

AUDIT REPORT



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

Audit Report on New York City Pensioners Working for New York State after Retirement January 1, 2000 – December 31, 2001

FL03-129A

June 30, 2003



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 has identified New York City pensioners from the New York City Teachers' Retirement System, the New York City Police Department, and the New York City Fire Department who may be illegally re-employed by New York State ("double-dippers" or "disability violators"), and quantified the amounts of any improper payments to individuals who appear to be violators of New York State Retirement and Social Security Law, § 210 through § 216, or New York City Charter § 1117, during calendar years 2000 and 2001.

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

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

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

Very truly yours,

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

William C. Thompson, Jr.

WCT/GR

Report: **FL03-129A**
Filed: **June 30, 2003**

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*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, 2000—December 31, 2001**

FL03-129A

Audit Report in Brief

The Comptroller's Office performed an audit to identify New York City pensioners from the New York City Teachers' Retirement System (TRS), the New York City Police Department Pension Fund (POLICE), and the New York City Fire Department Pension Fund (FIRE) who may be illegally re-employed ("double-dippers" or "disability violators"), and to quantify the amounts of any improper pension payments to individuals who appear to be violators of New York State Retirement and Social Security Law § 210 through § 216, or New York City Charter § 1117, during calendar year 2000 and 2001.

Audit Findings and Conclusions

The audit found that 24 individuals who received \$348,734 in pension payments during 2000 and 2001 that appear to violate applicable sections of State and City laws. Three of the 24 individuals received improper pension payments in both 2000 and 2001. These individuals were in apparent violation of RSSL § 211 or § 212 because they were under the age of 70 and received State wages exceeding the limitations without having a waiver on file at one of the three 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 a year at a New York State agency and were past their applicable anniversary dates.

Audit Recommendations

To address these issues the report recommended that the three New York City retirement systems should:

- Investigate those individuals identified as concurrently receiving pensions while being re-employed in New York State public service. City retirement system officials should also

commence prompt recoupment action against those individuals found to be illegally collecting pensions.

- Forward to the Department of Investigation, if the circumstances warrant such action, the names 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 70, and to all disability retirees, that clearly state their responsibilities regarding public service re-employment.
- Set up a monitoring program, in conjunction with the other retirement systems, to identify those City retirees re-employed in New York public service.
- Reinforce to New York governmental agencies, in conjunction with the other retirement systems, the importance of maintaining effective procedures to ensure that City pensioners comply with State and City laws regarding public service re-employment.

Introduction

Background

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

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

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

- New York State Civil Service Commission
- New York State Commissioner of Education
- New York City Civil Service Commission
- Chancellor of the New York City Board of Education
- Board of Higher Education, City University of New York
- Chancellor of State University University of New York
- Administrator of Courts (New York State and New York City courts)

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 70.

There are five New York City retirement systems that provide benefits for their employees and for 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 TRS, POLICE, and FIRE. Normally, we also audit the remaining two retirement systems—BERS and NYCERS. However, we decided to audit these systems every other year because of the limited number of pensioners who have been identified as "double-dippers" on prior audits of these systems.

For calendar years 2000 and 2001, the earnings limitations for a service retiree who filed a Statement of Election under § 212 were \$17,000 and \$18,500, respectively. Accordingly, any service retiree earning more than \$17,000 (in 2000) or \$18,500 (in 2001) 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 three 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 (including pension payments) per year in New York public service, unless his or her 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 State public service. These provisions (also known as “Disability Safeguards”) apply only up to the minimum period for service retirement elected by the employee (usually 20 years, but 25 years may be elected), subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board’s report and certification 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 title next higher than that held by him or her at retirement.

After the minimum (20- or 25-year) period for service retirement has expired, POLICE disability retirees are subject to the New York City Charter (§ 1117), which prohibits a retiree from earning more than \$1,800 (including pension payments) per year in New York public service, unless his or her 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 State public service. These provisions (also known as “Disability Safeguards”) apply only up to the minimum period for service retirement elected by the employee (usually 20 years, but 25 years may be elected), subject to the following conditions: (1) the retiree undergoes a medical examination, (2) the Board of Trustees of the retirement system agrees with the medical board’s report and certification 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 title next higher than that held by him or her at retirement.

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

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

Objective

The objective of this audit was to identify any New York City pensioners who may be illegally re-employed by New York State (“double-dippers” or “disability violators”), and to quantify the amounts of any improper payments to individuals who appear to be violators of

RSSL § 211 and § 212, or New York City Charter § 1117, during calendar year 2000 (POLICE and FIRE) and 2001 (TRS, POLICE, and FIRE).

Scope and Methodology

Our audit period was January 1, 2000 through December 31, 2001. We met with officials of the three New York City retirement systems (TRS, POLICE, and FIRE) to review their monitoring processes for individual pensioners.

To determine the extent to which retired New York City employees were being improperly re-employed by New York State agencies, we asked the New York State Bureau of Payroll Audit (Office of the State Comptroller, Albany) to perform a computer match of the approximately 254,000 New York City pensioners against a listing of all New York State workers (approximately 250,000 annually) who received a W-2 wage statement for the years 2000 and 2001.¹ This matching process identified 1,636 individuals (1,158 in 2000 and 478 in 2001) under age 70 who either received more than \$17,000 in 2000 or \$18,500 in 2001 (service retirees), or \$1,800 in either year (disability retirees). We then sorted these lists by retirement system and investigated the reasons those individuals received a pension check and a payroll check concurrently.

Among the valid reasons individuals received both pension checks and payroll checks are the following: some had been granted waivers; some had their pensions suspended at the appropriate times; and some were not actually employed during 2000 or 2001, 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 2000 or 2001. Because of the magnitude of the task, we did not match the retirees against the approximately 650,000 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 1,636 matches, 601 were individuals collecting TRS pensions, 543 were individuals collecting POLICE pensions, 439 were individuals collecting NYCERS pensions, 42 were individuals collecting FIRE pensions, and 11 were individuals collecting BERS pensions. For 815 matches from TRS, POLICE, and FIRE, we obtained additional detailed information about their individual year 2000 and 2001 pension and payroll payments. We analyzed the timing, and, to some extent, the types of payments received. We verified the amounts shown on the computer match listing. In addition, we met with retirement system representatives, who assisted us in searching their files for waivers and other relevant information.

Initial investigations eliminated 788 of these 815 matches. The remaining 27 matches (24 individuals) appeared to lack valid reasons for being on both lists. Of the 24 individuals, 12 are service retirees and 12 are disability retirees. The total amount of improper pension

¹ This audit report is exclusive of the three separate audit reports of New York City pensioners working for New York City after their retirement in 2000 and 2001: the three audits of City workers are FL03-126A (TRS), FL03-127A (POLICE), and FL03-128A (FIRE).

payments is \$348,734 consisting of \$111,423 in improper pension payments to service retirees, and \$237,311 in improper pension payments to disability retirees.

The breakdowns for the three 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>
TRS	6	0	6	\$ 51,238
POLICE	5	9	14	221,966
FIRE	<u>1</u>	<u>3</u>	<u>4</u>	<u>75,530</u>
Total	<u>12</u>	<u>12</u>	<u>24</u>	<u>\$ 348,734</u>

For those retirees for whom we could find no evidence of a waiver or other acceptable alternative documentation, we calculated their apparent overpayments based on our analyses of when these re-employed pensioners reached the legal earnings limitations of \$17,000 (2000) or \$18,500 (2001) for service retirees, and \$1,800 for disability pensioners. The annuity portions of the pension payments, if any, that are not affected by RSSL § 211 or § 212, and New York City Charter § 1117, were not excluded; rather, they were estimated to be less than five percent of the total overpayments. The exact annuity portion for each individual, if any, can be determined only by retirement system officials.

In accordance with §13-202, § 13-302, and § 13-507 of the New York City Administrative Code, Boards of Trustees head POLICE, FIRE, and TRS. The Comptroller is one of the trustees of 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. The audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter.

Agency Responses

The matters covered in this report were discussed with officials of the three City retirement systems during and at the conclusion of this audit. A preliminary draft report was sent to officials of the three City retirement systems and was discussed at exit conferences held on June 9, 2003, June 10, 2003, and June 13, 2003. On June 13, 2003, we submitted a draft report to the three City retirement systems with a request for comments. Each of the three City retirement systems provided us with separate written responses to a draft of our audit, which are summarized as follows:

TRS Response: On June 26, 2003, 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 27, 2003, we received a response from the POLICE Executive Director, in which he agreed to comply or stated that POLICE was already in the process of complying with the audit’s six recommendations.

FIRE Response: On June 27, 2003, we received a response from the FIRE Chief Compliance Officer. In his response, the Chief Compliance Officer agreed with four of the six recommendations related to: investigating individuals who are receiving pensions while being re-employed in public service; forwarding to the Department of Investigation, if warranted, the names of those individuals found to be illegally collecting pensions; ascertaining whether previous pension overpayments have been recouped and whether current pensions have been suspended for cited individuals; and sending special reminders to service retirees that state their responsibilities regarding public service re-employment. The Chief Compliance Officer stated that the remaining two recommendations—setting up a monitoring program to identify those City retirees re-employed in New York public service and reinforcing to New York governmental agencies the importance of maintaining effective procedures—were beyond the scope of the Fire Department.

CUNY Response: We also received a written response from the City University of New York (CUNY), an authorized RSSL § 211 waiver-issuing agency for New York State. CUNY’s Director of Internal Audit stated in part:

“While the ultimate responsibility of keeping track of post retirement earnings remains with the re-employed retiree, the University and colleges will continue to monitor the employment activities of these individuals and work with the retirement systems to ensure compliance with the RSSL requirements and the New York City Charter regulations.”

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

* * * * *

Our previous report covering three City retirement systems pensioners (TRS, NYCERS, and BERS) for calendar year 2000 (FL02-102A, issued June 27, 2002), reported that there were 13 individuals who were in apparent violation of RSSL § 211 or § 212. These individuals received improper pension payments of approximately \$121,000, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
§ 211/212 Violators	13	\$121,132

FINDINGS AND RECOMMENDATIONS

Overpayment of Pension Benefits

This audit identified 24 individuals who received approximately \$348,000 in pension payments during 2000 and 2001 that appear to violate applicable sections of State and City laws. Three of the 24 individuals received improper pension payments in both 2000 and 2001. (See Appendices I through VII for the agency summaries and detailed listings of the 24 pensioners and their current employers.)

As stated previously, we identified 24 pensioners who were in apparent violation of RSSL § 211 or § 212 because they were under the age of 70 or received excess State wages above the limitations without having a waiver on file at one of the three 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 24 individuals received improper pension payments of approximately \$348,000, as follows:

	<u>Number of Individuals</u>	<u>Total Improper Payments</u>
2000/2001 § 211/212 Violators	12	\$111,423
2000/2001 § 1117 Violators	<u>12</u>	<u>237,311</u>
Total	<u>24</u>	<u>\$348,734</u>

Our total represents the amount of improper 2000 and 2001 pension payments based on an analysis of when the re-employed pensioners reached the legal earnings limitations of (\$17,000 in 2000 and \$18,500 in 2001 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 three 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 VII.)

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 2001:

CASE #1: An Assistant Principal who retired from the Board of Education in October 2000, collected 12 pension checks (one each month) in calendar year 2001 totaling \$59,572. She worked as an Adjunct Professor for Medgar Evers College for all of 2001 (January through December) and

collected a salary of \$32,824. We found no evidence of a waiver for her for any portion of calendar year 2001. On August 9, 2001, her year 2001 cumulative salary earnings exceeded the \$18,500 limit for service retirees. Therefore, it appears that four pension checks (September through December 2001) totaling \$19,235 may have been improperly received and cashed in calendar year 2001.

The following is an example of a POLICE service retiree who was found to be working at a State agency for the whole of calendar year 2000:

CASE #2: A Lieutenant who retired in April 1993 collected 12 pension checks (one each month) in calendar year 2000 totaling \$44,819. He worked as a Director of Campus Security and Public Safety for City College for all of 2000 (January through December) and collected a salary of \$94,432. We found no evidence of a waiver for him for any portion of calendar year 2000. On March 9, 2000, his year 2000 cumulative salary earnings exceeded the \$17,000 limit for service retirees. Therefore, it appears that nine pension checks (April through December 2000) totaling \$33,606 may have been improperly received and cashed in calendar year 2000.

The following is an example of a POLICE disability retiree who was found to be working at a State agency for the whole of calendar year 2001:

CASE #3: A Lieutenant who retired in October 1982 on a disability pension, collected 12 pension checks (one each month) in calendar year 2001, totaling \$41,370. He worked as an Activity Specialist for the Office of Parks and Recreation Long Island Park Commission for all of 2001 (January through December) and collected a salary of \$11,010. He began working for the Police Department in 1961, and therefore, cannot qualify for the "Disability Safeguards" provisions beyond 1981. Accordingly, any earnings above the \$1,800 for 2001 make the disability pension payments for that year improper. Thus, it appears that 11 months of disability checks (February through December 2001), totaling \$37,920 may have been improperly received and cashed in 2001.

The following is an example of a FIRE service retiree who was found to be working at a State agency for the whole of calendar year 2001:

CASE #4: A Firefighter who retired in August 1982 collected 12 pension checks (one each month) in calendar year 2001 totaling \$20,975. He worked as a Principal Law Clerk for the New York State Supreme Court for all of 2001 (January through December) and collected a salary of \$72,163. We found no evidence of a waiver for him for any portion of calendar year 2001. On April 25, 2001, his year 2001 cumulative salary earnings exceeded the \$18,500 limit for service retirees. Therefore, it appears that

eight pension checks (May through December 2001) totaling \$14,009 may have been improperly received and cashed in calendar year 2001.

The following is an example of a FIRE disability retiree who was found to be working at a State agency for the whole of calendar year 2001:

CASE #5: A Lieutenant who retired in October 1979 on a disability pension, collected 12 pension checks (one each month) in calendar year 2001, totaling \$31,931. He worked as a Lecturer for the College of Technology at Farmingdale for all of 2001 (January through December) and collected a salary of \$6,010. He began working for the Police Department in 1977, and therefore, cannot qualify for the "Disability Safeguards" provisions beyond 1997. Accordingly, any earnings above the \$1,800 for 2001 make the disability pension payments for that year improper. Thus, it appears that 11 months of disability checks (February through December 2001), totaling \$29,272 may have been improperly received and cashed in 2001.

Recommendations

Officials of the three New York City retirement systems should:

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

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

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

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

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.

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

5. Set up a monitoring program, in conjunction with the other retirement systems, to identify those City retirees re-employed in New York public service.

Agency Responses: TRS and POLICE agreed with this recommendation. However, the FIRE's Chief Compliance Officer stated:

“We feel that this task falls beyond the scope of the Department and should be addressed at a higher level.”

6. Reinforce to New York governmental agencies, in conjunction with the other retirement systems, the importance of maintaining effective procedures to ensure that City pensioners comply with State and City laws regarding public service re-employment.

Agency Responses: TRS and POLICE agreed with this recommendation. However, the FIRE's Chief Compliance Officer stated:

“We feel that this task falls beyond the scope of the Department and should be addressed at a higher level.”

Auditor Comment: We do not know what “higher level” the Fire Department is referring to in its responses to Recommendations 5 and 6. In any case, it is certainly within the purview of FIRE to comply with these recommendations, as they would help ensure that its retirees only receive pension payments to which they are entitled.

APPENDIX I

SUMMARY OF 2000 OVERPAYMENTS

	<u>SERVICE</u>				<u>DISABILITY</u>				<u>TOTAL</u>		
	Persons		Amount		Persons		Amount		Persons		Amount
POLICE	4		41,252		5		87,128		9		128,380
FIRE	0		0		2		23,766		2		23,766
SUBTOTAL	<u>4</u>		<u>\$41,252</u>		<u>7</u>		<u>\$110,894</u>		<u>11</u>		<u>\$152,146</u>

SUMMARY OF 2001 OVERPAYMENTS

	<u>SERVICE</u>				<u>DISABILITY</u>				<u>TOTAL</u>		
	Persons		Amount		Persons		Amount		Persons		Amount
TEACHERS	6		51,238		0		0		6		51,238
POLICE	2		4,924		5		88,662		7		93,586
FIRE	1		14,009		2		37,755		3		51,764
SUBTOTAL	<u>9</u>		<u>\$70,171</u>		<u>7</u>		<u>\$126,417</u>		<u>16</u>		<u>\$196,588</u>
TOTAL	<u>13</u>		<u>\$111,423</u>		<u>14</u>		<u>\$237,311</u>		<u>27</u>		<u>\$348,734</u>

APPENDIX II
PENSION OVERPAYMENTS - NYC TEACHERS' RETIREMENT SYSTEM
2001 STATE MATCHES (LACK OF WAIVERS)

Pension Number	Date Retired	2001 Pension	Months Overpaid	Amount Overpaid	2001 Employer	Payroll Code	2001 Salary	Waiver Issuing Agency	Waiver in 2001
CASE # 1 U-705688-0	10/1/00	59,572	4	19,235	MEDG EVERS ADJ	70141	32,824	CUNYC	No
					BOARD OF EDU	742	12,967	BOEC	No
***T-790384-0	7/11/95	45,872	5	17,324	BOARD OF EDU	171	5,276	BOEC	No
					YORK COLL ADJ	70081	23,957	CUNYC	No
					QUEENS COLL ADJ	70041	23,957	CUNYC	No
U-004733-0	7/1/00	79,004	1	5,703	BOARD OF EDU	171	8,531	BOEC	No
					YORK COLL	70082	18,498	CUNYC	No
					YORK COLL ADJ	70081	18,498	CUNYC	No
					QUEENS COLL ADJ	70041	18,498	CUNYC	No
U-704684-0	5/25/00	20,327	3	3,917	SUNY - STONY	28058	27,213	SUNYC	No
T-794837-0	10/24/89	22,892	1	3,783	STATE INSURANCE	640	45,054	NYSCSC	No
U-003270-0	7/7/98	7,668	2	1,276	LI DEV CTR	51350	24,506	NYSCSC	No

Total: \$ 51,238

NOTES:

BOARD OF EDU	Board of Education
LI DEV CTR	Office of Mental Retardation and Development Disabilities - Long Island Development Center
MEDG EVERS ADJ	Medgar Evers Adjunct
QUEENS COLL ADJ	Queens College Adjunct
STATE INSURANCE	State Insurance Fund
SUNY - STONY	SUNY at Stony Brook
YORK COLL	York College
YORK COLL ADJ	York College Adjunct

BOEC	Board of Education, Chancellor's Office
CUNYC	Board of Higher Education, City University of New York
NYSCSC	New York State Civil Service Commission
SUNYC	State University of New York, Chancellor's Office

* This individual was also cited in our prior audits (for 1996, 1997, and 1999)

**APPENDIX III
PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND
2000/2001 STATE MATCHES (LACK OF WAIVERS)**

Pension Number	Date Retired	2000 Pension	Months Overpaid	Amount Overpaid	2000 Employer	Payroll Code	2000 Salary	Waiver Issuing Agency	Waiver in 2000
CASE #2 *P-040653-0	4/9/93	44,819	9	33,606	CITY COLLEGE	70020	94,432	CUNYC	NO
**P-016557-0	10/12/79	7,082	2	2,806	DEPT OF TRANSP	17100	30,421	NYSCSC	NO
***P-036132-0	3/13/89	13,912	2	2,536	ENV CONSERV	9180	23,046	NYSCSC	NO
P-040766-0	5/19/93	27,653	1	2,304	DEPT OF STATE	19000	45,137	NYSCSC	6/14/96 - 6/13/00
Subtotal: \$ 41,252									
Pension Number	Date Retired	2001 Pension	Months Overpaid	Amount Overpaid	2001 Employer	Payroll Code	2001 Salary	Waiver Issuing Agency	Waiver in 2001
>P-018701-0	6/28/81	4,848	9	3,636	OFFICE OF GS	1050	94,545	NYSCSC	NO
***P-036132-0	3/13/89	15,305	1	1,288	ENV CONSERV	9180	19,254	NYSCSC	NO

Subtotal: \$ 4,924

NOTES:

Total: \$ 46,176

DEPT OF STATE Department of State
DEPT OF TRANSP Department of Transportation
ENV CONSERV Department of Environmental Conservation
OFFICE OF GS Office of General Services

CUNYC Board of Higher Education, City University of New York
NYSCSC New York State Civil Service Commission

> This individual was also cited in our prior audit (for 1994)
* This individual was also cited in our prior audits (for 1998 and 1999)
** This individual was also cited in our prior audits (for 1996, 1997, and 1998)
*** This individual was also cited in our prior audits (for 1993, 1994, 1995, 1996, 1997, and 1999)

APPENDIX IV
PENSION OVERPAYMENTS - NYC POLICE DEPARTMENT PENSION FUND
2000/2001 STATE MATCHES (DISABILITY RETIREES)

Pension Number	Date Retired	2000 Pension	Months Overpaid	Amount Overpaid	2000 Employer	Payroll Code	2000 Salary	Appointment Year
>>P-021976-0	10/20/82	\$ 38,095	11	\$ 35,043	LI PARK COM	49220	\$ 11,723	1961
**P-025735-0	7/9/85	28,979	7	16,191	STONY BROOK U.	28052	27,378	1966
*P-018322-0	12/31/80	22,333	7	12,837	BROOME DEV CTR	51940	1,330	1973
P-029362-0	9/30/87	35,811	4	11,576	YORK COLLEGE	70082	2,962	1969
P-043650-0	1/31/96	45,928	3	11,481	LI PARK COMM	49220	1,584	1973

Subtotal: \$ 87,128

Pension Number	Date Retired	2001 Pension	Months Overpaid	Amount Overpaid	2001 Employer	Payroll Code	2001 Salary	Appointment Year
>>CASE #3 P-021976-0	10/20/82	\$ 41,370	11	\$ 37,920	LI PARK COM	49220	\$ 11,010	1961
>P-022920-0	7/4/83	30,072	11	27,569	PALISADES INTST	49059	19,419	1971
P-038298-0	8/17/90	41,177	3	10,360	DIV OF MILT & NAVL	1072	25,183	1969
P-039423-0	8/25/91	53,163	2	8,890	DIV OF MILT & NAVL	1072	13,523	1962
P-045226-0	12/31/97	44,133	1	3,923	DIV OF MILT & NAVL	1072	2,871	1972

Subtotal: \$ 88,662

Total: \$ 175,790

NOTES:

BROOME DEV CTR	Broome Developmental Center
DIV OF MILT & NAVL	Division of Military and Naval Affairs
DIV OF VET AFFRS	Division of Veteran's Affairs
LI PARK COMM	Long Island Park Commission
PALISADES INTST	Palisades Interstate Park Commission
STONY BROOK U.	SUNY at Stony Brook - Union
*	This individual was also cited in our prior audit (for 1999)
**	This individual was also cited in our prior audits (for 1998, and 1999)
>	This individual was also cited in our prior audit (for 1995, 1996, and 1997)
>>	This individual was also cited in our prior audits (for 1993, 1994, 1995, 1996, 1997, and 1998)

APPENDIX V
PENSION OVERPAYMENTS - NYC FIRE DEPARTMENT PENSION FUND
2001 STATE MATCHES (LACK OF WAIVERS)

Pension Number	Date Retired	2001 Pension	Months Overpaid	Amount Overpaid	2001 Employer	Payroll Code	2001 Salary	Waiver Issuing Agency	Waiver in 2001
CASE #4 R-008757-0	8/4/82	20,975	8	14,009	SUPREME CT CPO	5987	72,163	NYSCSC	NO

Total \$ 14,009

NOTES:

SUPREME CT CPO Supreme Court Central Payroll Office

NYSCSC New York State Civil Service Commission

APPENDIX VI
PENSION OVERPAYMENTS - NYC FIRE DEPARTMENT PENSION FUND
2000/2001 STATE MATCHES (DISABILITY RETIREES)

Pension Number	Date Retired	2000 Pension	Months Overpaid	Amount Overpaid	2000 Employer	Payroll Code	2000 Salary	Appointment Year
R-007343-0	10/8/79	\$ 25,946	8	\$ 18,276	SUNY-FARMINGDL	28390	\$ 5,391	1977
R-012671-0	7/23/88	22,911	3	5,490	LI PARK COM	49220	789	1967

Subtotal \$ 23,766

Pension Number	Date Retired	2001 Pension	Months Overpaid	Amount Overpaid	2001 Employer	Payroll Code	2001 Salary	Appointment Year
CASE #5 R-007343-0	10/8/79	\$ 31,931	11	\$ 29,272	SUNY-FARMINGDL	28390	\$ 6,010	1977
R-015522-0	10/1/93	101,625	1	8,483	DIV OF MILITARY	1072	2,900	1980

Subtotal \$ 37,755

Total \$ 61,521

NOTES:

DEPT OF LABOR Department of Labor
DIV OF MILITARY Division of Military and Naval Affairs
LI PARK COM Long Island Park Commission
SUNY-FARMINGDL SUNY - State University College at Farmingdale

APPENDIX VII

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

**Number of Retirees Now Working from
the Following Retirement Systems**

<u>Current State Employer</u>	<u>Payroll Code</u>	TRS	POLICE		FIRE		TOTAL
		2001	2000	2001	2000	2001	
Board of Education	171/742	3					3
Broome Development Center	51940		1				1
City College	70020		1				1
Department of Environmental Conservation	9180		1	1			2
Department of State	19000		1				1
Department of Transportation	17100		1				1
Division of Military & Naval Affairs	1071/1072			3		1	4
Long Island Development Center	51350	1					1
Long Island Park Commission	49220		2	1	1		4
Medgar Evers College/Adjunct	70141	1					1
Office of General Services	1050			1			1
Palisades Interstate Park Commission	49059			1			1
Queens College Adjunct	70041	2					2
State Insurance Fund	640	1					1
SUNY at Farmingdale	28390				1	1	2
SUNY at Stony Brook/Union	28052/28058	1	1				2
Supreme Court Central Payroll Office	5987					1	1
York College/Adjunct	70081/70082	2	1				3
Totals:		11	9	7	2	3	32



**TEACHERS' RETIREMENT BOARD
TEACHERS' RETIREMENT SYSTEM**
40 WORTH STREET, NEW YORK, N.Y. 10013

June 26, 2003

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

Re: Audit Report on NYC Teachers' Retirement System
Pedagogical Pensioners Working for New York State After Retirement
January 1, 2001 to December 31, 2001
FL 03-129A

Dear Mr. Brooks,

We are in receipt of the above referenced draft audit report on re-employment of "New York City Pensioners Working for the State of New York After their Retirement", for the period January 1, 2001 through December 31, 2001. The six pensioners, identified as currently receiving a pension benefit while re-employed in public service with the State of New York has been fully investigated. We are in the process of recouping the overpayments.

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

Again, as part of the TRS original audit plan, it is customary for 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) 386-5169.

Sincerely,

Stan Charles
Deputy Director
Internal Audit Unit

Cc: S. Kessock, N. Serrano, P. Raucci, K. Alban, A. Scully, and M. Mullany,

2001 Retirees Working for the State

Earnings (Earnable \$18,500)

Member Name	Pension #	Suspension #	Date Retired	2001 Pension	Max OVR	2001 Salary	Amount Overpaid	Employer	2001 Waiver	Findings/Actions
1	U704684-0		05/25/00	20,327	3	27,213	3,917	SUNY	N	No findings for 2001 Waiver/Suspension Letter
2	U004733-0		07/01/00	79,004	1	64,025	5,703	**	N	No findings for 2001 Waiver/Suspension Letter
3	U794837-0		10/24/89	22,892	1	45,054	3,783	State Ins	N	No findings for 2001 Waiver/Suspension Letter
4	U705688-0		10/01/00	59,572	4	45,791	19,235	**	N	No findings for 2001 Waiver/Suspension Letter
5	1790384-0		07/11/95	45,872	5	53,190	17,324	**	N	No findings for 2001 Waiver/Suspension Letter
6	U003270-0		07/07/98	7,668	2	24,506	1,276	**	N	No findings for 2001 Waiver/Suspension Letter

** - Denotes members that have more than one employer



New York City Police Pension Fund

233 BROADWAY
NEW YORK, NEW YORK 10279
(212) 693-6100

Executive Director: Michael D. Weissman

June 27, 2003

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

Re: Audit Report on New York City
Pensioners working for New York
State Retirement the calendar years
January 1, 2000 – December 31, 2001
FL03-129A

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 14 retirees reported by the Comptrollers Office in the 06-13-2003 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 dictates. 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 City of New York without the benefit of Section 211. Additionally, as noted in our response to previous audits, this fund has recovered hundreds of thousands of dollars from members of this System identified as violators of these statutes.

Recommendation #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.

Response

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

Recommendation #5

Set up a monitoring program, in conjunction with the other retirement systems, to identify those City retirees re-employed in New York public service.

Response

The Police Pension Fund looks forward to participating in a joint effort for the purpose of establishing control in this area.

Recommendation #6

Reinforce to New York governmental agencies, in conjunction with the other retirement systems, the importance of maintaining effective procedures to ensure that City pensioners comply with State and City laws regarding public service re-employment.

Response

The Police Pension Fund will continue to do everything we can within the limits of our authority to prevent double dipping abuse and requests the assistance of the Comptrollers Office in reinforcing this point to other City and State agencies.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Welsome". The signature is stylized with a large, looped "M" and a cursive "W".

Michael D. Welsome
Executive Director
Police Pension Fund

MDW:hdm



FIRE DEPARTMENT

9 METROTECH CENTER

BROOKLYN, N.Y. 11201-3857

FRANK J. BUCCELLATO

Chief Compliance Officer

Strategic Planning, Audit & Review

Room #8S-9

June 24, 2003

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

Re: Audit Report on New York City Pensioners working for New York State after Retirement. January 1, 2000 – December 31, 2001. FL03-129A .

Dear Mr. Brooks:

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

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

Sincerely,

Frank J. Buccellato

Cc: M. Vecchi
M. Basso

Audit 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.

- 5) Set up a monitoring program, in conjunction with the other retirement systems, to identify those City retirees re-employed in New York public service.

FDNY Response – We feel that this task falls beyond the scope of the Department and should be addressed at a higher level.

- 6) Reinforce to New York governmental agencies, in conjunction with the other retirement systems, the importance of maintaining effective procedures to ensure that City pensioners comply with State and City laws regarding public service re-employment.

FDNY Response – We feel that this task falls beyond the scope of the Department and should be addressed at a higher level.

The City University of New York



OFFICE OF INTERNAL AUDIT AND MANAGEMENT SERVICES

535 East 80th Street, New York, NY 10021

Voice: (212) 997-5820 Fax: (212) 997-2301

e-mail: ljcbh@cunyvm.cuny.edu

June 26, 2003

Mr. Greg Brooks
Deputy Comptroller
The City of New York
Office of the Comptroller
Executive Offices
1 Centre Street
New York, New York 10007-2341

Dear Mr. Brooks:

I write in response to your request for comments from The City University of New York regarding your draft audit report of New York City Pensioners Working for New York State Retirement Covering the Period of January 1, 2000 – December 31, 2001 (FL03-129A). This draft report represents one in a series of yearly audits regarding pensioners working for the City after their retirement. Since the inception of these audits in 1993, the University has taken responsive action regarding the results of these audits and made noticeable improvements in the administration of the waiver-granting process. The reduction each year in the reported number of potential violations is reflective of these efforts.

While the revised procedures initiated by the University in November 1996 have greatly reduced the exceptions to a small number, the University continues to work with colleges to assess the adequacy of procedures for the purpose of maintaining effective controls. The exceptions noted in the draft reports are reviewed with appropriate colleges to determine whether procedures were working as intended and if warranted, changes were needed to strengthen existing controls.

While the ultimate responsibility of keeping track of post retirement earnings remains with the re-employed retiree, the University and colleges will continue to monitor the employment activities of these individuals and work with the retirement systems to ensure compliance with the RSSL requirements and the New York City Charter regulations.

I appreciate the opportunity to submit this response for inclusion in your final audit report regarding NYC pensioners working for New York State after their retirement

during calendar years of 2000 and 2001. If you have any questions regarding this response, please call me at (212) 997-5820.

Sincerely,

Louis Chiacchere

Louis Chiacchere

c: Senior Vice Chancellor Allan H. Dobrin
Vice Chancellor Ernesto Malave
Vice Chancellor Brenda R. Malone

CityR03129a