THE CITY UNIVERSITY OF NEW YORK

Interpretive Memo: 4-98 Date: February 9, 1998
Personnel Policy Number: 5.6
Index Reference: Earnings Under RSSL Sections 211/212
Impact of Early Retirement Payout on Earnings Cap Under RSSL

Issue:
The following letter was prepared in response to an inquiry by University Personnel in reply to an inquiry from Ms. Imelda Redito, Personnel Director of York College, seeking clarification of the impact of early retirement payouts in calculating an individual's permissible earnings in an annual year to insure compliance under Sections 211/212 of the New York State Retirement and Social Security Law. As per guidance from Mr. Louis Chiacchere, University Director of Internal Control and Risk Management, the Comptroller's Office has excluded such payments in determining whether an employee has exceeded the legal earnings limitations under Sections 211/212 of the RSSL.

The City University of New York

MEMORANDUM

January 30, 1998

To: Rosemarie O'Rourke

From: Louis Chiacchere

Subject: Amount of Earnings Allowed Under Section 211 of the New York State Retirement and Social Security Law

I write in response to your request for clarification on the Section 211 earnings limitation for public service retirees re-employed by The City University of New York. As you know, any service retiree earning above a prescribed amount (for calendar year 1997, the earnings limitation was $13,500) must receive a Section 211 waiver in order to prevent suspension of an individual's retirement allowance during that year. Failure to comply with this requirement can result in the forfeiture of pension benefits in subsequent years.

The legal earnings limitation requirement does not apply to payroll payments received by an individual for accrued vacation and sick leave, or for having selected an early retirement program (with cash payments in subsequent years). The basis for this determination is the City Comptroller's Office. The Comptroller's Office has conducted a series of audits on compliance with Section 211 waiver requirements and has excluded such payments in determining whether an employee has exceeded the legal earnings limitation.

I hope this clarifies the amount of earnings allowed under Section 211 of the New York State Retirement and Social Security Law and if you have any questions, please call me or Mr. David Rankert of my Office.

c: Vice Chancellor Richard F. Rothbard
                     Samuel Phillips
                     Donald Glickman