

**WASHINGTON-SARATOGA-WARREN-HAMILTON-ESSEX
BOARD OF COOPERATIVE EDUCATIONAL SERVICES**

ADMINISTRATIVE REGULATION

EMPLOYMENT OF RETIRED PERSONS

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

Recruitment Plan

Such approval may be granted only upon the written request of the BOCES giving detailed reasons related to the standards forth in Section 211 and on a finding of satisfactory evidence by the Civil Service Commission or the Commissioner of Education that:

- 1) The retired person is duly qualified, competent and physically fit for the performance of the duties of the position in which he/she is to be employed and is properly certified where such certification is required;
- 2) He/she will earn more than one thousand dollars (\$1,000) in one (1) year, including compensation earned in such position under other provisions of this law that there are not readily available for recruitment persons qualified to perform the duties of this position;
- 3) The BOCES has prepared a detailed recruitment plan to fill such vacancy on a permanent basis;
- 4) His/her employment is in the best interests of the government service; and that
- 5) a. There is an urgent need for his/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
b. The BOCES has undertaken extensive recruitment efforts to fill such vacancy and as a result has determined that there are no available non-retired persons qualified to perform the duties of such position.

Approvals to hire retired individuals may be granted for periods not exceeding two (2) years each, provided that a person may not return to work in the same or similar position for a period of one (1) year following retirement. The Civil Service Commission or the Commissioner of Education upon approving employment of a retired person shall certify such approval to the retirement system or pension plan from which such person is receiving a retirement allowance.

Reporting Requirements and Disclosure

The BOCES shall report all money earned by a retired person in its employ in excess of the earnings limitation outlined in Retirement and Social Security Law Section 212 to the retirement system administered by the State or any of its political subdivisions from which the retired person is collecting his/her retirement allowance.

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, shall report on an annual basis to the retirement system paying such retirement allowance and to the State Comptroller. This report shall 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 such request shall be a public record open for inspection in the Office of the Civil Service Commission, the Commissioner of Education, or the Board of Education making such findings and determination as specified in Retirement and Social Security Law Section 211.

Protection Against Fraud

Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud the system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable under the laws of New York State.

Any violation of applicable law that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars (\$1,000) more than he/she would have been entitled shall be a class E felony. Any violation of applicable law that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of three thousand dollars (\$3,000) more than he/she would have been entitled shall be a class D felony.

Approved: 9/09/09