

# Title 415 WAC

## RETIREMENT SYSTEMS, DEPARTMENT OF

### Chapters

415-02	<b>General provisions.</b>
415-10	<b>Purchase of service credit after statutory deadline RCW 41.50.165.</b>
415-104	<b>Law enforcement officers' and fire fighters' retirement system.</b>
415-106	<b>Public safety employees' retirement system.</b>
415-108	<b>Public employees' retirement system.</b>
415-112	<b>Teachers' retirement system.</b>
415-113	<b>Portability of public employment benefits.</b>
415-115	<b>Assessment of an additional administrative fee.</b>

### Chapter 415-02 WAC

#### GENERAL PROVISIONS

### WAC

415-02-100	Can I have my insurance premiums deducted from my retirement allowance?
415-02-350	What are cost-of-living adjustments (COLA) and how are they calculated?

**WAC 415-02-100 Can I have my insurance premiums deducted from my retirement allowance?** (1) The department will only accept requests by retirees to deduct insurance premiums from retirement allowances if one of the following conditions is met:

(a) The retiree's insurance provider has at least twenty-five such retirees enrolled in a deduction program and has an established agreement with the department; or

(b) The retiree was an eligible public safety officer, as defined by Internal Revenue Code (IRC) 402(1), who has elected to participate in the federal tax savings program on health benefits for public safety officers under IRC 402(1). The retiree's insurance provider must have an established agreement with the department.

(2) For insurance providers under subsection (1)(a) of this section, the department may suspend deductions if the provider has fewer than twenty-five participants and remains under twenty-five participants for ninety days.

(3) This rule applies to all retirement systems administered by the department.

[Statutory Authority: RCW 41.50.050(5), 07-22-026, § 415-02-100, filed 10/26/07, effective 11/26/07; 06-21-001, § 415-02-100, filed 10/4/06, effective 11/4/06. Statutory Authority: RCW 41.50.050, 00-10-016, § 415-02-100, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50-050(5) and 41.50.090, 84-24-017 (Order V), § 415-02-100, filed 11/28/84.]

**WAC 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated?** (1) **What is a cost-of-living adjustment (COLA)?** The value of a retiree's, beneficiary's, or ex-spouse's monthly allowance may change in the years after retirement because of inflation

or other factors. A COLA automatically adjusts benefits based on the cost of living changes.

(2) **What retirement plans include COLAs?** With one exception, all retirement plans administered by the department provide one or more of the types of COLAs listed in subsection (3) of this section. The judges retirement fund (chapter 2.12 RCW) does not provide a COLA.

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
JUDICIAL		Base	RCW 2.10.170
LEOFF	Plan 1	Base	RCW 41.26.240
LEOFF	Plan 2	Base	RCW 41.26.440
PSERS		Base	RCW 41.37.160
PERS	Plan 1	Uniform	RCW 41.40.197
PERS	Plan 1	Optional	RCW 41.40.188
		Auto	(1)(c)
PERS	Plan 2	Base	RCW 41.40.640
PERS	Plan 3	Base	RCW 41.40.840
SERS	Plans 2 and 3	Base	RCW 41.35.210
TRS	Plan 1	Uniform	RCW 41.32.489
TRS	Plan 1	Optional	RCW 41.32.530
		Auto	(1)(d)
TRS	Plan 2	Base	RCW 41.32.770
TRS	Plan 3	Base	RCW 41.32.845
WSPRS	Plans 1 and 2	Base	RCW 43.43.260

### (3) What are the types of COLAs?

#### (a) Auto COLA

The auto COLA, if offered under your plan, is an option you may select at retirement. If you choose this option, your monthly retirement allowance will be actuarially reduced at retirement, and you will receive an automatic adjustment in your monthly retirement allowance each year for the rest of your life. The auto COLA has no age requirement and is limited to a maximum of three percent of your monthly allowance.

#### (b) Base COLA

The base COLA is applied in July (April for LEOFF Plan 1) of each year and adjusts the benefit based on the change in the Consumer Price Index for the Seattle area. Base COLAs are limited to a maximum of three percent of the monthly allowance for all affected plans except LEOFF Plan 1. During a calendar year, the base COLA is payable to:

(i) Retirees who have been retired for at least one year by July 1st of each year (April 1st for LEOFF Plan 1); and

(ii) Beneficiaries or eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year (April 1st for LEOFF Plan 1).

#### (c) Uniform COLA

The uniform COLA is an annual adjustment to the benefit, based on years of service. The annual adjustment for the uniform COLA is independent from any other COLA. During a calendar year, it is payable to:

(i) Retirees who, by July 1st, have received a retirement benefit for at least one year and who, by December 31st, will have reached age sixty-six or older;

(ii) Beneficiaries and eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year and who, by December 31st, will have reached age sixty-six or older; and

(iii) Retirees, beneficiaries, or eligible ex-spouses of any age whose retirement benefit is calculated under the minimum formula.

(4) **Who is responsible for determining the amount of the COLA?** The office of the state actuary (OSA) bases the percentages of the COLAs on the Consumer Price Index. The Index is based on wages earned by urban wage earners and clerical workers in the Seattle-Tacoma-Bremerton, Washington area. OSA provides this information to the department annually.

[Statutory Authority: RCW 41.50.050(5), 08-01-079, § 415-02-350, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 41.50.050(5), 2.10.-170, 41.26.240, 41.26.440, 41.37.160, 41.40.197, 41.40.188 (1)(c), 41.40.-640, 41.40.840, 41.35.210, 41.32.489, 41.32.530 (1)(d), 41.32.770, 41.32.-845, 43.43.260, 06-18-009, § 415-02-350, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 03-06-044, § 415-02-350, filed 2/27/03, effective 4/1/03.]

### Chapter 415-10 WAC

#### PURCHASE OF SERVICE CREDIT AFTER STATUTORY DEADLINE RCW 41.50.165

##### WAC

415-10-020	Definitions.
415-10-030	Calculation of cost to purchase service credit in certain plans.

**WAC 415-10-020 Definitions.** As used in this chapter:

(1) **Average earnings** means:

(a) In PERS Plan 1, TRS Plan 1 or WSPRS Plan 1: The average of your two highest consecutive years of compensation as of the date of your service credit purchase.

(b) In Plan 2 or Plan 3: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(c) In PSERS: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(d) In LEOFF Plan 1: The basic salary attached to your position at the date of your service credit purchase.

(2) **Factors** means the actuarial cost factors calculated by the state actuary and adopted by the department that are used in the formulas for calculating the cost of a service credit purchase. See WAC 415-02-370 for additional information about the service credit purchase factors.

(3) **LEOFF** means the law enforcement officers' and fire fighters' retirement system established under chapter 41.26 RCW.

(4) **PERS** means the public employees' retirement system established under chapter 41.40 RCW.

(5) **PSERS** means the public safety employees' retirement system established under chapter 41.37 RCW.

(6) **SERS** means the school employees' retirement system established under chapter 41.35 RCW.

(7) **Service credit being purchased** means the number of service credit months or service credit years you are purchasing.

(8) **TRS** means the teachers' retirement system established under chapter 41.32 RCW.

(9) **WSPRS** means the Washington state patrol retirement system established under chapter 43.43 RCW.

(10) **Years of earlier retirement** equals the number of years or fractions of years you will be able to retire earlier as a result of your purchase of service credit.

(11) **Years of service** equals the total anticipated years of service you will have accrued at retirement, including the additional service credit you purchase under this section.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-10-020, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5), 41.50.165, 03-15-006, § 415-10-020, filed 7/3/03, effective 8/3/03. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 02-03-120, § 415-10-020, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-020, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165, 97-01-014, § 415-10-020, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-030 Calculation of cost to purchase service credit in certain plans.** If you are a member of LEOFF Plan 1 or 2, PERS Plan 2 or 3, PSERS, TRS Plan 2 or 3, or SERS Plan 2 or 3, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.-165(2) using the following formula:

$$\text{Service Credit Purchase Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

This represents the cost of the additional retirement allowance you will receive by including the additional service credit from your purchase into your retirement benefit calculation.

#### Example: Purchase of additional service credit.

Ron is an active PERS Plan 2 member who currently has 18 years of service. Ron turned age 61 last month. His average earnings are \$50,000. Ron would like to purchase 3 years of service that he previously withdrew but did not restore before the deadline.

The department will first determine Ron's normal retirement age to identify the appropriate factor from the Factor 1 table<sup>i</sup> to use in the formula for calculating the service credit purchase cost. Normal retirement age (NRA) is the earliest age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. Ron's NRA will come when he is age 65 and has 21 years of service<sup>ii</sup>. Since he is currently age 61, Ron is 4 years (48 months) to normal retirement age. So, the department will use the factor 0.2016 from the Factor 1 table, which is factor for 48 months to NRA under PERS Plan 2.

The department will then calculate the cost of purchasing the service credit using the Service Credit Purchase Cost formula:

$$\text{Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

The cost of Ron's purchase would be calculated as follows:

$$\text{Cost} = \$50,000 \times 3 \text{ (years purchased)} \times 0.2016 \text{ (48 months to NRA)} = \$30,240$$

Ron's total cost to purchase 3 years of service credit is \$30,240.

Footnotes to section:

<sup>i</sup>See WAC 415-02-370.

<sup>1</sup>Ron would first qualify under the PERS Plan 2 eligibility rule of being age 65 or older with at least 5 years of service.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-10-030, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5), 41.50.165. 03-15-006, § 415-10-030, filed 7/3/03, effective 8/3/03; 02-03-120, § 415-10-030, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-030, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-030, filed 12/6/96, effective 1/6/97.]

## Chapter 415-104 WAC

### LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

#### WAC

415-104-111	How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement?
415-104-485	LEOFF nonduty disability benefits.

**WAC 415-104-111 How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement?** This rule applies to you if you are a LEOFF 2 retiree who returns to work in an eligible LEOFF, public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), or teachers' retirement system (TRS) position.

(1) **If you return to employment in a LEOFF eligible position, you must reenter membership and your retirement allowance will stop.** When you separate from service, the department will calculate your retirement allowance according to this subsection.

(a) If you previously retired before age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance:

(A) Based on the present value of the retirement allowance payments you received during your initial retirement;

(B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if you are not yet fifty-three; and

(C) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(b) If you previously retired at or after age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(c) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

(2) **If you enter employment in a PERS, PSERS, SERS, or TRS eligible position,** you have two options:

(a) You may choose not to become a member of the PERS, PSERS, SERS, or TRS retirement system and continue to receive your monthly LEOFF Plan 2 retirement allowance; or

(b) You may choose to become a member of the PERS, PSERS, SERS, or TRS retirement system. Your LEOFF retirement allowance will be suspended while you earn service credit and make contributions toward another retirement benefit. When you leave the PERS, PSERS, SERS, or TRS eligible position, you will resume receiving your LEOFF retirement allowance, along with retroactive payments for the time you were employed. You may choose to have your retroactive payments in a lump sum or actuarially computed into your LEOFF Plan 2 retirement allowance.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-104-111, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and 41.26.500. 06-03-096, § 415-104-111, filed 1/17/06, effective 2/17/06; 05-12-043, § 415-104-111, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 41.26.470, 2001 c 261. 02-14-072, § 415-104-111, filed 6/28/02, effective 7/29/02. Statutory Authority: RCW 41.50.050. 94-09-040, § 415-104-111, filed 4/19/94, effective 5/20/94.]

**WAC 415-104-485 LEOFF nonduty disability benefits.** This section applies to you if you are a LEOFF Plan 2 member who incurs a disability not in the line of duty. If your disability or injury was incurred in the line of duty, see WAC 415-104-480.

(1) **Who is entitled to nonduty disability benefits?**

Any member of LEOFF Plan 2 who the department determines has:

(a) Incurred a physical or mental disability while not in the line of duty;

(b) Become totally incapacitated for continued employment in a LEOFF eligible position; and

(c) Separated from a LEOFF-eligible position due to the disability.

(2) **How is "line of duty" defined?** Line of duty means any action or activity occurring in conjunction with your employment or your status as a law enforcement officer or fire fighter and required or authorized by law, rule, regulations, or condition of employment or service.

(3) **How do I apply for nonduty disability benefits?**

The department must receive:

(a) A completed three-part disability retirement application on the form provided by the department.

(i) Part 1: Disability retirement application. You, or a person with legal authority to apply on your behalf, must complete and sign the application. If you are married, your spouse must sign consenting to the retirement payment option you choose. Your signature(s) must be notarized.

(ii) Part 2: Employer's statement and report. Your employer must complete, sign and return it directly to the department.

(iii) Part 3: Medical report. You must complete Section 1. The remainder must be completed and signed by a person licensed according to Washington state law to practice medi-

cine and surgery, osteopathic medicine and surgery, chiropractic, clinical psychology, podiatry, dentistry, or optometry;

(b) Additional information requested by the department; and

(c) Any other material you want the department to consider.

**(4) Is there a time limit for filing an application for nonduty disability benefits?** No. There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

**(5) What evidence will the department use to determine whether I am entitled to benefits under this section?** The department will consider any relevant information submitted by you or your employer, or otherwise available to the department, including:

(a) Information and determinations by the department of labor and industries (L&I) or a self-insurer;

(b) Medical, vocational, and other information about your disability;

(c) Your job description;

(d) Your membership records, maintained by the department; and

(e) Any other relevant evidence.

**(6) What would disqualify me for nonduty disability benefits?** You are not eligible for nonduty disability benefits if any of the following apply:

(a) Your application does not provide adequate proof that you are totally incapacitated for continued employment in a LEOFF-eligible position;

(b) Your disability is the result of your criminal conduct committed after April 21, 1997. See RCW 41.26.061.

**(7) Who decides if I meet the requirements for benefits under this section?** The LEOFF plan administrator.

**(8) May I petition a decision made by the LEOFF plan administrator?** Yes. If the LEOFF plan administrator denies your request for a disability benefit under this section, you may petition for review under chapter 415-04 WAC.

**(9) What are the nonduty disability retirement benefits?** As a nonduty disability retiree, your retirement benefit is a monthly allowance equal to:

(a) Two percent times your final average salary times your service credit years. This allowance will be actuarially reduced to reflect the difference in age at the time of disability retirement and age 53. If you qualify for alternative early retirement per RCW 41.26.430(3), your reduction will be three percent per year before age 53.

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, your monthly allowance will be actuarially reduced to offset the cost. The factors used to determine the amount of reduction are in WAC 415-104-380.

**Example:** Tom incurs a nonduty disability at age 42 after twenty years of service. His final average salary is \$5,000 per month. Tom's wife is also age 42. He chooses Benefit Option Two so that, after his death, his wife will receive a monthly allowance equal to the gross monthly allowance he was receiving. See WAC 415-104-215 (2)(b).

Tom's nonduty disability allowance is:

Nonduty disability allowance  $\$5,000 \times 2\% \times 20 \text{ years} = \$2,000$

Allowance after the actuarial reduction for early retirement  $\$2,000 \times 0.39 = \$780$

Allowance after the actuarial reduction for Option Two (survivor feature)  $\$780 \times .87 = \$679$

**(10) Are my nonduty disability benefits taxable?** The department reports disability benefits to the Internal Revenue Service as required by federal law. Based on current federal law, your benefit may be taxable. You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

The department does not:

(a) Guarantee that payments are exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from benefit payments to you;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

**(11) If I previously retired for service under the alternative early retirement provisions of RCW 41.26.430(3), but I qualified for a disability retirement, can I apply for duty or nonduty disability benefits?** Yes. If you retired under the alternative early retirement provisions of RCW 41.26.430(3) on or before January 1, 2001, you can apply to retire under the disability provisions of RCW 41.26.470. Your benefit will be reduced by three percent per year before age 53 instead of actuarially reduced by the early retirement factors in WAC 415-02-320.

**(12) If I previously retired for disability but was otherwise qualified for a service retirement under the alternative early retirement provisions of RCW 41.26.430(3), can I have my benefit recalculated to reflect a three percent reduction instead of being actuarially reduced by the early retirement reduction factors in WAC 415-102-320?** Yes. If you retired on or after January 1, 2001, and met the requirements of RCW 41.26.430(3), you can have your disability benefit recalculated under those provisions.

**(13) When does a nonduty disability retirement benefit end?** The department may require comprehensive medical examinations to reevaluate your eligibility for continued disability benefits according to the provisions of RCW 41.26.470(2). Your nonduty disability benefit will cease if:

(a) You return to work in a LEOFF-eligible position; or

(b) Medical examination reveals that you are no longer totally incapacitated for employment in a LEOFF-eligible position and you are no longer entitled to workers' compensation benefits under Title 51 RCW.

**(14) If I retire for a nonduty disability and die, will my survivor beneficiary receive a monthly allowance?** If you choose a benefit option with a survivor feature under WAC 415-104-215(2) at the time of retirement, your survivor beneficiary will receive a monthly allowance after your death.

(15) **What happens if I return to a LEOFF-eligible position?** If you return to a LEOFF-eligible position, your monthly allowance will stop.

(16) **If I return to a LEOFF-eligible position, how will my future retirement benefit be affected?** When you re-retire, your monthly allowance will be calculated pursuant to RCW 41.26.500 and WAC 415-104-111.

[Statutory Authority: RCW 41.50.050(5), 07-09-032, § 415-104-485, filed 4/10/07, effective 5/11/07.]

### Chapter 415-106 WAC

#### PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM

##### WAC

415-106-010	Definitions.
415-106-050	How does the department comply with Internal Revenue Code distribution rules?
415-106-060	What are the IRS limitations on maximum benefits and maximum contributions?
415-106-070	Assets for exclusive benefit of members and beneficiaries.
415-106-080	Actuarial tables, schedules, and factors.
415-106-100	Am I eligible for PSERS membership?
415-106-105	May I join PSERS if my duties qualify for PSERS membership, but my employer is not specifically listed in WAC 415-106-010(2)?
415-106-110	If I am a member of PERS, may I change my membership to PSERS?
415-106-200	Purpose and scope of reportable compensation rules.
415-106-205	What is reportable compensation?
415-106-210	What types of payments are considered reportable compensation?
415-106-215	Are salary increases based on longevity or educational attainment considered reportable compensation?
415-106-220	Are overtime payments reportable compensation?
415-106-225	Is standby pay reportable compensation?
415-106-230	Is performance pay reportable compensation?
415-106-235	Is a retirement bonus or incentive reportable compensation?
415-106-240	Are payments for reinstatement or payment instead of reinstatement reportable compensation?
415-106-245	Are retroactive salary increases reportable compensation?
415-106-250	Is severance pay reportable compensation?
415-106-255	Is sick leave or vacation leave, whether used or cashed out, reportable compensation?
415-106-260	Is paid leave, which is not earned over time, reportable compensation?
415-106-265	Is the pay I receive from my employer when I am on union leave reportable compensation?
415-106-270	Is compensation for periods of absence due to sickness or injury reportable compensation?
415-106-275	Are disability insurance or workers' compensation payments reportable compensation?
415-106-280	Will the compensation that is imputed to periods of unpaid leave be used in the calculation of my AFC?
415-106-285	Is the pay I receive while on legislative leave reportable compensation?
415-106-290	Is compensation applied toward cafeteria plans reportable compensation?
415-106-295	Are fringe benefits reportable compensation?
415-106-300	Are payroll deductions reportable compensation?
415-106-305	Are payments, which are outside my employer's legal authority, reportable compensation?
415-106-310	Are optional payments reportable compensation?
415-106-315	Are nonmoney payments from my employer reportable compensation?
415-106-320	Are reimbursements for business expenses reportable compensation?
415-106-325	Vehicles—Is the value of my use of an employer's vehicle reportable compensation?
415-106-330	Are vehicle allowances reportable compensation?
415-106-400	If I establish PSERS membership and now hold a state elective position, may I continue to accrue service credit in PSERS?

415-106-401	If I hold a state elective position before establishing PSERS membership, may I establish service credit for my prior service in the state elective position?
415-106-405	May I retire from PSERS while holding a state elective position?
415-106-500	PSERS disability benefits.
415-106-600	What are my retirement benefit options?
415-106-610	How do I apply for retirement benefits?
415-106-620	How does the department calculate my retirement allowance?
415-106-700	As a PSERS retiree, how will my retirement allowance be affected if I return to employment?
415-106-710	How does the department calculate my retirement allowance if I reenter PSERS membership and then re-retire?
415-106-900	How do I designate a beneficiary, and who will receive a distribution if I die before retirement?

**WAC 415-106-010 Definitions.** The definitions in RCW 41.37.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.37 RCW are defined in this chapter.

(1) **AFC** means average final compensation as defined in RCW 41.37.010(14).

(2) **Employer** means the state or local government entities as defined in RCW 41.37.010(4) employing members eligible for PSERS.

(3) **Full-time employee** means an employee who is regularly scheduled to provide at least one hundred sixty hours of compensated service for an employer each calendar month.

(4) **LEOFF** means the law enforcement officers' and fire fighters' retirement system.

(5) **PERS** means the public employees' retirement system.

(6) **PSERS** means the public safety employees' retirement system.

(7) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.37.010(6).

(8) **SERS** means the school employees' retirement system.

(9) **TRS** means the teachers' retirement system.

(10) **WSPRS** means the Washington state patrol retirement system.

(11) **County corrections department** means any subsection or unit of a county employing correctional employees.

(12) **City corrections department** means any subsection or unit of a city employing correctional employees.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-046, § 415-106-010, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-050 How does the department comply with Internal Revenue Code distribution rules?** (1) This section applies only to the public safety employees' retirement system (PSERS).

(2) All benefits paid from the PSERS retirement plan shall be distributed in accordance with the requirements of IRC section 401 (a)(9) and the regulations under that section. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(a) Distribution of a member's benefit must begin by the later of the April 1 of the year following the calendar year in which a member attains age seventy and one-half or the April

1 of the year following the calendar year in which the member retires;

(b) The member's entire benefit must be distributed over the member's life or the lives of the member and a designated beneficiary;

(c) The life expectancy of a member or the member's spouse or beneficiary may not be recalculated after the benefits commence;

(d) If a member dies before the distribution of the member's benefits has begun, distribution of the member's entire interest must be distributed in accordance to IRC section 401 (a)(9) and the regulations implementing that section. Distributions must occur over the life expectancy of the designated beneficiary and must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died;

(e) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Federal Internal Revenue Code; and

(f) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death. Death benefits must be distributed in accordance with IRC section 409 (a)(9) and the regulations implementing that section.

(3) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to IRC section 401 (a)(31).

(a) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(ii) Any distribution to the extent such distribution is required under IRC section 401 (a)(9);

(iii) The portion of any distribution that is not includible in gross income; and

(iv) Any other distribution that is reasonably expected to total less than two hundred dollars during the year.

(b) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, effective for taxable years beginning prior to January 1, 2007, this portion may be paid only to an individual retirement account or annuity described in IRC section 408 (a) or (b), or to a qualified defined contribution plan described in IRC section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Provided, however, effective for taxable years beginning after December 31, 2006, this portion may be paid only to:

(i) An individual retirement account or annuity described in IRC section 408 (a) or (b);

(ii) A qualified defined contribution plan described in IRC section 401(a);

(iii) A qualified plan described in IRC section 403(a);

(iv) A qualified defined benefit plan described in IRC section 401(a); or

(v) An annuity contract described in IRC section 403(b), and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(c) An eligible retirement plan for a distributee is:

(i) An individual retirement account described in IRC section 408(a);

(ii) An individual retirement annuity described in IRC section 408(b);

(iii) An annuity plan described in IRC section 403(a);

(iv) A qualified trust described in IRC section 401(a), that accepts the distributee's eligible rollover distribution;

(v) An annuity contract described in IRC section 403(b);

(vi) An eligible plan under IRC section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; or

(vii) Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in IRC section 408A.

(d) The definition of eligible retirement plan in (c) of this subsection shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p).

(e) A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

(f) A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(g) Effective for distributions after December 31, 2006, if, with respect to any distribution from the account of a deceased PSERS member, a direct trustee-to-trustee transfer is made to an individual retirement plan (an individual retirement account or annuity described in IRC section 408 (a) or (b)) established to receive distributions for the designated beneficiary of the deceased PSERS member, and the designated beneficiary is not the surviving spouse, then:

(i) The transfer shall be treated as an eligible rollover distribution;

(ii) The individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of IRC 408 (d)(3)(C)); and

(iii) The distribution requirements of IRC section 401 (a)(9)(B) (other than clause (iv) thereof), as clarified by IRS Notice 2007-7 for this purpose, shall apply to the individual retirement plan.

To the extent provided in federal regulations, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-050, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-060 What are the IRS limitations on maximum benefits and maximum contributions?** (1) This section applies only to the public safety employees' retirement system (PSERS). Subject to the provisions of this section, benefits paid from, and employee contributions made to, the plan shall not exceed the maximum benefits and the maximum annual addition, respectively, as applicable under IRC section 415.

(2) A participant may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415 (b)(1)(A), subject to the applicable adjustments in IRC section 415. For purposes of applying IRC 415(b) when a participant retires before age sixty-two or after age sixty-five, the determination as to whether the benefit satisfies IRC section 415(b) limitations is made by comparing the equivalent annual benefit, determined in Step 1, (a) of this subsection, with the age-adjusted dollar limit, determined in Step 2, (b) of this subsection. The plan will satisfy IRC section 415(b) limitations only if the equivalent annual benefit determined in Step 1 is less than the age-adjusted dollar limit determined in Step 2.

(a) **Step 1:** Under IRC 415 (b)(2)(B), determine the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the plan benefit. In general, IRC 415 (b)(2)(E)(i) and (v) require that the equivalent annual benefit be the greater of (a)(i) or (ii) of this subsection. This step applies only to a benefit that is required to be converted to a straight life annuity under IRC section 415 (b)(2)(B), for example, a qualified joint and survivor annuity.

(i) The equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable (plan rate and plan mortality table, or plan tabular factor, respectively).

(ii) The equivalent annual benefit computed using a five percent interest rate assumption and the applicable mortality table.

(b) **Step 2:** Under IRC 415 (b)(2)(C) or (D), determine the IRC 415(b) dollar limitation that applies at the age the benefit is payable (age-adjusted dollar limit).

(i) If the age at which the benefit is payable is less than sixty-two, the age-adjusted dollar limit is determined by reducing the dollar limit on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the age-adjusted dollar amount be the lesser of (b)(i)(A) or (B) of this subsection.

(A) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(B) The amount computed using five percent interest and the applicable mortality table described in the Federal Internal Revenue Service's (IRS) Revenue Ruling 2001-62. (This is used only to the extent described in Q&A 6 of Revenue

Ruling 98-1. Q&A 6 states that for purposes of adjusting any limitation under IRC 415 (b)(2)(C) or (D), if forfeiture does not occur upon death, the mortality decrement may be ignored prior to age sixty-two and must be ignored after the Federal Social Security Retirement Age.)

(ii) If the age at which the benefit is payable is greater than age sixty-five, the age-adjusted dollar limit is determined by increasing the IRC section 415(b) dollar limitation on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the increased age-adjusted dollar limit be the lesser of (b)(ii)(A) or (B) of this subsection.

(A) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(B) The equivalent amount computed using five percent interest and the applicable mortality table (used to the extent described in Q&A 6, as described in the prior paragraph).

The dollar limit will be reduced proportionally for less than ten years of participation. For example, if you have five years of service the IRC section 415(b) limit is reduced to 5/10 (fifty percent) of the limit.

(3) The maximum annual addition that may be contributed or allocated to a participant's account for any limitation year may not exceed the lesser of:

(a) Forty thousand dollars, which limit shall be adjusted for increases in the cost-of-living under IRC section 415(d); or

(b) One hundred percent of the member's compensation, within the meaning of IRC section 415 (c)(3), for the limitation year.

(4) Notwithstanding any other provision of law to the contrary, the department may modify a request by a participant to make a contribution to the retirement plan if the amount of the contributions would exceed the limits under IRC section 415(c) or 415(n).

(5) The definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with IRC section 415 includes the amount of any elective deferral, as defined in IRC section 402 (g)(3), or any contribution which is made or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC sections 125, 132 (f)(4), or 457, but excludes member contributions picked under IRC section 414 (h)(2).

(6) The annual compensation taken into account in calculating retiree benefits under this system must not exceed the limits imposed by IRC section 401 (a)(17) for qualified trusts. This limitation shall be adjusted for cost of living increases in accordance with IRC section 401 (a)(17)(B).

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-060, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-070 Assets for exclusive benefit of members and beneficiaries.** No assets of the public safety employees' retirement system may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-070, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-080 Actuarial tables, schedules, and factors.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances for PSERS members.

[Statutory Authority: RCW 41.50.050(5), chapters 41.37, 41.45, and 41.50 RCW. 08-02-046, § 415-106-080, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-100 Am I eligible for PSERS membership?** On or after July 1, 2006, you are eligible for PSERS membership according to the provisions in this section.

(1) Subject to the exceptions in subsection (2) of this section, you will be a PSERS member on the date you become employed in a full-time position for an employer as defined in WAC 415-106-010, provided one or more of the following applies:

(a) The position requires completion of a certified criminal justice training course and you are authorized by your employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job.

(b) Your primary responsibility is to ensure the custody and security of incarcerated or probationary individuals.

(c) You are a limited authority Washington peace officer, as defined in RCW 10.93.020.

(d) Your primary responsibility is to supervise members eligible under this section.

(2) You are exempt from PSERS membership if:

(a) One or more of the exemptions in RCW 41.37.020 apply to you;

(b) You are a retirement system retiree, estopped from membership under RCW 41.04.270;

(c) You are, or have been, a PERS Plan 1 member; or

(d) You were a PERS Plan 2 or 3 member on July 1, 2006, and are not required to join PSERS membership according to WAC 415-106-110.

[Statutory Authority: RCW 41.50.050(5), 10.93.020, 41.04.270, 41.37.010(4) and (5), and 41.37.020. 08-02-046, § 415-106-100, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-105 May I join PSERS if my duties qualify for PSERS membership, but my employer is not specifically listed in WAC 415-106-010(2)?** You do not qualify for membership unless your department or agency is specifically listed in WAC 415-106-010(2), even if your employer employs one or more elected or appointed officials who are PSERS members.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(4). 08-02-046, § 415-106-105, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-110 If I am a member of PERS, may I change my membership to PSERS?** You may have the right to change your retirement system membership from PERS to PSERS according to the requirements in this section.

(1) You may change retirement system membership from PERS to PSERS if:

(a) You were a member of either PERS Plan 2 or Plan 3 prior to July 1, 2006; and

(b) On July 1, 2006, you meet the requirements for membership in WAC 415-106-100.

(2) If you meet the conditions in subsection (1) of this section and wish to change membership from PERS to PSERS, you must submit a properly completed election form to your employer during the election period that begins on July 1, 2006, and ends on September 30, 2006.

(3) Your change in membership is prospective only.

(a) You become a member of PSERS on the election date shown on your election form.

(b) You will become a dual member of PSERS and PERS. All service credit and compensation previously reported in PERS will remain in PERS. Your retirement benefits will be governed by the dual member "portability" provisions in chapters 41.54 RCW and 415-113 WAC.

(4) If you meet the conditions in subsection (1) of this section and do not change membership to PSERS on or before September 30, 2006, you may not become a member of PSERS while you continue employment with the same employer. However, if you terminate your employment with the employer with whom you were employed on July 1, 2006, and become employed in a PSERS eligible position with another employer after July 1, 2006, you will be mandated into PSERS membership.

[Statutory Authority: RCW 41.50.050(5), chapters 41.37 and 41.45 RCW, and RCW 41.40.113. 08-02-046, § 415-106-110, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-200 Purpose and scope of reportable compensation rules.** WAC 415-106-205 through 415-106-330 codify the department's interpretation of statutes and administrative practice regarding classification of payments received by members. The department applies these rules to all payments.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-046, § 415-106-200, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-205 What is reportable compensation?** Reportable compensation is subject to retirement system contributions and is used in the calculation of your retirement benefit.

(1) The department determines whether payments you receive are reportable compensation based on the nature of the payment, not the name of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of "compensation earnable" in RCW 41.37.010(6). It must:

(a) Be paid to you by an employer as a salary or wage for services you provided; or

(b) Qualify as reportable compensation under chapter 41.37 RCW or this chapter.

(2) Your employer must report all of your reportable compensation to the department. Your employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: Bill is paid in July for work performed during June. The employer must report his compensation to the department as "June earnings."

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-205, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-210 What types of payments are considered reportable compensation?** The following table indicates whether certain types of payments are reportable compensation under PSERS, and provides a cross-reference to the applicable WAC.

Type of Payment	PSERS Reportable Compensation?
Annual leave cash outs	No - WAC 415-106-255
Assault pay (state employees)	Yes - WAC 415-106-270
Base rate	Yes - WAC 415-106-215
Cafeteria plans	Yes - WAC 415-106-290
Deferred wages	Yes - WAC 415-106-300
Disability insurance payments	No - WAC 415-106-275
Disability: Salary imputed while on duty-disability leave	Yes - WAC 415-106-270
Employer provided vehicle	No - WAC 415-106-325
Employer taxes/contributions	No - WAC 415-106-300
Fringe benefits, including insurance	No - WAC 415-106-295
Illegal payments	No - WAC 415-106-305
Legislative leave	Yes - WAC 415-106-285
Longevity/education attainment pay	Yes - WAC 415-106-215
Nonmoney compensation	No - WAC 415-106-315
Optional payments	No - WAC 415-106-310
Overtime payments	Yes - WAC 415-106-220
Performance pay	Yes - WAC 415-106-230
Paid leave	Yes - WAC 415-106-260
Reimbursements	No - WAC 415-106-320
Reinstatement payments	Yes - WAC 415-106-240
Retirement or termination bonus	No - WAC 415-106-235
Retroactive salary increase	Yes - WAC 415-106-245
Severance pay	No - WAC 415-106-250
Shared leave (state employees)	Yes - WAC 415-106-270
Sick leave cash outs	No - WAC 415-106-255
Standby pay	Yes - WAC 415-106-225
Time off with pay	Yes - WAC 415-106-255
Union leave <sup>1</sup>	Yes - WAC 415-106-265
Unpaid leave <sup>2</sup>	Yes - WAC 415-106-280
Vehicle allowances	No - WAC 415-106-330

<sup>1</sup>Only specific types of union leave are reportable. See WAC 415-106-265.

<sup>2</sup>Only the unpaid leave specified in WAC 415-106-280(2) will be used in the calculation of your AFC.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-210, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-215 Are salary increases based on longevity or educational attainment considered reportable compensation?** Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services you provide and qualifies as reportable compensation. Your rate of salary may be based in part on longevity or educational attainment.

(1) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education.

(2) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-215, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-220 Are overtime payments reportable compensation?** Overtime is additional pay you earn for working time in excess of your regularly scheduled shift, and is reportable compensation. Some examples of overtime are:

(1) **Additional pay for working on a holiday.** If you receive an extra payment for working on a scheduled holiday, the payment is overtime. Your employer may make the additional payment when the holiday occurs or in a lump sum at some other time.

Example: Bill works on Christmas day. He is given the option of taking another day off with pay or receiving an extra day's pay. If he opts for the extra pay, the payment is overtime and is reportable compensation. If he takes another day off in lieu of the extra pay, it is paid leave and also qualifies as reportable compensation.

(2) **Callback pay.** If your employer offers you a special rate of pay for returning to work when called after the end of your regular shift, it is overtime.

(3) **Court pay.** If you receive an additional payment for appearing in court or performing other duties outside your regularly scheduled shift, it is overtime.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-220, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-225 Is standby pay reportable compensation?** Standby means you are required by your employer to be prepared to report immediately for work if the need arises, although the need may not arise. According to RCW 41.37.010 (6)(b)(vi):

(1) The pay you receive for being on standby qualifies as reportable compensation; however

(2) The time you spend on standby is not counted toward service credit and is not reported to the department by your employer.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-225, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-230 Is performance pay reportable compensation?** Performance pay for meeting certain performance goals is reportable compensation because it is paid for services provided. Employers must document the dates over which the performance pay is earned, and provide that information if requested by the department.

Example: An employer offers each employee in a work group an additional \$100 if the work group has no

work-related accidents during the upcoming year. Remaining accident free is a performance goal. Therefore the payment will be for services provided and will qualify as reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-230, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-235 Is a retirement bonus or incentive reportable compensation?** A payment made as a bonus or incentive to retire is not a payment for services provided, and is not reportable compensation.

Example: A collective bargaining agreement authorizes a city to pay employees a higher salary during the last two years of employment if the employee gives written notice of intent to retire or terminate. Because the payment is in exchange for the agreement to retire or terminate and not for services, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-235, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-240 Are payments for reinstatement or payment instead of reinstatement reportable compensation?** (1) Payments you receive upon reinstatement or instead of reinstatement are reportable compensation to the extent they are equivalent to the salary you would have earned by working in your position. RCW 41.37.010 (6)(b)(i) defines these payments as reportable compensation even though they are not payments for services you provided to your employer. The payment will be prorated over the entire period you were suspended, terminated, or otherwise absent from work.

(2) For purposes of this section, "reinstatement" means that you are entitled to return to full employment rights by action of either:

- (a) The employer; or
- (b) A personnel board, personnel appeals board or court of law.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-240, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-245 Are retroactive salary increases reportable compensation?** A retroactive salary increase occurs when your rate of pay is increased and made retroactive to a prior date. You receive a lump sum payment to cover the increase earned during the earlier period.

(1) To qualify as reportable compensation under this section, the retroactive salary increase must be made pursuant to:

- (a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;
- (b) A bona fide settlement of a claim before a court or administrative agency for a retroactive salary increase;
- (c) A collective bargaining agreement; or
- (d) Action by a personnel resources board which expressly states the payments are retroactive.

(2) Your employer must report compensation for the month in which it was earned.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-245, filed 12/27/07, effective 1/27/08.]

[2008 WAC Supp—page 10]

**WAC 415-106-250 Is severance pay reportable compensation?** Severance pay, whether or not it is earned over time, is not reportable compensation. See RCW 41.37.010 (6)(a).

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-250, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-255 Is sick leave or vacation leave, whether used or cashed out, reportable compensation?** (1) **Sick and annual leave (used).** Most PSERS members earn a certain number of sick leave and annual leave hours per month. These leave hours are earned by providing service during the month in which the leave accrues. The payment you receive when you use an earned leave day is reportable compensation.

(2) **Sick and annual leave cash outs.** Under RCW 41.37.010 (6)(a), sick and annual leave cash outs are not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-255, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-260 Is paid leave, which is not earned over time, reportable compensation?** To the extent authorized by RCW 41.37.260, payment you receive from your employer while on an authorized paid leave of absence is reportable compensation provided that:

(1) The payment does not exceed the salary for the position from which you are on leave; and

(2) The payment is received from the employer, not from a third party. Except as provided in WAC 415-106-265, if you receive the payment from your employer, but your employer is reimbursed for the payment by a third party, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.260. 08-02-046, § 415-106-260, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-265 Is the pay I receive from my employer when I am on union leave reportable compensation?** If you take an authorized leave of absence to serve as an elected official of a labor organization and you receive payment from your employer during your leave, the payment may be reportable compensation even if the union reimburses your employer. To qualify as reportable compensation, the payment must meet the specific conditions of RCW 41.37.-260(2).

[Statutory Authority: RCW 41.50.050(5) and 41.37.260. 08-02-046, § 415-106-265, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-270 Is compensation for periods of absence due to sickness or injury reportable compensation?** Compensation you receive for periods of absence due to sickness or injury, which is not covered by earned sick leave, qualifies as reportable compensation only as authorized by RCW 41.37.010(6) and this section.

(1) **Assault pay** qualifies as reportable compensation to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Duty disability.** You may make contributions and receive up to twelve consecutive months of service credit for periods of disability covered by Title 51 RCW or similar federal workers' compensation program as provided in RCW

41.37.060. In this case, the compensation you would have received but for the disability qualifies as reportable compensation to the extent authorized by RCW 41.37.060.

**(3) Shared leave.**

(a) If you are a state employee, as defined in RCW 41.04.655, the compensation you receive due to participation in a leave-sharing program qualifies as reportable compensation to the extent authorized by RCW 41.04.650 through 41.04.670.

(b) If you are not a state employee, shared leave payments are not specifically authorized by RCW 41.37.010(6) and do not qualify as reportable compensation.

[Statutory Authority: RCW 41.50.050(5), 27.04.100, 41.04.650 through 41.04.670, 41.37.010(6), 41.37.060, 72.01.045, and 72.09.240. 08-02-046, § 415-106-270, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-275 Are disability insurance or workers' compensation payments reportable compensation?**

(1) Disability insurance payments are not reportable compensation, whether the payments come directly from your employer or from an insurance company.

(2) Workers' compensation payments are not reportable compensation.

Example: Susan, an employee on unpaid disability leave, submits her workers' compensation payments to her employer. The employer then issues Susan a check for the same amount through the payroll system. Even though the payment may have the appearance of compensation from the employer, it is not a payment for services provided and is not reportable compensation.

(3) See WAC 415-106-270 for information about service credit and imputed compensation for periods of duty disability.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-275, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-280 Will the compensation that is imputed to periods of unpaid leave be used in the calculation of my AFC? (1) Authorized unpaid leave.** If you establish service credit under RCW 41.37.260 for periods of unpaid leave, the compensation imputed to the period of time you are on leave will not be included in your AFC. See WAC 415-02-175.

(2) **Military leave.** If you purchase service credit for a period of interruptive military service and that period falls in your AFC period, federal law entitles you to have the salary you would have earned during that time period used in the calculation of your AFC.

[Statutory Authority: RCW 41.50.050(5) and 41.37.260. 08-02-046, § 415-106-280, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-285 Is the pay I receive while on legislative leave reportable compensation?** If you take leave without pay from an eligible PSERS position to serve in the legislature, you may elect to participate in PSERS as a legislator.

For any year in which you serve in the legislature, you may choose that your reportable compensation be either:

(1) The reportable compensation you would have earned had you not served in the legislature; or

(2) The compensation you actually received for nonlegislative public employment and the legislative service combined.

If you choose the option in subsection (1) of this section, you must pay the additional employer and employee contributions to the extent the compensation reported is higher than it would have been under subsection (2) of this section.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-285, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-290 Is compensation applied toward cafeteria plans reportable compensation?** Compensation you receive and apply toward a benefit plan under Internal Revenue Code (IRC) section 125 is reportable compensation if you have an absolute right to receive cash or deferred cash payments instead of participating in the plan. If there is no cash option, the value of participating in the plan is not reportable compensation. See WAC 415-106-295.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-290, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-295 Are fringe benefits reportable compensation?** Fringe benefits provided by an employer are not a salary or wage, and are not reportable compensation. Fringe benefits include, but are not limited to:

(1) Employer retirement contributions;

(2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; and

(3) Any employer payments into a private fund to provide health or welfare benefits for you or your dependents, with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-106-290.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-295, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-300 Are payroll deductions reportable compensation?** Amounts withheld from your salary or wages are reportable compensation. Examples include:

(1) Your member contributions to PSERS. Your employer's contributions are a fringe benefit and are not reportable compensation. See WAC 415-106-295.

(2) Amounts withheld for federal income tax purposes; and

(3) Other authorized voluntary deductions, such as deferred compensation or IRC section 457 plan contributions.

[Statutory Authority: RCW 41.50.050(5), 41.37.010(6) and IRS regulations. 08-02-046, § 415-106-300, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-305 Are payments, which are outside my employer's legal authority, reportable compensation?** Payments made by an employer that go beyond the employer's legal authority are not reportable.

[Statutory Authority: RCW 41.50.050(5). 08-02-046, § 415-106-305, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-310 Are optional payments reportable compensation?** If you receive an additional payment only on the condition of taking an action other than providing service to your employer, the payment is not reportable compensation.

Example: An employer offers to make a contribution to Joe's deferred compensation plan only if Joe agrees to have a portion of his salary deferred. Because Joe does not have a right to receive the contribution based solely on providing service, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5), 08-02-046, § 415-106-310, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-315 Are nonmoney payments from my employer reportable compensation?** Nonmoney compensation is compensation legally provided to you in a form other than money. Examples include: Living quarters, food, board, equipment, clothing, laundry, transportation, fuel and utilities. The value of nonmoney maintenance compensation you receive from your employer is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6), 08-02-046, § 415-106-315, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-320 Are reimbursements for business expenses reportable compensation?** Reimbursements are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050(5), 08-02-046, § 415-106-320, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-325 Vehicles—Is the value of my use of an employer's vehicle reportable compensation?** The value of an employer-provided vehicle is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5), 08-02-046, § 415-106-325, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-330 Are vehicle allowances reportable compensation?** (1)(a) A vehicle allowance is not reportable compensation if it is received in lieu of expenses you incur or expect to incur in using your own vehicle for business purposes.

(b) A vehicle allowance qualifies as reportable compensation to the extent that it exceeds your actual expenses. For instance, if you receive both a vehicle allowance and separate reimbursements for vehicle expenses each time you use a privately owned vehicle for business purposes, the vehicle allowance is reportable compensation.

(2) To prove that your vehicle allowance exceeded your actual expenses, your employer must maintain ongoing monthly records, documenting:

(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;

(b) The miles you drove the vehicle on each of these trips;

(c) Your itinerary for each of these trips; and

(d) The amount of the allowance less the actual expenses, using IRS methodology. Under the IRS methodology, your actual expenses are the miles you drove multiplied by the IRS rate.

(i) The miles you drove are the number of miles you drove a privately owned vehicle for business purposes during the month.

(ii) "IRS rate" means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(3) If a vehicle allowance exceeds actual expenses, your employer must report the excess, calculated in subsection (2)(d) of this section.

(4) If any part of a vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150.

[Statutory Authority: RCW 41.50.050(5), 41.50.150 and IRS regulations, 08-02-046, § 415-106-330, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-400 If I establish PSERS membership and now hold a state elective position, may I continue to accrue service credit in PSERS?** If you are an active PSERS member and are elected or appointed by the governor to a state elective position, you have the option to continue as a contributing member of PSERS, as limited by the requirements in this section.

(1) You must submit a written application directly to the department.

(2) If you submit your application before your service in a state elective position starts:

(a) Your employee contributions will be deducted from your compensation for your elective service.

(b) Except as provided in WAC 415-106-285, your employer(s) will pay the required employer contributions.

(3) If you submit your application mid-term (after your service in a state elective position has started):

(a) You and your employer will begin making contributions according to subsection (2) of this section.

(b) You must establish service credit for the prior portion of your current term by paying the employee contributions plus interest. Your employer must pay the required employer contributions plus interest.

(4) If you submit your application after your service in a state elective position has been completed, you must pay the required employee and employer contributions for the service credit with interest as determined by the department. Your former employer, at its discretion, may pay the required employer contributions plus interest.

(5) If you work in a PSERS eligible position at the same time you accrue service credit in a state elective position:

(a) Employee contributions will be deducted from your compensation for your service in the PSERS position and in the state elective position; and

(b) Both employers will make employer contributions.

(6) You will earn one service credit month for each calendar month during which you provide service in a state elective position. If you provide concurrent service in a PSERS eligible position, you will not receive additional service credit for that service.

(7) Once you start to accrue service credit in PSERS for a state elective position you must remain an active PSERS member until:

(a) You separate from all eligible public employment. You are not separated from eligible public employment if:

(i) You are reelected or reappointed to a successive term or terms of office; or

(ii) You resign from your state elective position and later resume service in the same state elective position during the same term.

(b) You retire from PSERS, whether or not you continue to serve in your elective position. See WAC 415-106-405.

(8) A state elective position is any position held by any person:

(a) Elected or appointed to a statewide office; or

(b) Elected or appointed as a member of the legislature.

[Statutory Authority: RCW 41.50.050(5) and 41.37.020(2). 08-02-046, § 415-106-400, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-401 If I hold a state elective position before establishing PSERS membership, may I establish service credit for my prior service in the state elective position?** If you held a state elective position before you established PSERS membership, you have the option to establish service credit for the time you served in the state elective position as limited by the following requirements:

(1) You must be an active PSERS member at the time you submit your application.

(2) The term of office must have begun on or after July 1, 2006.

(3) You must submit a written application directly to the department.

(4) You must pay the required employee and employer contributions for the service credit with interest as determined by the department. Your former employer, at its discretion, may pay the employer contributions plus interest.

(5) You must establish service credit for a full term of office. You may not establish service for only a portion of your term in office. However, if you served multiple terms, you are not required to establish service credit for all of the terms served.

[Statutory Authority: RCW 41.50.050(5) and 41.37.020(2). 08-02-046, § 415-106-401, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-405 May I retire from PSERS while holding a state elective position?** (1) If you are holding a state elective position and accruing PSERS service credit for your service in that position, you may retire from PSERS and continue to work in your elective position provided:

(a) You are eligible to retire under RCW 41.37.210;

(b) You submit a written statement to the department, waiving the right to earn PSERS service credit for any future period of service in a state elective position; and

(c) Your compensation in the state elective position is fifteen thousand dollars or less per year, adjusted annually for inflation by the director. See subsection (2) of this section.

(2) The compensation threshold in subsection (1)(c) of this section is adjusted on April 1 of each year, based on the average consumer price index for Seattle for the previous calendar year. Effective April 2006, the threshold is \$21,551.

You may contact the department for the threshold in effect for subsequent years.

[Statutory Authority: RCW 41.50.050(5), 41.37.020(2) and 41.37.210. 08-02-046, § 415-106-405, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-500 PSERS disability benefits.** This section covers disability benefits provided for in RCW 41.37.230. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on-the-job or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for disability benefits if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other PSERS position for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as a monthly disability allowance?**

(a) If you have at least ten years of service credit in PSERS, you will receive a monthly allowance equal to two percent of your AFC times your service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age **sixty**. Your monthly allowance may be further reduced to offset the cost of the benefit option you choose. See WAC 415-106-600.

(b) If you have less than ten years of service credit, you will receive a monthly allowance<sup>1</sup> equal to two percent of your AFC times your service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age **sixty-five**. Your monthly allowance may be further reduced to offset the cost of the benefit option you choose. See WAC 415-106-600.

<sup>1</sup>*You may choose to receive a lump sum payment instead of a monthly allowance if your initial monthly allowance will be less than fifty dollars. See RCW 41.37.200.*

See WAC 415-02-320 for early retirement factors and examples.

(3) **How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete and sign the application. If you are married, your spouse must sign consent to the benefit option you select. You, and your spouse if you are married, must have your signatures notarized.

(ii) **Part 2:** Employer's statement and report. Your employer must complete and sign Part 2, and return it directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return it directly to the department. You are responsible for all medical expenses related to your application for benefits. A copy of your job description must be provided to the physician at time of examination.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(4) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(5) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, you should request a benefit estimate from the department, as there may be a difference in the dollar amount of your monthly allowance.

(6) **Once my application is approved, when will my monthly allowance begin?**

(a) Your disability allowance will accrue from the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PSERS employment.

(i) If you are continuing to perform the duties of your position or another PSERS position, you may reapply for disability benefits according to subsection (3) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

(7) **What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PSERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(8) **Are my disability benefits taxable?** You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(9) **Are disability benefits subject to court or administrative orders?** Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.37.090(3) or contact the department.

(10) **Am I eligible for disability benefits if my disability is the result of my criminal conduct?** No. See RCW 41.37.100.

(11) **How is my disability benefit affected if I am a member of more than one retirement system?** If you are a member of more than one retirement system, your benefit is governed by portability law. See chapters 41.54 RCW and 415-113 WAC. You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

(12) **How long will I continue to receive a monthly disability allowance?** You may receive a monthly allowance throughout your lifetime, subject to the provisions of subsection (13) of this section.

(13) **Is it possible to lose my monthly disability allowance after I begin receiving it?**

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive a disability allowance if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.37.010(4), at a comparable compensation.

(b) If you return to employment and reenter PSERS membership, your benefits will cease.

(14) **If I take my disability benefit in a lump sum and return to work, may I restore my service credit?** Yes, you may restore your service credit if you take a lump sum benefit and return to PSERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165 and 41.37.200.

[Statutory Authority: RCW 41.50.050(5), 41.37.010(4), 41.37.090(3), 41.37.100, 41.37.200, 41.37.230, 41.50.165, and chapter 41.54 RCW. 08-02-046, § 415-106-500, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-600 What are my retirement benefit options?** Upon retirement for service under RCW 41.37.210 or retirement for disability under RCW 41.37.230, you must

choose to have your retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly retirement allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.37.170(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will accrue from the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example: John retires from PSERS in 2006. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2011. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2006	2,000.00	1,750.00		0.00
2007		1,750.00	.02	35.00
2008		1,785.00	.03	53.55
2009		1,838.55	.025	45.96
2010		1,884.51	.03	56.54
2011	2,000.00	1,941.05	—	—
			Total COLAs	191.05
Original Option One Monthly Allowance \$2000		+ Total COLAs	= New Monthly Allowance	
		+ \$191.05	=	\$2,191.05

(6) **May I change my benefit option after retirement?**

Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.37.050(3).

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate. See RCW 41.37.170.

[Statutory Authority: RCW 41.37.170, 41.50.050(5), 41.37.050, 41.37.170, 41.37.210, 41.37.230, and 41.50.790. 08-02-046, § 415-106-600, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-610 How do I apply for retirement benefits?** You should apply for retirement benefits at least thirty days before your intended retirement date by submitting to the department:

(1) A completed, signed and notarized retirement application, including:

(a) Your selection of one of the benefit options described in WAC 415-106-600.

(b) Designation of a survivor beneficiary if you selected a benefit option with a survivor feature.

(c) If you are married, your spouse's notarized signature indicating consent to the retirement option you selected.

(i) If you are married and you do not provide spousal consent, the department will pay you a monthly retirement allowance based on WAC 415-106-600 (2)(c), option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.37.170 (2)(a).

(ii) Spousal consent is not required if a dissolution decree designating your survivor beneficiary under RCW 41.50.790 was filed with the department at least thirty days prior to your retirement date.

(2) Evidence of your birth date, such as a photocopy of your certified birth certificate, passport, naturalization certificate, certificate of armed services record U.S. DD 214, or other documentation acceptable to the department.

(3) If you selected a benefit option with a survivor feature, acceptable evidence of your designated survivor beneficiary's birth date.

[Statutory Authority: RCW 41.50.050(5), 41.37.170 and 41.50.790. 08-02-046, § 415-106-610, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-620 How does the department calculate my retirement allowance?** (1) When you apply for retirement, you will first receive a provisional retirement allowance.

(a) The department will calculate the provisional allowance based on:

(i) The data for service credit and reportable compensation in the department's system at the time it is calculated;

(ii) Projections of your salary for periods that have not yet been reported by your employer.

(b) The department will pay you the provisional allowance until your actual retirement allowance has been calculated.

(2) To compute your actual allowance, the department must receive a final compensation report from your employer. The department may also require any of the following from your employer:

(a) Earnings history.

(b) Copies of your employment contract(s).

(c) Copies of your employer's compensation policies.

(3) The department will make a final calculation of your actual retirement allowance by making a final determination of your service credit and AFC and by applying the correct formula to these values. Your actual retirement allowance may be higher or lower than your provisional allowance.

(4) If the amount of your actual allowance is different from your provisional allowance, the department will make the necessary adjustments.

(a) If you were underpaid, the department will pay you a lump sum payment equal to the difference of the total provisional payments you received and the total you would have received based on your actual allowance.

(b) If you were overpaid, the department will recover the overpayment either through a lump sum payment, monthly installment payments, or through an actuarial reduction of your actual allowance.

[Statutory Authority: RCW 41.50.050(5) and 41.37.190. 08-02-046, § 415-106-620, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-700 As a PSERS retiree, how will my retirement allowance be affected if I return to employment?** (1) You may work as many hours as you choose and continue to receive your retirement allowance if:

(a) You return to work as an employee for a private employer;

(b) You return to work as a bona fide independent contractor as defined in WAC 415-02-110;

(c) Your only employment is as an elected official of a city or town and you are not a PERS member;

(d) You work in an ineligible position; or

(e) You are a retiree returning as an active member of a higher education retirement plan.

(2) If you return to work in a **PERS, SERS, or TRS Plan 2 or 3 eligible position**, your retirement allowance will be affected as follows:

(a) If you return to work within thirty consecutive calendar days from your accrual date (effective retirement date):

(i) Your monthly retirement allowance will be reduced by five and one-half percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent from such employment for thirty calendar days.

(ii) The reduction provided in (a)(i) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any reduction over one hundred percent will be

applied to the allowance you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(b) If you return to work after thirty consecutive calendar days have elapsed, you may work for eight hundred sixty-seven hours each calendar year before your retirement allowance is suspended.

(3) If you return to work in an eligible **PSERS position**, your retirement allowance will be affected as follows:

(a) If you return to an eligible PSERS position and elect to reenter membership, your retirement allowance will be suspended. If you make this election, your retirement allowance will be recalculated pursuant to WAC 415-106-710 when you rerehire.

(b) If you return to an eligible PSERS position within thirty consecutive days of your accrual date (effective retirement date) and do not reenter membership, your monthly retirement allowance will be reduced by five and one-half percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent from such employment for thirty calendar days. The reduction will accrue for a maximum of one hundred sixty hours per month. Any reduction over one hundred percent will be applied to the allowance you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(c) If you return to an eligible PSERS position after thirty consecutive days of your accrual date (effective retirement date) and do not reenter membership, your retirement allowance will be suspended.

**(4) What hours are counted toward the limits?**

**(a) Hours that count toward the limits are:**

(i) All compensated hours that you work in an eligible position for any employer whose retirement plan is administered by the department;

(ii) Used earned sick leave and vacation days;

(iii) Paid holidays; and

(iv) Compensatory time, whether you use the time or cash it out.

(b) **Not counted toward the hour limits:** Unused sick and vacation leave you cash out.

**(5) What happens if I work over the annual hour limit?** The department will:

(a) Suspend your retirement allowance on the day following the day you exceed the limit, and prorate your payment for that month.

(b) Restart your retirement allowance the next calendar year or the day after you terminate all employment identified in subsection (2) of this section, whichever occurs first.

(c) Recover any overpayments made to you for the month(s) in which you exceeded the hour limit and received a retirement allowance. See RCW 41.50.130.

[Statutory Authority: RCW 41.50.050(5), 41.37.050, 41.50.130, chapters 41.32, 41.35, and 41.40 RCW. 08-02-046, § 415-106-700, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-710 How does the department calculate my retirement allowance if I reenter PSERS membership and then rerehire?** If you return to work in an eligible PSERS position, you have the option of reentering membership. If you reenter membership, your retirement allowance will be calculated according to this section when you rerehire.

**(1) If you previously retired before age sixty, the department will:**

(a) Calculate your retirement allowance pursuant to RCW 41.37.190 using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your AFC resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To account for any lump sum payment you took at the time of your previous retirement, plus interest, unless you choose to repay the entire amount before you rerehire;

(iii) To reflect the difference in the number of years between your current age and the attainment of age sixty, if you are not yet age sixty; and

(iv) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-106-600.

**(2) If you previously retired at or after age sixty, the department will:**

(a) Calculate your retirement allowance pursuant to RCW 41.37.190 using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your AFC resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) To account for any lump sum payment you took at the time of your previous retirement, plus interest, unless you choose to repay the entire amount before you rerehire; and

(ii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-106-600.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

[Statutory Authority: RCW 41.50.050(5), 41.37.050, 41.37.180, and 41.37.190. 08-02-046, § 415-106-710, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-900 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?**

(1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

- (i) A copy of the entire trust document;
  - (ii) The name, address, telephone number of the current trustee; and
  - (iii) The tax identification number.
- (3) You may name contingent beneficiaries in addition to primary beneficiaries.
- (4) You may change your beneficiary designation at any time.
- (5) A change in marital status may invalidate your prior designation.
- (6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.37.250.
- (7) If your surviving spouse is eligible to receive a benefit under RCW 41.37.250(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:
- (a) Your accumulated contributions; or
  - (b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

EXAMPLE ONE.

**Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

**Result**

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.37.250.

EXAMPLE TWO.

**Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

**Result**

Because John has created no trust, Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

**Facts**

When she became a PSERS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

**Result**

Unless required to do otherwise by a court order, the department will comply with RCW 41.37.250(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

**Facts**

John is a PSERS member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.37.250(2). However, Mary died the following week before requesting a distribution from the department.

**Result**

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5) and 41.37.250. 08-02-046, § 415-106-900, filed 12/27/07, effective 1/27/08.]

## Chapter 415-108 WAC

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM

**WAC**

415-108-805

What is the PERS Plan 1 minimum allowance?

**WAC 415-108-805 What is the PERS Plan 1 minimum allowance?** RCW 41.40.1984 entitles certain PERS Plan 1 retirees and beneficiaries to a minimum monthly allowance. Subsection (3) of this section provides the amount of the minimum allowance and explains how it may be adjusted.

(1) **Do I qualify for the minimum allowance?** Except as provided in subsection (2) of this section:

(a) You qualify if your current monthly allowance, excluding any amount you receive for an additional (optional) annuity based on extra contributions, is less than the minimum allowance calculated under subsection (3) of this section, and:

- (i) You have twenty-five or more years of PERS Plan 1 service credit and have been retired at least twenty years; or
- (ii) You have twenty or more years of PERS Plan 1 service credit and have been retired at least twenty-five years.

(b) You qualify if you are a PERS Plan 1 member's survivor beneficiary under WAC 415-108-326 and your current monthly allowance is less than the minimum allowance calculated under subsection (3) of this section, provided:

- (i) The member had twenty-five or more years of PERS Plan 1 service credit and retired at least twenty years ago; or
- (ii) The member had twenty or more years of PERS Plan 1 service credit and retired at least twenty-five years ago.

(2) **Do I qualify if I receive a duty disability allowance?** You do not qualify to receive the minimum allowance provided by this rule if you are a:

- (a) Retiree currently receiving a duty disability retirement allowance under RCW 41.40.220(1);

(b) Retiree currently receiving a statewide city employees' retirement system duty disability retirement allowance under RCW 41.44.170(3); or

(c) Beneficiary currently receiving an allowance under RCW 41.44.170(5).

**(3) How much is the minimum allowance in RCW 41.40.1984, and how is it adjusted?**

(a) **Minimum allowance.** The minimum allowance prior to July 1, 2006, was \$1000. On July 1, 2006, and each July 1 thereafter, the minimum allowance increases by three percent, rounded to the nearest cent.

(b) **Adjustment.** The minimum allowance in (a) of this subsection will be adjusted each July by the same factors that were otherwise used in the calculation of your monthly allowance, including, but not limited to:

- (i) Early retirement;
- (ii) Automatic cost-of-living (COLA) increases chosen at retirement;
- (iii) Benefit option chosen at retirement (see WAC 415-108-326);
- (iv) Survivor percentage. See Example 2 in this subsection.

**Example 1:** Bob retired in August 1986 with twenty-five years of service credit. Bob chose benefit option three, so that his wife, Betty, would receive a monthly allowance equal to 50% of his allowance after his death. In August 2006, Bob became eligible for the minimum allowance, calculated as follows:

Minimum allowance in August 2006 =		\$1,030.00
<b>Minimum allowance, actuarially reduced for benefit option three</b>	$\$1,030 \times 0.87$ (benefit option factor based on the difference in age between Bob and Betty) =	<b>\$896.10</b>

**Example 2:** When Bob died in August 2009, Betty's allowance was calculated using the minimum allowance in effect on the date of Bob's death. The minimum allowance was adjusted by the same factors used to calculate Bob's allowance at retirement and also by the survivor percentage (50%) chosen when Bob retired.

Minimum allowance in August 2009	(includes a 3% per year increase)	\$1,125.51
Actuarially reduced for benefit option three =	$\$1,125.51 \times 0.87 =$	\$979.19
<b>Betty's adjusted minimum allowance</b>	(50% of the allowance Bob was receiving)	<b>\$489.60</b>

The tables, schedules, and factors the department currently uses to calculate benefits are located in WAC 415-02-300 through 415-02-380. However, factors have changed over time, and your minimum allowance will be adjusted using the same factors that were used to calculate your current monthly allowance.

**(4) If the minimum allowance is less than my current monthly allowance, will my monthly allowance be reduced?** The department will compare the amount of the minimum allowance calculated under subsection (3) of this section with your current monthly allowance. You will always receive the higher of the two benefits.

**(5) If I qualify for the minimum allowance, when will I begin to receive it?**

(a) If your eligibility is based on meeting the requirements of subsection (1)(a)(i) or (b)(i) of this section, and:

(i) You were eligible on July 1, 2004, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2004.

(ii) You become eligible after July 1, 2004, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

Example:

(b) If your eligibility is based on meeting the requirements of subsection (1)(a)(ii) or (b)(ii) of this section, and:

(i) You were eligible on July 1, 2006, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2006.

(ii) You become eligible after July 1, 2006, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

**(6) Will I receive cost-of-living adjustments (COLAs)?** You will not receive the uniform COLA (based on your years of service credit) while you are receiving the minimum allowance.

**(7) How long will I continue to receive the minimum allowance?** You will receive the minimum allowance calculated under subsection (3) of this section, for your lifetime or until your regular retirement allowance, plus COLAs and other eligible adjustments, exceeds the minimum allowance. At that time you will automatically start receiving the higher allowance.

	<b>Regular Allowance (including COLAs and other eligible adjustments)</b>	<b>Adjusted Minimum Allowance</b>	<b>Actual Amount Paid</b>
July 1, 2006	\$882.38 (allowance + COLAs)	<b>\$896.10</b> ( $\$1,030 \times .87$ )	\$896.10
July 1, 2007	\$914.63 ( $\$882.38 + \text{COLA}$ )	<b>\$922.98</b> ( $\$1,060.90 \times .87$ )	\$922.98
July 1, 2008	\$946.88 ( $\$914.63 + \text{COLA}$ )	<b>\$950.67</b> ( $\$1,092.73 \times .87$ )	\$950.67
July 1, 2009	\$979.13 ( $\$946.88 + \text{COLA}$ )	<b>\$979.19</b> ( $\$1,125.51 \times .87$ )	\$979.19
July 1, 2010	<b>\$1,011.38</b> ( $\$979.13 + \text{COLA}$ )	\$1,008.57 ( $\$1,159.28 \times .87$ )	\$1,011.38 (reverts to regular allowance including COLAs)

[Statutory Authority: RCW 41.50.050(5), 07-10-013, § 415-108-805, filed 4/20/07, effective 5/21/07. Statutory Authority: RCW 41.50.050(5) and 41.40.1984, 04-20-004, § 415-108-805, filed 9/23/04, effective 10/24/04.]

**Chapter 415-112 WAC**  
**TEACHERS' RETIREMENT SYSTEM**

**WAC**

415-112-555 What is the TRS Plan 1 minimum allowance?

**WAC 415-112-555 What is the TRS Plan 1 minimum allowance?** RCW 41.32.4851 entitles certain TRS Plan 1 retirees and beneficiaries to a minimum monthly allowance. Subsection (3) of this section provides the amount of the minimum allowance and explains how it may be adjusted.

**(1) Do I qualify for the minimum allowance?** Except as provided in subsection (2) of this section:

(a) You qualify if your current monthly allowance, excluding any amount you receive for an additional (optional) annuity based on extra contributions, is less than the minimum allowance calculated under subsection (3) of this section, and:

- (i) You have twenty-five or more years of TRS Plan 1 service credit and have been retired at least twenty years; or
- (ii) You have twenty or more years of TRS Plan 1 service credit and have been retired at least twenty-five years.

(b) You qualify if you are a TRS Plan 1 member's survivor beneficiary under WAC 415-112-504 and your current monthly allowance is less than the minimum allowance calculated under subsection (3) of this section, provided:

- (i) The member had twenty-five or more years of TRS Plan 1 service credit and retired at least twenty years ago; or
- (ii) The member had twenty or more years of TRS Plan 1 service credit and retired at least twenty-five years ago.

Minimum allowance in August 2006 =		\$1,030.00
<b>Minimum allowance, actuarially reduced for benefit option three</b>	$\$1,030 \times 0.87$ (benefit option factor based on the difference in age between Bob and Betty) =	<b>\$896.10</b>

**Example 2:** When Bob died in August 2009, Betty's allowance was calculated using the minimum allowance in effect on the date of Bob's death. The minimum allowance was adjusted by the same factors used to calculate Bob's allowance at retirement and also by the survivor percentage (50%) chosen when Bob retired.

Minimum allowance in August 2009	(includes a 3% per year increase)	\$1,125.51
Actuarially reduced for benefit option three =	$\$1,125.51 \times 0.87 =$	\$979.19
<b>Betty's adjusted minimum allowance</b>	(50% of the allowance Bob was receiving)	<b>\$489.60</b>

The tables, schedules, and factors the department currently uses to calculate benefits are located in WAC 415-02-300 through 415-02-380. However, factors have changed over time, and your minimum allowance will be adjusted using the same factors that were used to calculate your current monthly allowance.

**(4) If the minimum allowance is less than my current monthly allowance, will my monthly allowance be reduced?** The department will compare the amount of the minimum allowance calculated under subsection (3) of this section with your current monthly allowance. You will always receive the higher of the two benefits.

**(5) If I qualify for the minimum allowance, when will I begin to receive it?**

(a) If your eligibility is based on meeting the requirements of subsection (1)(a)(i) or (b)(i) of this section, and:

(i) You were eligible on July 1, 2004, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2004.

(ii) You become eligible after July 1, 2004, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

**(2) Do I qualify if I am receiving a temporary disability benefit?** You do not qualify to receive the minimum allowance provided by this rule if you are currently receiving a temporary disability benefit under RCW 41.32.540.

**(3) How much is the minimum allowance in RCW 41.32.4851, and how is it adjusted?**

(a) **Minimum allowance.** The minimum allowance prior to July 1, 2006, was \$1000. On July 1, 2006, and each July 1 thereafter, the minimum allowance increases by three percent, rounded to the nearest cent.

(b) **Adjustment.** The minimum allowance in (a) of this subsection will be adjusted each July by the same factors that were otherwise used in the calculation of your monthly allowance, including, but not limited to:

- (i) Annuity withdrawal;
- (ii) Early retirement;
- (iii) Automatic cost-of-living (COLA) increases chosen at retirement;
- (iv) Joint survivor option chosen at retirement;
- (v) Survivor percentage. See Example 2 in this subsection.

**Example 1:** Bob retired in August 1986 with twenty-five years of service credit. Bob chose benefit option three, so that his wife, Betty, would receive a monthly allowance equal to 50% of his allowance after his death.

In August 2006, Bob became eligible for the minimum allowance, calculated as follows:

(b) If your eligibility is based on meeting the requirements of subsection (1)(a)(ii) or (b)(ii) of this section, and:

(i) You were eligible on July 1, 2006, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2006.

(ii) You become eligible after July 1, 2006, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

**(6) Will I receive cost-of-living adjustments (COLAs)?** You will not receive the uniform COLA (based on your years of service credit) while you are receiving the minimum allowance.

**(7) How long will I continue to receive the minimum allowance?** You will receive the minimum allowance calculated under subsection (3) of this section for your lifetime or until your regular retirement allowance, plus COLAs and other eligible adjustments, exceeds your minimum allowance. At that time you will automatically start receiving the higher benefit.

Example:

	<b>Regular Allowance (including COLAs and other eligible adjustments)</b>	<b>Adjusted Minimum Allowance</b>	<b>Actual Amount Paid</b>
July 1, 2006	\$882.38 (allowance + COLAs)	<b>\$896.10</b> (\$1,030 x .87)	\$896.10
July 1, 2007	\$914.63 (\$882.38 + COLA)	<b>\$922.98</b> (\$1,060.90 x .87)	\$922.98
July 1, 2008	\$946.88 (\$914.63 + COLA)	<b>\$950.67</b> (\$1,092.73 x .87)	\$950.67
July 1, 2009	\$979.13 (\$946.88 + COLA)	<b>\$979.19</b> (\$1,125.51 x .87)	\$979.19
July 1, 2010	<b>\$1,011.38</b> (\$979.13 + COLA)	\$1,008.57 (\$1,159.28 x .87)	\$1,011.38 (reverts to regular allowance including COLAs)

[Statutory Authority: RCW 41.50.050(5), 07-10-013, § 415-112-555, filed 4/20/07, effective 5/21/07. Statutory Authority: RCW 41.50.050(5) and 41.32.4851.04-20-004, § 415-112-555, filed 9/23/04, effective 10/24/04.]

**Chapter 415-113 WAC**  
**PORTABILITY OF PUBLIC EMPLOYMENT**  
**BENEFITS**

**WAC**

- 415-113-030 Definitions for purposes of chapter 415-113 WAC.
- 415-113-041 Am I a dual member?
- 415-113-042 What can terminate my status as a dual member?
- 415-113-065 Can I substitute salary from one system to another?
- 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW?

**WAC 415-113-030 Definitions for purposes of chapter 415-113 WAC.** (1) All definitions in RCW 41.54.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are defined in this chapter.

(2) **Average compensation** means the compensation used by a particular retirement system to calculate a dual member's service retirement allowance. The actual meaning of the term varies depending upon the retirement system. With respect to each dual member system, "average compensation" means:

- (a) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;
- (b) **LEOFF Plan 2:** Final average salary as defined in RCW 41.26.030 (12)(b);
- (c) **PERS:** Average final compensation as defined in RCW 41.40.010(17);
- (d) **PSERS:** Average final compensation as defined in RCW 41.37.010(14);
- (e) **SERS:** Average final compensation as defined in RCW 41.35.010(14);
- (f) **Statewide cities retirement systems:** Final compensation as defined in RCW 41.44.030(14).
- (g) **TRS:**
  - (i) Plan 1: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;
  - (ii) Plans 2 and 3: Average final compensation as defined in RCW 41.32.010(30); and
- (h) **WSPRS:** Average final salary as defined in RCW 43.43.120(15).

(3) **Dual member system** refers to the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems include:

- (a) First class city retirement systems of Seattle, Tacoma and Spokane;

- (b) Law enforcement officers' and fire fighters' retirement system (LEOFF) Plan 2;
- (c) Public employees' retirement system (PERS) Plans 1, 2 and 3;
- (d) Public safety employees' retirement system (PSERS);
- (e) School employees' retirement system (SERS) Plans 2 and 3;
- (f) Statewide cities employees' retirement system (SCERS);
- (g) Teachers' retirement system (TRS) Plans 1, 2 and 3; and
- (h) Washington state patrol retirement system (WSPRS) Plans 1 and 2.

(4) **First class city retirement systems** means the retirement systems for the non-LEOFF member employees of the cities of Seattle, Spokane and Tacoma authorized by chapter 41.28 RCW.

(5) **Member participant.**

(a) For all dual member systems administered by the department other than TRS Plan 1, "member participant" means a person who is employed for compensation in a dual member system qualifying position and is admitted into the membership of the system.

(b) For TRS Plan 1, "member participant" includes persons meeting the definition of (a) of this subsection and also includes members who are not employed for compensation but have accumulated contributions standing to their credit with TRS.

(c) This definition may not apply to first class city systems. See RCW 41.54.061 and WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

(6) **Multiple system benefit** means retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

(7) **Multiple system participant** means a person who is a participant in two or more dual member systems.

(8) **Multiple system retiree** means a person who chooses to retire under the provisions of chapter 41.54 RCW.

(9)(a) **Nonmember participant** means a person who is no longer employed in a dual member system qualifying position but has not withdrawn his or her accumulated employee contributions.

(b) This definition does not apply to TRS Plan 1. A TRS Plan 1 member who meets the criteria of (a) of this subsection is a member participant.

(c) This subsection applies only to the retirement systems listed in RCW 41.50.030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-113-030, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-030, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-030, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-030, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-030, filed 11/1/90, effective 12/2/90.]

**WAC 415-113-041 Am I a dual member?** You must meet all of the following criteria to be a dual member:

(1) **You must be a participating member of a dual member system.** You must be a current member participant in at least one of the systems listed in WAC 415-113-030 to be a dual member. You may have established dual member status if you are or were a member participant in one of those systems on or after:

- (a) July 1, 1988, for current or former members of all plans of PERS, SERS, TRS, SCERS or WSPRS;
- (b) July 25, 1993, for current or former members of LEOFF Plan 2;
- (c) January 1, 1994, for current or former members of a first class city retirement system; or
- (d) July 1, 2006, for current or former members of PSERS.

(2) **You must also be a former or current member of at least one other system listed in WAC 415-113-030.**

(3) **You must not have been retired for service from a retirement system.** You are not a dual member if you have ever been retired for service from any retirement system administered by the department of retirement systems or a first class city retirement system.

(4) If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan 1, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan 2 or 3, PSERS, SERS Plan 2 or 3, TRS Plan 2 or 3 or LEOFF Plan 2, you are in receipt of a disability benefit unless the department has found that you are no longer disabled.

(b) You are not receiving a disability retirement allowance or disability leave benefits if you:

- (i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or
- (ii) Retired for disability from service from WSPRS Plan 1 or 2.

**Example 1:** A former PERS Plan 1 member who has never been retired and becomes a member participant in TRS Plan 2 through employment with a TRS employer becomes a dual member.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member" - RCW 41.54.010(4).
- (b) "Dual member system" - WAC 415-113-030.
- (c) "Member participant" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-113-041, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-041,

filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 41.54.010, 41.54.061. 02-03-120, § 415-113-041, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-041, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-041, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-041, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-042 What can terminate my status as a dual member? (1) If you terminate your status as a participating member, you also terminate your status as a dual member.** If you are no longer a member participant in any dual member system, you are no longer a dual member. If you later become a member of a dual member system, you again become a dual member.

**Example 2:** Upon separation from TRS Plan 2 eligible employment, the person in Example 1 (see WAC 415-113-041) is no longer a member of TRS Plan 2 nor a dual member.

(2) **If you retire, you are no longer a dual member.** When you retire from any or all dual member systems, you are no longer a dual member except for the purpose of receiving a deferred retirement allowance under RCW 41.54.030(3) and WAC 415-113-070.

(3) **If you terminate dual membership, you may still be eligible to receive a multiple system benefit if otherwise eligible.** The accrual date of your retirement allowance will vary depending upon the provisions of the particular system. You can find the accrual dates of different dual member systems in the following provisions:

- (a) **LEOFF 2:** RCW 41.26.490;
- (b) **PERS 1:** RCW 41.40.193;
- (c) **PERS 2:** RCW 41.40.680;
- (d) **PERS 3:** RCW 41.40.801;
- (e) **PSERS:** RCW 41.37.240;
- (f) **SERS 2:** RCW 41.35.450;
- (g) **SERS 3:** RCW 41.35.640;
- (h) **TRS 1:** WAC 415-112-520;
- (i) **TRS 2:** RCW 41.32.795;
- (j) **TRS 3:** RCW 41.32.855.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.
- (b) "Dual member system" - WAC 415-113-030.
- (c) "Member participant" - WAC 415-113-030.
- (d) "Multiple system benefit" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and 41.37.240. 08-02-048, § 415-113-042, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-042, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 41.54.-010, 41.54.030. 02-03-120, § 415-113-042, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-042, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-042, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-042, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-065 Can I substitute salary from one system to another? (1) You can substitute base salary between systems.**

(a) If you choose to retire with a multiple system benefit, you may substitute your base salary under one dual member system for your includable compensation in a second dual

member system for purposes of computing a retirement allowance from the second system. Using the substituted salary, the department will compute your average compensation under each system's own requirements.

**Example 6:** At retirement, Sandy is a member participant in PERS Plan 2 and has prior creditable service in TRS Plan 1. She earned her highest compensation during her PERS Plan 2 service. Sandy's PERS Plan 2 retirement allowance will be based on her PERS Plan 2 average compensation. For purposes of computing her TRS average compensation and retirement allowance, Sandy may substitute her PERS Plan 2 base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

**Example 7:** At retirement, Pat is a member participant in TRS Plan 1 and has prior creditable service in PERS Plan 1. He earned his highest compensation during his membership in TRS Plan 1 and received a sick-leave cashout. Pat may substitute his base salary earned while a member in TRS Plan 1 for his PERS Plan 1 compensation earnable. However, because Pat may substitute only his base salary from TRS Plan 1 for his compensation earnable in PERS, his PERS average compensation will not include the cashout payments from his TRS employer.

(b) If you do not have sufficient service credit months in one dual member system to complete an average compensation period under that system, the department will substitute the appropriate number of months of base salary from another system to complete the average compensation period.

**Example 8:** Tim has creditable service in TRS Plan 1 and PERS Plan 2. He retires at age sixty-five after accruing twenty-four months of service in PERS Plan 2. Under PERS Plan 2, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute Tim's PERS Plan 2 retirement allowance, the department will substitute his highest consecutive thirty-six service credit months of TRS base salary to complete the PERS sixty-month average compensation period.

(2) **Adjusted full-time salary is not base salary.** A multiple system retiree's adjusted full-time salary under RCW 41.32.345 shall not constitute base salary for purposes of computing the retiree's multiple system benefit.

(3) **Includable compensation defined.** For purposes of this chapter, "includable compensation" means:

(a) Earnable compensation under TRS Plan 1, 2 or 3 as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan 1, 2 or 3 as defined in RCW 41.40.010(8);

(c) Compensation earnable under PSERS as defined in RCW 41.37.010(6);

(d) Basic salary under LEOFF Plan 2 as defined in RCW 41.26.030 (13)(b);

(e) Monthly salary under WSPRS Plan 1 or 2 as defined in RCW 43.43.120(23); and

(f) Compensation earnable under SERS Plan 2 or 3 as defined in RCW 41.35.010(6).

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-030.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member system" - WAC 415-113-030.

(d) "Member participant" - WAC 415-113-030.

(e) "Multiple system benefit" - WAC 415-113-030.

(f) "Multiple system retiree" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-048, § 415-113-065, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-065, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and 41.54.030. 02-03-120, § 415-113-065, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-065, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-065, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-065, filed 1/4/95, effective 2/4/95.]

#### **WAC 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW? (1)**

Your multiple system benefit may not exceed the highest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring if all of your service had been provided in one system. See RCW 41.54.070.

(2) **The department will compute your maximum multiple system benefit in the following order:**

(a) **Calculate the maximum benefit you could receive under each system.** The department will compute your maximum benefit according to the benefit limitation provisions of each system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under each system, the department will:

(i) Apply the provisions of each system governing the calculation of your average compensation in that system; and

(ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

**Example 18:** A multiple system retiree retires from TRS Plan 1 state employment with prior creditable PERS Plan 1 service. His PERS employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as TRS earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either his PERS Plan 1 or TRS Plan 1 maximum benefit.

**Example 19:** A multiple system retiree retires from PERS Plan 1 local government employment and receives a sick leave cashout. Because a sick leave cashout from a local government employer may be included as earnable compensation, the department will include the sick leave cashout to compute the retiree's maximum benefits under both PERS Plan 1 and TRS Plan 1.

(b) **Determine your retirement allowances from each system.** After computing your maximum benefit, the department will determine the retirement allowances to which you are entitled from each system under chapter 41.54 RCW before making any reduction under RCW 41.54.070. If applicable, the department will then reduce the amount of your retirement allowances provided by either of the dual member systems for:

(i) Your status as a nonmember participant of WSPRS Plan 1 or 2 pursuant to RCW 43.43.280(2); or

(ii) Your choice to retire early under RCW 41.40.630 (2) or (3), 41.40.820 (2) or (3), 41.37.210(3), 41.35.420 (2) or (3), 41.35.680 (2) or (3), 41.32.765 (2) or (3), 41.32.875 (2) or (3), and 41.26.430 (2) or (3).

(c) **Compute your total multiple system benefit.** Upon computing your retirement allowances from each system and making any applicable reductions under (b) of this subsection, the department will add the systems' allowances to compute your total multiple system benefit.

(d) **Compare your total multiple system benefit with your maximum benefit and, if necessary, proportionately reduce your retirement allowances.** The department will then compare your total multiple system benefit with your maximum benefit calculated in (a) of this subsection. If your total multiple system benefit exceeds your maximum benefit, the department will proportionately reduce your retirement allowances provided by each system as follows:

(i) Calculate what proportion your total multiple system benefit is provided by each system separately; and

(ii) Proportionately reduce the benefit provided by each system to account for the excess of your total multiple system benefit over your maximum benefit.

**Example 20:** A person with twenty-nine years of prior service in TRS Plan 1 and one year of subsequent service in PERS Plan 2 retires from both systems at age sixty-five. The retiree's TRS Plan 1 average compensation is thirty thousand dollars. The TRS Plan 1 maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. The retiree's PERS Plan 2 average compensation is twenty-eight thousand dollars. The retiree's maximum PERS 2 benefit is sixteen thousand eight hundred dollars or one thousand four hundred dollars per month. The retiree's maximum benefit is the higher of the two amounts, one thousand five hundred dollars per month.

Assume the retiree's accrued service is such that her actual TRS Plan 1 monthly benefit is one thousand four hundred fifty dollars and her PERS Plan 2 monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan 1 and PERS Plan 2 benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would proportionately reduce her TRS Plan 1 and PERS Plan 2 benefits. Her TRS Plan 1 benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan 2 benefit is 1/30 of total service,

or three percent. The department would reduce her TRS Plan 1 benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x .97) and her PERS Plan 2 benefit by three percent of the overage, or one dollar and fifty cents (50 x .03).

(3) **If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate.** After making any applicable maximum benefit reductions, the department will further reduce your benefit if you choose:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan 1;

(b) A survivor benefit option; or

(c) A cost-of-living adjustment (COLA) option.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-030.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-030.

(d) "First class city system" - WAC 415-113-030.

(e) "Member participant" - WAC 415-113-030.

(f) "Multiple system benefit" - WAC 415-113-030.

(g) "Multiple system retiree" - WAC 415-113-030.

(h) "Nonmember participant" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and 41.37.210(3), 08-02-048, § 415-113-090, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW, 02-18-046, § 415-113-090, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and 41.54.070, 02-03-120, § 415-113-090, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-090, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-090, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-090, filed 1/4/95, effective 2/4/95.]

## Chapter 415-115 WAC

### ASSESSMENT OF AN ADDITIONAL ADMINISTRATIVE FEE

#### WAC

415-115-020	Definitions.
415-115-090	Maximum additional administrative fee allowable for the public employees', public safety employees', teachers', and law enforcement officers' and fire fighters' retirement systems.

**WAC 415-115-020 Definitions.** As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Department" refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended.

(2) "Employers" refers to all employers within the retirement systems administered by the department, as defined in RCW 41.50.030.

(3) "Reports" refers to the department of retirement systems transmittal report sent each month by employers to the department.

(4) "Close of business" refers to 5:00 p.m. of a business day.

(5) "Standard administrative fee" for employers in the public employees', public safety employees', school employees', teachers', and law enforcement officers' and fire fighters' retirement systems refers to the administrative fee provided

for under RCW 41.50.110; for employers in the judges, judicial, and Washington state patrol retirement systems refers to the biennial appropriation that the department receives for administering each system.

(6) "Additional administrative fee" refers to the fee provided for under RCW 41.50.110(3) which is related to increased costs incurred by the department in processing deficient reports.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-115-020, filed 12/27/07, effective 1/27/08. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-115-020, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-020, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-090 Maximum additional administrative fee allowable for the public employees', public safety employees', teachers', and law enforcement officers' and fire fighters' retirement systems.** The maximum additional administrative fee that may be charged to employers in the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, the teachers' retirement system, and the law enforcement officers' and fire fighters' retirement system for any six-month period shall not exceed fifty percent of the standard administrative fee due for that six-month period. In instances where the standard administrative fee rate changes during the six-month period, the new standard administrative fee rate will be applied beginning with the month in which the new rate becomes effective. The maximum additional administrative fee that may be assessed is determined as follows:

(1) If the additional administrative fee as determined in accordance with WAC 415-115-080 is less than fifty percent of the standard administrative fee, the additional administrative fee is the maximum fee allowable.

(2) If the additional administrative fee as determined in accordance with WAC 415-115-080 is greater than or equal to fifty percent of the standard administrative fee, fifty percent of the standard administrative fee is the maximum fee allowable.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-115-090, filed 12/27/07, effective 1/27/08. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-115-090, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-090, filed 6/12/91, effective 7/13/91.]