August) totaling \$9,520 may have been improperly received and cashed in calendar year 2009.

RECOMMENDATIONS

Officials of the New York City retirement systems should:

1. Investigate those individuals identified in this report and, if in violation of State or City regulations, commence recoupment action against said individuals.

Agency Responses: TRS and POLICE agreed with this recommendation. FIRE and BERS did not have any individuals cited in this report so this recommendation was not applicable to them.

The NYCERS Director of Finance stated, "We have investigated the two (2) pensioners cited who were employed by the State of New York and determined that they were both retired under disability pursuant to §507a of the Retirement and Social Security Law (RSSL), and were not in violation. The Personal Service Income Limitation was \$26,700 for calendar year 2009 and these two pensioners earned \$13,007 and \$17,097.

"Regarding the above pensioners, attached is a memo written by the New York City Law Department, dated December 9, 2005, which addresses income limitations for re-employed pensioners that retired pursuant to §605, §507a, and §507c of the RSSL."

Auditor Comment: While we are pleased that NYCERS has investigated the cited pensioners, we disagree with the NYCERS' interpretation of RSSL §605. RSSL §605 does not give NYCERS the authority to create an income limitation for disability pensioners, much less one 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 both individuals cited in this report were in violation of New York City Charter §1117 and should be required to repay the amount of improper payments they received. We have intentionally not included the Confidential Attorney Client Memorandum written by the New York City Law Department, dated December 9, 2005 as part of the NYCERS' response attached to this report.

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

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

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

APPENDIX I

SUMMARY OF 2009 OVERPAYMENTS

	<u>SERVICE</u>		<u>DISABILITY</u>		<u>TOTAL</u>	
	Persons	Amount	Persons	Amount	Persons	Amount
NYCERS	0	\$0	2	\$27,233	2	\$27,233
TRS	1	\$9,520	0	0	1	\$9,520
POLICE	0	\$0	2	\$51,522	2	\$51,522
TOTAL	<u>1</u>	<u>\$9,520</u>	<u>4</u>	<u>\$78,755</u>	<u>5</u>	<u>\$88,275</u>

APPENDIX II
 2009 PENSION OVERPAYMENTS - NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM
 DISABILITY RETIREES

Pension Number	Date Retired	2009 Pension	Months Overpaid	*Pension Amount Overpaid	2009 Employer	Payroll Code	2009 Salary	**Disability Safeguards (DS)
Case # 1 N-309008-0	7/28/1997	\$16,349	11	\$14,992	QUEENS COLLEGE	70042	\$13,007	NO
N-302457-0	11/23/1992	\$14,680	10	\$12,241	DEPT OF CORRECTIONAL SERVICES	10500	\$17,097	NO

Total Individuals: 2

Total: \$27,233

Notes:

QUEENS COLLEGE
 DEPT OF CORRECTIONAL SERVICES

CUNY - Queens College Hourly
 New York State Department of Correctional Services New York City Central Administration

- * Amount of pension overpayment after individual exceeded earnings limitation of \$1,800 (including pension payments)
- ** For individuals who are covered under Disability Safeguards, an overpayment occurs if their pension plus salary for the calendar year exceeds the current maximum salary for the title next higher than that held by the individual when he/she retired

APPENDIX IV
2009 PENSION OVERPAYMENTS - POLICE PENSION FUND
DISABILITY RETIREES

Pension Number	Date Retired	2009 Pension	Months Overpaid	*Pension Amount Overpaid	2009 Employer	Payroll Code	2009 Salary	**Disability Safeguards (DS)
P-021976-0	10/20/1982	\$43,464	11	\$39,847	NYS Office of Parks Long Island	49220	\$13,153	NO
P-045836-0	12/31/1998	\$48,581	3	\$11,675	SUNY Maritime College	28570	\$1,200	NO

Total Individuals: 2

Total: \$51,522

Notes:

NYS Office of Parks Long Island
SUNY Maritime College

New York State Office of Parks, Recreation and Historic Preservation Long Island St Park
State University of New York Maritime College

* Amount of pension overpayment after individual exceeded earnings limitation of \$1,800 (including pension payments)

** For individuals who are covered under Disability Safeguards, an overpayment occurs if their pension plus salary for the calendar year exceeds the current maximum salary for the title next higher than that held by the individual when he/she retired

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

<u>Current State Employer</u>	<u>*Payroll Code</u>	Individuals Paid under Code			TOTAL
		NYCERS 2009	TRS 2009	POLICE 2009	
NYS Department of Correctional Services	10500	1			1
SUNY Maritime College	28570			1	1
NYS Office of Parks, Recreation and Historic Preservation Long Island St Park	49220			1	1
CUNY - Hunter College	70030		1		1
CUNY - Hunter College Adjunct	70031		1		1
CUNY - Queens College Hourly	70042	1			1
Total		2	2	2	6



June 29, 2011

Tina Kim
Deputy Comptroller for Audits
Office of the Comptroller
1 Centre Street
New York, N.Y. 10007-2341

**Audit Report FL11-102A
Pensioners Working for the State
after Retirement
Calendar Year 2009**

Dear Ms. Kim,

This is in response to the recommendations contained in the audit report referenced above.

Recommendation #1 – *Investigate those individuals identified in this report and, if in violation of State or City regulations, commence recoupment action against said individuals.*

Response

We have investigated the two (2) pensioners cited who were employed with the State of New York and determined that they were both retired under disability pursuant to §507a of the Retirement and Social Security Law (RSSL), and were not in violation. The Personal Service Income Limitation was \$26,700 for calendar year 2009 and these two pensioners earned \$13,007 and \$17,097.

Regarding the above pensioners, attached is a memo written by the New York City Law Department, dated December 9, 2005, which addresses income limitations for re-employed pensioners that retired pursuant to §605, §507a, and §507c of the RSSL.

Recommendation #2 – *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.*

Response

A special notice regarding re-employment after retirement is sent to our pensioners each year in September.

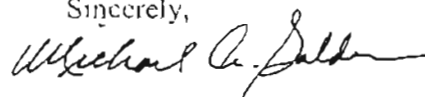
Recommendation 3 – *Forward to the Department of Investigation, if the circumstances warrant such action, the names of individuals found to be illegally collecting pensions.*

Response

NYCERS agrees to refer to the Department of Investigation, where the circumstances warrant such action, the names of individuals found to be illegally collecting pensions.

If you have any questions, I can be reached at (347) 643-3522, or by email at mgoldson@nycers.nyc.gov.

Sincerely,



Michael A. Goldson
Director, Finance

cc: Diane D'Alessandro, Executive Director, NYCERS



June 24, 2011

Ms. Tina Kim
Deputy Comptroller for Audits
1 Centre Street, Room 1100
New York, NY 10007 – 2341

Re: Audit Report on NYC Teachers' Retirement System
New York City Pensioners
Working for New York State after Retirement
January 1, 2009 to December 31, 2009
FL11-102A

Dear Ms. Kim:

Please be advised that the Teachers' Retirement System (TRS) is in full compliance with all your recommendations.

Here is a summary of the remaining EAR case:

TRS had one (1) "NYC Pensioners **Working for the New York State after Retirement**" in 2009 that remain over the EAR limit of \$30,000. We have sent correspondences to the pensioner explaining that their earnings must be corroborated and within EAR limits to avoid suspension.

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 limitation, as cited under Section RSSL 212, RSSL 211, and NYC Chapter 1117, in an appropriate and timely fashion.

In conclusion, TRS will continue its vigilance in seeking total adherence to the existing laws.

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

Sincerely,

Stan Charles
Deputy Director
Internal Audit Division

Cc: N. Serrano, P. Reilly, A. Bradford, T. Cannady

Teachers' Retirement System 2009 EAR Audit Report and Overpayment

New York City Pensioners Working for New York City after their Retirement State, Disability, and Consultant														
#	Employer	Pension #	Date Retired	Payment Type	OTC Wages Earned	Term/ Retro pay	Prior year wages	Other Adjust	Wages Earned	Over limit	Repayment amount	Resolution	EAR Status	OTC Status
1	City	U7384790	9/15/2008	SR	58,089.00	(4,882.66)	0.00	(8,356.03)	52,571.44	22,571.44	14,215.41	Repayment	Resolute	Pending
2	City	U0295120	8/31/2004	SR	44,438.00	0.00	(4,719.05)	0.00	39,718.95	9,718.95	5,021.61	Suspended 2/1/10- 4/30/10	Resolute	Pending
3	Disability	U0392960	10/1/2008	ODR	42,491.33	0.00	0.00	0.00	35,700.75	35,700.75	0.00	No Action	Pending	Pending
4	Consultants	U7298600	9/16/2005	SR	59,067.00	0.00	0.00	0.00	0.00	29,067.00	0.00	No Action	Pending	Pending
5	Consultants	U0383790	7/1/2008	SR	95,180.00	0.00	0.00	0.00	0.00	65,180.00	0.00	Pending	Pending	Pending
6	Consultants	U0326370	6/29/2005	SR	33,755.00	0.00	0.00	0.00	0.00	3,755.00	0.00	Pending	Pending	Pending
7	State	U7263260	9/1/2004	SR	83,391.00	0.00	0.00	0.00	0.00	53,391.00	0.00	Pending	Pending	Pending

End of Report



New York City Police Pension Fund

233 Broadway
New York, NY 10279
(212) 693-5100

Kevin Holloran
Executive Director

ADDENDUM III

Page 1 of 2

June 22, 2011

II. Tina Kim
Deputy Comptroller for Audit
City of New York
Office of the Comptroller
Municipal Building
One Centre Street – Room 1100
New York, NY 10007-2341

Re: **Audit Report on New York City
Pensioners working for New York
State after their Retirement
January 1, 2009 – December 31, 2009
FL11-102A**

Dear Ms. Kim:

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

Recommendation #1

Investigate those individuals identified in this report and, if in violation of State or City regulations, commence recoupment action against said individuals.

Response

The Police Pension Fund is in total agreement that recoupment of pension benefits received in violation of the law should be recovered. Regarding the 2 retirees listed by the Comptrollers Office in the June, 2011 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 current law permits. Should such approval be denied, the Police Pension Fund will recover all pension monies received from the period in question.

-2-

Recommendation #2

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

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. Upon retirement, each member receives the restrictions on employment after retirement in a special handout of the retirement package. In 2010, a letter outlining this policy was prepared and mailed to all NYS retirees.

Recommendation #3

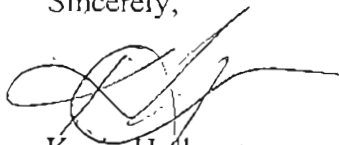
Forward to the Department of Investigation, if the circumstances warrant such action, the names of those individuals found to be illegally collecting pensions.

Response

The Police Pension Fund concurs with recommendation #3, however, no retiree investigated was deemed appropriate for such a referral.

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

Sincerely,



Kevin Holloran
Executive Director
NYC Police Pension Fund

KH:hdm



FIRE DEPARTMENT

9 METROTECH CENTER - ROOM 8S-10

BROOKLYN, NEW YORK 11201-3837

RAY SAYLOR
CHIEF COMPLIANCE OFFICER



June 16, 2011

Ms. H. Tina Kim
Deputy Comptroller
Audits
Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

Re: Audit Report on NYC Pensioners Working for New York State after Retirement January 1, 2009 – December 31, 2009 (Audit Number FL11-102A)

Dear Ms. Kim:

The above audit did not find any individuals who received pension payments during 2009 that appear to violate applicable sections of State and City laws, hence no recommendations were made. The Fire Pension Fund diligently ensures that retirees are made aware of the rules regarding post-retirement employment. As a result, we have had no violators in the 12 audit reports of retirees working for the State, City or as Consultants for the past 4 calendar years 2006 thru 2009.

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, please contact me at (718) 999-1728.

Sincerely,

A handwritten signature in cursive script that reads "Ray Saylor".

Ray Saylor

cc: Michael Vecchi, Associate Commissioner
Mary Basso, Executive Director
Domenick Loccisano, Executive Director

BOARD OF EDUCATION RETIREMENT SYSTEM
OF THE CITY OF NEW YORK
65 COURT STREET, 16th FLOOR
BROOKLYN, NEW YORK 11201-4965



CHRISTINE BAILEY
EXECUTIVE DIRECTOR

718-935-5400
OUTSIDE NEW YORK STATE
1-800-843-5575

June 29, 2011

Ms. Tina Kim
Deputy Comptroller for Audit
Bureau of Audit
1 Centre Street, Room 1100
New York, NY 10007-2341

Re: Audit Report on New York City Pensioners Working
as Consultants for New York State after Retirement
January 1, 2009-December 31, 2009
FL11-102A

Dear Ms Kim:

We are in receipt of the draft audit report dated June 15, 2011 on New York City Pensioners Working for New York State after Retirement during the period January 1, 2009 through December 31, 2009. For the period under consideration, you did not identify any pensioners of the Board of Education Retirement System (BERS) who you cite as being re-employed.

We have also reviewed your recommendations and advise the following:

Recommendation 1

Investigate those individuals identified in this report and, if in violation of State or City regulations, commence recoupment action against said individuals.

Response

An investigation was not necessary since the audit did not find any BERS members to be in violation of New York State Education Law (Title 2, Article 52, § 2575), and the New York City Charter (§1117), the RSSL §211 and §212.

Recommendation 2

Forward to the Department of Investigation, if the circumstances warrant such action, the name of this individual if she is found to be illegally collecting a pension.

Response

The audit did not find any BERS members to be in violation of New York State Education Law (Title 2, Article 52, § 2575), and the New York City Charter (§1117), the RSSL §211

and §212. BERS will continue to be alert of any violations of the aforementioned laws and report to the Department of Investigation when circumstances deem such action necessary.

Recommendation 3

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.

Response

A special reminder is included each year in BERSWORDS, a publication sent to all BERS members, including all retirees. Additionally at retirement, BERS alerts new retirees of their responsibilities regarding public service reemployment.

BERS is committed to ensuring that retirees are in compliance with State and City laws and regulations. We thank the Comptroller for his vigilance and efforts to enhance our operations. If you have any questions, or concerns about our responses, please let us know.

Sincerely,



Daniel Miller
Internal Auditor

C: Christine Bailey
John Cahalin