

Human Resource Office Policy
Re-employment of Retired Public Employees

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Approved By: Cabinet
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Category: Human Resources
Contact: Human Resources
(585) 245-5616

PROFILE

Section 150 of the Civil Service Law of New York State mandates that retired state or local employees may not be rehired by the state or a political subdivision and receive pension benefits while employed. Sections 211 and 212 of the Retirement and Social Security Law of New York State provide for exceptions to this rule. This policy sets forth guidelines to assist the campus in complying with the New York State laws regarding the re-hiring of retired public employees.

The clear intent of the law is to restrict the circumstances in which an individual can simultaneously receive both a salary and a pension from New York State. This is important to avoid any appearance of impropriety. Thus, it is incumbent upon the campus to ensure that requests for section 211 waivers are limited to those cases where no other alternative (such as hiring a new employee or training an existing employee) is available.

Knowledgeable retirees are a tremendous asset to the state and campuses are encouraged to consider ways in which these individuals provide their expertise and experience on a voluntary basis. However, the legal requirements must be complied with when hiring individuals who have previously retired from government employment.

POLICY

The State University of New York at Geneseo (SUNY Geneseo) follows the policy established by the [State University of New York \(SUNY\)](#) for Re-employment of NYS Retirees in accordance with Section 211 and 212 of the Retirement and Social Security Law of New York State.

PROCEDURE

Review the provisions of the SUNY Policy on Re-employment of Retired Public Employees.

Section 212 Hiring Procedures: enables SUNY Geneseo to hire a retired state or local government employee with earnings of up to \$35,000 on a calendar year basis without advance approval from the individual's retirement system. There is no earnings limit under Section 212 for persons age 65 or older.

Follow the normal procedures for temporary appointment when hiring a retiree who will earn no greater than \$35,000 in a calendar.

Section 211 Hiring Procedures: provides a waiver to section 212 earnings limitation of \$35,000. The NYS Civil Service Commission may grant waivers under section 211 for retired employees to be employed in positions in the classified service. The college president may grant waivers under section 211 for retired employees to be employed in positions in the unclassified service. However, certain criteria must be met in order to grant a waiver under the statute. Those criteria are:

- that the retired person is duly qualified, competent and physically fit for performance of the duties of the position in which he or she is to be employed and is properly certified where such certification is required;

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- that he or she will earn more than one thousand dollars in one year, including compensation earned in such position under other provisions of this article that there are not readily available for recruitment persons qualified to perform the duties of such position;
- that the prospective employer has prepared a detailed recruitment plan to fill such vacancy on a permanent basis;
- that his or her employment is in the best interests of the government service; and
- that there is an urgent need for his or her services in such position as a result of an unplanned, unpredictable and unexpected vacancy where sufficient time is not available to recruit a qualified individual and that such hiring shall be deemed as non-permanent rather than a final filling of such position; or that the prospective employer has undertaken extensive recruitment efforts to fill such vacancy and as a result thereof, has determined that there are no available non-retired persons qualified to perform the duties of such position.

Before deciding to hire a retiree pursuant to section 211, the prospective employer must conduct a search to determine whether there are "readily available for recruitment persons qualified to perform the duties" of the position.

If it is determined based on the outcome of the search that a retiree must be temporarily hired under the UP-211 process, the Approval of the Employment of a Retired Public Employee in the Unclassified Service (Form UP-211) must be completed. The waiver must be fully executed and in place *before* the waiver period reflected in it commences, and (for new employees) *before* the retiree begins working at the College. Please review all information for accuracy, particularly title, salary, and appointment dates. The position for which the waiver is requested must match the title of the position for which the search was performed. The employee must be below the age of 65 and have earnings exceeding the Section 212 limit. The start date must be no earlier than the date of the completion of the search (i.e., date of employment offer). Departments should contact Human Resources at 245-5616 to complete this form for approval by the campus president. The UP-211 may be approved for up to two years at a time. As the earnings limits are by calendar year, it is preferable that UP-211s be submitted by calendar year rather than academic year.

If the employee is over age 65 or will turn 65 during the year in question, their earnings are unlimited under section 212 and a UP-211 is not necessary.

FORMS

- Approval of the Employment of a Retired Public Employee in the Unclassified Service (Form UP-211)
- Checklist of required materials for 211 Waiver
- Geneseo Employee Recommendation (GER)
- Appointment letter

Where applicable:

- Letter to NYS Local and Employees' Retirement System requesting Final Average Salary and Retirement Allowance without Option
- Letter to Teachers Retirement System requesting Final Average Salary and Retirement Allowance without Option
- Request for Hypothetical Retirement Annuity Calculation (TIAA-CREF)

RELATED POLICIES

[NYS Civil Service Law §150](#) (Suspension and annuity during public employment)

[NYS Retirement and Social Security Law §§ 211 & 212](#) (Employment of retired persons without diminution of retirement allowance) and (Employment of retired persons)