

 <p>The College at Brockport</p> <p>Category: Office of Affirmative Action</p> <p>Responsible Office: Affirmative Action</p>	<p>Policy Title: Affirmative Action Recruitment Policy</p>
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1. General Policy

- A. Each administrative and academic officer and search committee must take appropriate steps within the areas of their responsibility to ensure that, for each faculty and non-teaching professional position, an active and thorough recruitment effort is made for qualified members of minority groups and disabled individuals.
- B. This effort will be viewed as an important determining factor in the acceptability of a position recommendation. Affirmative Action efforts are to augment, rather than replace, previous recruiting procedures. The recommendation and the appointment are to be made on the basis of qualifications for the position, and it is considered proper to redefine eligibility criteria to broaden the base of the talent pool to include special experience, training, and education not normally considered when such factors are important characteristics of eligibility for the position. Such consideration must be applied equally to all candidates for the position.
- C. Special attention to the identification, recruitment, and selection of minority group members, women, and disabled individuals is consistent with state and federal law, orders, and regulations, and the policy adopted by the SUNY Board of Trustees.

2. Prior to Recruitment

- A. Each hiring unit is responsible for contacting the Affirmative Action Officer, who may advise the unit in developing general procedures this will help to ensure the most efficient distribution of information about available positions to minority groups, women, and disabled persons in order to encourage applications from these sources.
- B. Position qualifications should be reviewed carefully to assure that the description does not in itself discriminate against the selection of minority, women, and disabled applicants.
- C. Upon completion of recruitment plans, such plans should be submitted to the Affirmative Action Officer for approval.
- D. Whenever possible, minority group members, women, and disabled individuals should be included on search committees.

- E. Affirmative Action Search/Screen Activity Report forms are available in the Office of Affirmative Action. These forms contain information on authorizations to search, recruiting and advertising, search committee composition, candidate interview assessment, and candidates recommended to the dean or vice president.
3. Recruitment Plans
- A. All correspondence and advertising is to indicate that we are an "Equal Employment Opportunity/Affirmative Action Employer," and all recruiting sources are to be informed of that fact by the person who initiates contact.
 - B. A list of specific sources of minority groups, disabled, and women candidates should be compiled by the individual units with the assistance of the Affirmative Action Office. Some categories to be considered are national organizations which have been formed to establish talent pools of minority groups and women, professional organizations, specialized employment agencies, women's colleges, colleges with high minority enrollments, minority and women scholars in other institutions, and newspapers with high leadership by members of minority groups and women.
 - C. The group of applicants considered must include qualified minorities and women, unless evidence is documented that extraordinary efforts to recruit them have been made and failed.
 - D. It is recognized that there may be instances in which a person is recommended for a position without widespread recruitment efforts. Such cases may be justified when a qualified individual may be promoted from within the College, campus operations would suffer without an interim appointment, or when a person is available who is uniquely qualified for the position. Such cases are rare. Their acceptability is measured not only against the urgency of that particular appointment, but also against overall efforts to use members of minority groups and women in the unit which has recommended the appointment. Documentation of these special circumstances must be made. As in all cases, the Affirmative Action Search/Screen Activity Report form attached to the documentation must be approved by the Affirmative Action Officer.
 - E. All applicants should be notified in any correspondence preceding a visit to the campus that, if they desire, they may have an opportunity to meet the Affirmative Action Officer.
4. During the Recruitment
- A. Check back with the Affirmative Action Officer on progress being made in locating minority, women, and disabled candidates.
 - B. If there are minority, women, and disabled candidates, the search committee may wish to discuss how they compare to other applicants.
 - C. If there are no or few such applicants, the Affirmative Action Office will offer further assistance in establishing suitable contacts.
5. Prior to Appointment
- A. No offer to recommend for appointment may be extended until the Affirmative Action Search/Screen Activity Report, which documents full and open recruitment efforts for that position, has been approved.
 - B. When the recruitment activity, as documented, is approved as having met the legal and ethical obligations required, the Affirmative Action Officer shall authorize the initial recommending office to proceed.

- C. Should the recruitment activity not meet the legal and ethical obligations of Equal Employment Opportunity and Affirmative Action, the appropriate Vice President will notify the originating office of the necessity to renew recruiting efforts in order to rectify specific deficiencies.
- D. If the Vice President does not concur with the recommendation of the Affirmative Action Officer to renew the recruitment effort, the Vice President will consult with the President. If no agreement is reached in this consultation, the final decision will rest with the President of the College.

Procedures for the Reemployment of Retired Public Employees

1. Background

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 do provide for exceptions to this rule.

Section 212 allows a retired state or local government employee to earn up to a certain amount (\$27,500 effective 2004) on a calendar year basis and continue to receive full pension benefits. There is no earnings limit for persons age 65 or older. Retirees reemployed under Section 212 do not need advance approval; the Employees Retirement System (ERS) and the Teachers Retirement System (TRS) send all retirees a mailing each year which includes a form on which to report Section 212 earnings for the previous year.

Section 211 provides a waiver to the section 212 earnings limitation. The NYS Civil Service Commission may grant waivers under Section 211 for retired employees to be employed in positions in the classified service. The Presidents of State University of New York campuses may grant waivers under Section 211 for retired employees to be employed in positions in the unclassified service of the State University of New York, the professional service at the statutory colleges of Alfred and Cornell and the unclassified service of the Community Colleges. However, certain criteria must be met in order to grant a waiver under the statute. Those criteria are:

1. the retired person is duly qualified, competent and physically fit for performance of the duties of the position in which the retiree is to be employed;
2. that there is a need for the retiree's service in such position;
3. that there are not readily available for recruitment persons qualified to perform the duties of such position; and
4. the employment of the retiree is in the best interest of the government service.

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 the State. This is important to avoid any appearance of impropriety. Thus, it is incumbent upon all campuses 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, older workers 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.

In order to comply with the statutory requirements, before resorting to hiring 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. In addition, the request that is submitted to the Civil Service Commission or the campus president must, at a minimum:

1. describe the duties of the position to be filled
2. set forth the qualifications required of any individual to fill that position
3. describe the recruitment efforts which have been undertaken
4. certify that the recruitment efforts failed to locate any qualified non-retired individuals to fill the position
5. certify that the retiree is duly qualified, competent and physically fit to perform the duties of the position
6. explain why the employment of the retiree is in the best interests of the government service, including why the position cannot be filled through the transfer or training of existing state personnel

Under Section 211 of the Retirement and Social Security Law, waivers may be granted for periods up to two years. As noted above, however, requests for such waivers should be made only rarely, and should be sought only for the time period that is absolutely necessary. If a request must be made to renew the employment of any individual after the completion of the two-year period, a new application with the necessary information must be submitted, and the prospective employer must again attest that no qualified persons are available for recruitment other than the retiree. A new search should be conducted before that attestation is made.

If a retiree exceeds their earning limit under Section 212 and does not receive approval under Section 211, their pension may be reduced.

2. Definition of Retiree

For the purpose of Section 211/212, a retiree is a person who is receiving a service retirement from ERS, TRS, or a NYC Public Retirement System. A member of the Optional Retirement Program (ORP) who separated from service at normal retirement age (55, or 50 in an incentive program) or older and has 10 years of service will be considered a retiree if they have received a retirement incentive or have begun to withdraw funds from their pension, either through annuitization or cash withdrawal.

Special rules apply to persons receiving a disability pension from a retirement system. They are not covered by Section 211/212. Other laws limit how much a disability pensioner may earn with the same or different employer. The rules are quite complex. If you are considering hiring a disability pensioner, you should check with the system from which they retired to determine their earnings limit prior to making an offer.

3. Definition of Earnings

Earnings for purposes of the earnings limit calculation are amounts actually earned in the year in question. Earnings do not include money earned in a prior year and received in the current year. Example: an employee retires on December 31, 2001. In January 2002 they receive a lump sum payment for unused vacation. That payment does not have to be included in 2002 earnings because it was earned in 2001.

In the year of retirement earnings refers only to money earned after the date of retirement. Example: if an employee retires on September 1, 2002, only earnings for the period September - December, 2002 count towards the earnings limit.

- Earnings in private employment (ex: the SUNY Research Foundation) do not count towards the earnings limit.
- Earnings paid on Form 1099 count towards the earnings limit.
- Pension Membership

Employees rehired under Sections 211 and 212 may not rejoin their previous retirement system or elect to participate in a new retirement system. They may, however, participate in a tax-deferred savings program.

Reference(s):

Equal Employment Opportunity Commission: <http://www.eeoc.gov/>

SUNY Human Resources:

<https://www2.sysadm.suny.edu/sunyhr/index.cfm?pageName=ProceduresReemploymentRetiredPublicEmployees&pageNameExt=cfm>