THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES (DCAS)
1 CENTRE STREET, 21ST FLOOR SOUTH, NEW YORK, N.Y. 10007

REQUEST FOR APPROVAL TO EMPLOY RETIREE

(Pursuant to NYS Retirement and Social Security Law Section 211)

READ INFORMATION AND INSTRUCTIONS ON REVERSE SIDE

SECTION A – TO BE COMPLETED BY AGENCY REQUESTING APPROVAL OF SECTION 211 WAIVER FROM DCAS (HIRING AGENCY)

Name of Retiree (Last, First, Middle Initial)	Soc. Sec. No.	Date of Birth (M/D/Y)

Hiring Agency	Hiring Agency Code	Official Civil Service Title of Position to be Filled	Title Code of Position to be Filled

Proposed Pay Rate	Salaried/Hourly Employee [ ] Contract Consultant [ ]	Proposed [ ] or Actual [ ] Start Date

Agency Retired From	Agency Code Retired From	Title Retired From	Title Code Retired From

Name of Retirement System	Date Joined Retirement System	Type of Retirement: Service [ ] Disability [ ]	Date Retired (M/D/Y)

During this calendar year, has retiree been employed under Section 211 of the Retirement and Social Security Law? No [ ] Yes [ ]
If yes, answer below:

Agency Employed By	Civil Service Title

***Description of Duties to be Performed in this Position and Justification for Hiring Retiree and Recruitment Disposition to be Provided in the Letter from Hiring Agency Head to the Deputy Commissioner for Human Capital for the Department of Citywide Administrative Services (DCAS) and attached to this Form.**

Certification by Hiring Agency:
I, as the Hiring Agency Representative, hereby affirm under penalties of perjury as provided for in Article 210 of the Penal Law, that the statements made herein (and on attached papers) are true and correct and that I have determined that the retiree is duly qualified, competent and physically fit to perform the duties assigned and that there are not readily available for recruitment non-retired persons qualified to perform the duties of such position.

Signature of Hiring Agency Representative	Print Name, Title, and Telephone Number	Date (M/D/Y)

SECTION B – TO BE COMPLETED BY RETIREE

Retiree's Home Mailing Address: Street, Apartment, City, State, Zip Code

I certify that the statements made in this application by the Hiring Agency Representative and by me are true and correct to the best of my knowledge. I understand that failure to obtain approval of this waiver from DCAS may adversely affect my pension benefits and that I may be liable for repayment of such benefits to the appropriate pension system. An approval by DCAS is valid for a maximum of two (2) years, at which time an extension must be requested. I understand that a request for an extension may not be granted. I understand that I am not eligible to work under NYS Retirement and Social Security Law (RSSL) Section 211 if I am receiving a disability pension.

_____ _____
Signature of Retiree **Date**

INSTRUCTIONS FOR COMPLETING THE HC-0005 AND RELATED DOCUMENTS

A. The Agency Head of the Hiring Agency must submit a cover letter to the DCAS Deputy Commissioner for Human Capital describing (a) the duties to be performed, (b) the Hiring Agency's need for the position, (c) the qualification requirements of the position, (d) recruitment search for the position, (e) why it is not possible to hire a qualified individual who is not retired to fill the position, (f) why it is not possible to internally promote a qualified individual to fill the position, (g) the retiree's unique qualifications to do the job, (h) the impact which failing to select the retiree would have on the project or Hiring Agency, (i) future recruitment plan(s), and (j) why it is in the best interests of the City to hire the retiree. The submission should include a copy of the retiree's resume.

B. An original application (HC-0005) must be completed by the Hiring Agency Representative and by the retiree. The HC-0005 must be enclosed with the above-mentioned cover letter and mailed by the Hiring Agency to the DCAS Deputy Commissioner for Human Capital.

C. The Hiring Agency must include a Hiring Disposition describing the recent recruitment search for this position with the request to employ a retiree pursuant to RSSL Section 211. Copies and dates of all advertisements and postings are to be attached. (Two (2) external ads, printed or online, and a Citywide JVN are needed for most positions.) Postings should be designed to reach as broad an audience of potential applicants as practicable, including employees of other City agencies and members of diverse community groups. A recruitment search limited to internal agency postings is not acceptable. Statistics must be provided on the total number of candidates who applied for the position, the number screened out, the number interviewed, and the reason(s) for each candidate's selection/non-selection. The Hiring Agency should also outline how those selected for appointment meet the qualification requirements. Stating "not as qualified as selected candidate" is not an acceptable explanation. Section 211 approvals are generally not granted where there is a viable civil service list in existence. Note that the Hiring Agency Representative must affirm that the retiree is qualified to perform the duties of the position.

D. In order that DCAS may have sufficient time for processing and considering an application for reemployment, such application should be prepared and forwarded at least 45 days before the proposed effective employment or waiver expiration date in order to minimize potential effect on the employee's pension.

GENERAL INFORMATION

A. The term "retiree" means a retired member of a retirement system administered by the State of New York or any of its political subdivisions who is receiving a retirement allowance for other than a physical disability. Former employees who have vested/deferred but who have not reached payability are not considered to be retirees for purposes of RSSL Sections 211 and 212.

B. New York City Charter Section 1117 and Civil Service Law Section 150 provide, generally, that the portion of a retirement allowance which represents the City's contribution shall be suspended during periods of reemployment in New York State or any locality in the State for retirees of NYS or any subdivision thereof. RSSL Section 211 provides for the reemployment of a retiree on an exceptional basis without loss or diminution of pension. DCAS considers requests for RSSL Section 211 waivers made by hiring agencies for positions in the classified service of the City of New York. DCAS also considers RSSL Section 211 requests for the classified service of the Comptroller, the City Council, the Public Advocate, the Offices of the District Attorneys and Public Administrators, Borough Presidents and Community Boards, and the non-pedagogical staff of the Department of Education. RSSL Section 211 prohibits retirees from returning to work in the same or similar position for a period of one (1) year following retirement. Approvals are granted subject to a finding that there are not other qualified non-retirees available to fill the position; there is a need for the retiree's services; the retiree is qualified; and the employment is in the best interests of the City. Retirees who joined the pension system on or after May 31, 1973 who are appointed as consultants are subject to Section 211 and Section 212 (below). Section 211 and Section 212 (below) do not apply to disability retirees. If you are on a disability retirement and you work in NYS public service, the total of the pension portion of your retirement allowance payments and your public service earnings are subject to Charter Section 1117 and to applicable NYC Administrative Code\Board of Education Retirement System (BERS) Rules pertaining to disability retirement safeguards.

C. If the retiree returns to work for a former employer, a RSSL Section 211 waiver may be granted subject to earnings limitations. (The term "former employer" means the state or a political subdivision, public corporation, school district, board of cooperative education services, county vocational education and extension board, or an agency or organization which contributes as a participating employer in a retirement system or pension plan administered by the state or any of its civil divisions, which directly paid the salary or compensation of a retired person at any time during the two (2) years immediately preceding his/her retirement ***and who paid the salary on which the retiree's retirement allowance is based.***) PLEASE NOTE: The bold underlined portion of this definition was added pursuant to Chapter 579 of the Laws of 1992, effective July 24, 1992. A New York City retiree is not employed by a former employer if he/she works for any governmental organization that has a separate corporate existence from the City of New York (e.g., New York State, another municipality within the State of New York, Transit Authority, Housing Authority, HHC, OTB, TBTA, CUNY, Dept. of Education and Offices of the District Attorney.) Questions concerning earnings limitations should be directed to the employee's retirement system. If earnings limitations are necessary, the employee's retirement system will notify the hiring agency and the employee.

D. DCAS approval of a RSSL Section 211 request is not approval of an appointment. For agencies subject to the New York State Civil Service Law, the appointment must meet the requirements of applicable Laws, Rules and Regulations, and policies. Section 211 waivers provide permission for retirees to be employed without having pension diminished unconditionally or with salary restrictions for employment with former employers. All other required hiring approvals and paperwork are still required for new hires. Retirees working without a RSSL Section 211 approval who exceed the RSSL Section 212 cap are liable to reimburse funds to the pension system. A renewal request is required every two (2) years. A new request is also required for a change in civil service title.

E. Section 212 of the Retirement and Social Security Law provides for the reemployment of a retired public employee, with an earnings limitation in any calendar year, without loss or diminution of pension (limitation effective January 1, 2007 is $30,000). However, there are no earnings limitations in or after the calendar year in which the retiree attains age 65. Completion of this form is not required to work under RSSL Section 212; however, the retiree must notify the appropriate pension system. Information on the current limitation is available from the Retirement Systems or DCAS.

F. Copies of RSSL Section 211 approvals/denials/two (2) year reminders will be sent by DCAS to the Hiring Agency, the employee, and the pension system.

NOTIFICATION TO THE RETIREMENT SYSTEM

The retiree must notify the Retirement System:

A. When a retiree of NYS or a subdivision thereof is hired under RSSL Section 212 without the benefit of a RSSL Section 211 waiver.

B. When the amount of the reemployed retiree's compensation has reached the maximum yearly earnings allowed if the employee is working under a RSSL Section 212 or a restricted RSSL Section 211 waiver.

C. When the services of a reemployed retiree are terminated (so that his/her retirement allowance may be resumed if it had been suspended earlier).

D. At the end of the calendar year regarding the amount earned by the reemployed retiree during that calendar year for employees working under a RSSL Section 212 or a restricted RSSL Section 211 waiver.

E. When a deferred or vested retiree who has not reached payability, or a Without Fault and Delinquency retiree who has not attained normal payability, is hired, because such a retiree is mandated into membership on the date he or she returns to City service if employed within the same retirement system. No RSSL Section 211 waiver is required.