



## FACT SHEET: SCHOOL LEADERS WORKING IN RETIREMENT

### The Law:

- ✓ New York law allows those earning a state pension to also earn public employment salary in New York State without limitation, beginning in the year in which they turn 65. Several years ago the age was reduced from 70 to 65 to be consistent with Federal Social Security rules allowing social security benefits to be collected while working after age 65.
- ✓ Retirees younger than age 65, may earn up to \$30,000 from public employment. To earn more than \$30,000, the State Civil Service Commission or, in the case of most school employees, the Commissioner of Education must grant a waiver. Waivers are generally only valid for a maximum of one year; only a handful of two-year waivers are granted. Prior to a waiver being granted, a district must set forth: (i) the need to fill the position; (ii) why a retiree is necessary; (iii) steps the employer took to secure a non-retiree; (iv) the particular skills the particular retiree brings to the position.
- ✓ With very rare exceptions, the State Education Department will not grant a waiver to allow a retiree to work for his or her former employer and earn more than \$30,000 *unless* at least six months have passed since retirement.
- ✓ In short, current law contains checks and balances so there is no abuse of the retirement system and only in extreme cases are retirees earning public salary and pensions.

### Pension costs to taxpayers:

- ✓ Taxpayers are *not* paying taxes twice now to support both a pension and a salary. Pensions are fully funded and paid for through employee and employer contributions and investment earnings on contributions over a retiree's *entire* career.
- ✓ Once a person begins collecting a pension, a school district stops making contributions on his or her behalf. The pension would be paid whether or not a retiree was filling the position and receiving a salary.

### Potential savings to taxpayers:

- ✓ The district would also be paying a salary and benefits to a superintendent or other administrator in any case. Employing a retiree should save money for the taxpayers. The district avoids a pension contribution, may avoid health insurance costs, and may pay a lower salary than it would for a candidate not receiving a pension.

**Allowing pensions and salaries is *not* uncommon:**

- ✓ Allowing retirees to receive a pension and earn a salary is not uncommon in retirement systems in other states and in other fields. New York state public employment retirees may collect their pensions and earn salaries without any restrictions by working for a private business, a private university, a non-profit, a union, or for a school system in another state.
- ✓ Likewise, retired educators from other states may receive pensions from those states and earn a full salary for working within New York.
- ✓ Anyone age 65 or older, in any state, can collect social security while still working, in public or private employment.
- ✓ Still, New York is a net exporter of superintendents, at least in part because the state does not allow workers to transfer out-of-state credit into New York. All our neighboring states do.

**Difficulty in finding professional leaders:**

- ✓ Schools are going through a wave of retirements of baby-boom era teachers and administrators. Search consultants and school boards have found it harder and harder to recruit superior candidates to fill positions in school leadership.
- ✓ This is a high stakes era, with schools under increasing pressure to improve student results and control costs. Schools are under more scrutiny than ever before and that dissuades many people from taking on leadership roles.
- ✓ Not allowing retirement earnings and salary could risk finding *no one* to fill positions.

**Unique aspects of school district work:**

- ✓ Schools are unusual entities in a couple respects. Many organizations can operate for a day or more with positions vacant – if an employee leaves suddenly or just misses a day due to illness or personal matters. But if a teacher is absent, the school district must find and pay someone to immediately take over the teacher's classes. Likewise, if a principal departs or is promoted, the district must quickly find someone to take over running that school building. School districts do frequently promote from within, but doing so usually creates another vacancy that needs to be filled quickly.
- ✓ School districts also operate with a compressed work schedule – the 10 month school year. Unlike some organizations, they cannot defer work until staff is hired to fill vacancies. Conversely, during the summer months schools have more workforce flexibility than most organizations.

**Is school leadership less valuable or less honorable?:**

- ✓ As noted, superintendents, other administrators, and teachers may collect a New York state pension and work in private business, a private university, or a school district in another state.
- ✓ Are New York's taxpayers really better off if veteran school leaders apply their talents and experience in those fields, rather than in this state's public schools?

**The value of experienced leadership:**

- ✓ The state has an interest in allowing and encouraging experienced professionals to fill leadership positions.
- ✓ Retired superintendents stepped in as interim leaders in Roslyn and Roosevelt, for example. Would schoolchildren and taxpayers have been as well-served by promoting an untested principal or assistant superintendent from within to lead those districts in transition?
- ✓ Even in less extreme cases, turning to a veteran administrator for short-term leadership can be the right choice – to clear up problems, so that a permanent superintendent can start with a clean slate.
- ✓ A proven superintendent may mentor a promising young leader who is not quite ready to take over the top job.

**Exceptional pension amounts:**

- ✓ There has been criticism of the size of some school pensions – for example, annual pensions greater than an employee's actual final average salary. Laws have already been changed to prevent that.
- ✓ Only people who started working more than 37 years ago can realize that outcome. People who joined the Teachers Retirement System prior to June 17, 1971 were permitted to use a five-year final average to compute their pension, and to include more items in those calculations (e.g., payouts for unused vacation or sick days, other benefits). Anyone starting after that date cannot do so and cannot replicate those pension amounts.

**Pension amounts in general:**

- ✓ At one time school salaries were much lower than they are today and the state provided a compensating benefit through relatively generous pensions. School salaries improved with the expansion of public sector collective bargaining after the enactment of the Taylor Law in 1967.
- ✓ The state has since scaled back pension benefits. For example, Tier 1 (offering the most generous benefits) was closed after June 30, 1973. Later pension tiers required longer service before realizing a full benefit and impose greater penalties for retiring early.

**Few people left in most generous retirement system levels:**

- ✓ According to THE COUNCIL'S last Snapshot survey in 2006, fewer than 30 percent of superintendents were then in Tier 1 and that proportion had declined by half in less than a decade. Now – almost two years later – the share of superintendents in Tier 1 is probably below 20 percent. Within four years, there will be few people still working under Tier 1.

**Legislative proposals:**

- ✓ A bill has been proposed in the Legislature to raise the age at which one may receive a pension and a salary from public employment without limits from 65 to 70. THE COUNCIL has taken the position that the criteria should not be age, but will the arrangement save money for the taxpayers.
- ✓ Other bills have been introduced to bar superintendents from working in retirement or force some retirees to choose between working in public service or receiving their pension. Legislators should avoid denying taxpayers opportunities for savings and denying schools access to proven leaders.

**Council Recommendations:**

At Attorney General Cuomo's hearing on Long island on May 22<sup>nd</sup>, THE COUNCIL made these recommendations to create more accountability in the use of retirees to fill school leadership positions:

1. **Prevent revolving door hiring.** Prevent any retiree – even those 65 or older – from being rehired in the same district less than six months after leaving. The Commissioner of Education could be authorized to make very limited exceptions for very short periods (three months or so), with no allowance for extension – in case a search unexpectedly fails.
2. **Limit length of interim service.** Limit interim administrative appointments to a maximum of one year, even if the administrator is over 65, except in cases of extreme need again determined by the Commissioner. It is unhealthy for school systems to operate for too long without committing to permanent leadership.
3. **Ensure taxpayer savings.** Require school districts to demonstrate a savings for hiring any retiree, whatever his or her age.
4. **Require timely waiver requests.** Require districts to apply for waivers for any interim arrangement that is intended to be long-term, not just when the retiree approaches the \$30,000 earnings limit.
5. **Ensure rigorous attempts to fill vacancies.** Verify the rigor of the attempt to fill the position with a non-retiree, or establish a clear rationale for why interim leadership is needed; for example, because the community or school board is too divided.
6. **Prevent conflicts of interest.** Prohibit interim superintendents from conducting the search for their permanent replacement. This might add to taxpayer costs, since a district could have to pay both a search consultant and an interim, but it would stop any insider deals, either suspected or real.
7. **No pensions for felons.** Suspend pension payments to school employees convicted of job-related felonies committed during the course of their school employment. More than punishment, the objective here is deterrence.