

## Personnel

**SUBJECT: EMPLOYMENT OF RETIRED PERSONS**

A retired person may be employed and earn compensation in a position in the BOCES, without any effect on his or her status as retired and without suspension or diminution of his or her retirement allowance subject to the conditions enumerated in Retirement and Social Security Law Section 211(1). However, there will be no earning limitations on or after the calendar year in which a retired person attains age 65.

No retired person may be employed in the BOCES except upon approval of the Civil Service Commission or the Commissioner of Education unless otherwise authorized in accordance with law.

Two sections of the Retirement and Social Security Law (Sections 211 and 212) affect a retiree's return to public employment in New York State. If a retiree returns to public employment, he or she may still be able to collect his or her pension depending upon:

- a) How much is earned after returning to work; and
- b) The retiree's age.

If a retiree is under age 65, he or she can return to public employment without approval or reduction in retirement benefits as long as his or her calendar year earnings do not exceed the Section 212 limit. If a retiree's earnings will be more than the Section 212 limit, the employer must request and receive prior approval from the appropriate agency to hire the retiree under Section 211.

Section 211 waivers are provided for "unclassified service" positions. Retired police officers employed by a school district/BOCES as a School Resource Officer (SRO) fall under the "classified service" but may have the earnings limitation waived at the discretion of the Commissioner of Education, as long as all of the requirements for waivers in the unclassified service are fulfilled.

There is generally no restriction on a retiree's earnings beginning in the calendar year he or she turns 65, unless returning to public office.

**Section 211 Approval Process**

Approval for post-retirement employment of a person under the age of 65 or a retired police officer employed as a SRO whose calendar year earnings exceed the Section 212 limit may be granted only on the written request of the BOCES giving detailed reasons related to the standards set forth in Section 211; and on a finding of satisfactory evidence by the Civil Service Commission or the Commissioner of Education that the retired person is duly qualified, competent, and physically fit for the performance of the duties of the position in which he or she is to be employed and is properly certified where certification is required.

(Continued)

**SUBJECT: EMPLOYMENT OF RETIRED PERSONS (Cont'd.)**

The BOCES will prepare a detailed recruitment plan to fill the vacancy on a permanent basis when the need arises and will undertake extensive recruitment efforts to fill the vacancy prior to making a determination that there are no available non-retired persons qualified to perform the duties of that position.

Approvals to hire retired individuals may be granted for periods not exceeding two years each, provided that a person may not return to work in the same or similar position for a period of one year following retirement. However, in accordance with Section 212, a retiree may return to work in the same or similar position within the same year following retirement if his or her earnings are under the Section 212 limit or if he or she receives a Section 212 waiver, or other conditions exist set forth in law.

**Reporting Requirements and Disclosure**

- a) The BOCES will report all money earned by a retired person in its employ in excess of the earnings limitation outlined in Section 212 to the retirement system administered by the state or any of its political subdivisions from which the retired person is collecting his or her retirement allowance.
- b) The BOCES, when employing a retired person who is eligible to collect or is already collecting a retirement allowance from a retirement system administered by the state or any of its political subdivisions, will report on an annual basis to the retirement system paying the retirement allowance and to the State Comptroller. This report will consist of the re-employed retiree's name, date of birth, place of employment, current position, and all earnings.

**Public Record**

Any request for approval of the employment of a retired person, including the reasons stated, and the findings and determination of the request will be a public record open for inspection in the Office of the Civil Service Commission, the Commissioner of Education, or the Board making the findings and determination as specified in Section 211.

Education Law Sections 525 and 3101  
Retirement and Social Security Law Sections 111, 211, 212, 217, and 411  
8 NYCRR Section 80-5.5(b)

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