



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/23/95)

Agency: State Board for Community & Technical Colleges (SBCTC)

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: April 24, 1997

(2) Purpose: To allow greater tax deferrals for TIAA/CREF participants; simplify plan administration and to reflect greater flexibility and improved access to TIAA/CREF account funds for participants.

(3) Citation of existing rules affected by this order:

Repealed:

Amended: WAC 131.16-010;011; 021; 050; and 060

Suspended:

(4) Statutory authority for adoption:

Other authority: RCW 28B.50

PERMANENT RULE ONLY

Adopted under notice filed as WSR ⁰⁷⁷ 97-01-007 on ¹⁷ 12/8/96 (date).

Describe any changes other than editing from proposed to adopted version:

None.

Additional Comments: Preproposal statement was filed as WSR 97-01-48; Continuance was filed under WSR 97-07-007

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption of effectiveness of rule?

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule: *as long as emergency rules remain

Permanent Rules

Emergency Rules

remain

in

effect

until

then.

31 days after filing*

Immediately

Other (specify) _____*

Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

NAME (TYPE OR PRINT)

Claire C. Krueger

SIGNATURE

Claire C. Krueger

TITLE Executive Asst. and Agency Rules Coordinator

DATE

May 5, 1997

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

MAY 5 1997

TIME 10:54 AM

WSR 97-10-069 PM

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New _____	Amended <u>5</u>	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____
Recently enacted* state statutes:	New _____	Amended _____	Repealed _____

*(current calendar year)

The number of sections adopted at the request of a nongovernmental entity:

New _____	Amended <u>0</u>	Repealed _____
-----------	------------------	----------------

The number of sections adopted on the agency's own initiative:

New _____	Amended <u>5</u>	Repealed _____
-----------	------------------	----------------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____	Amended <u>5</u>	Repealed _____
-----------	------------------	----------------

The number of sections adopted using:

Negotiated rule making:	New _____	Amended _____	Repealed _____
Pilot rule making:	New _____	Amended _____	Repealed _____
Other alternative rule making:	New _____	Amended <u>5</u>	Repealed _____

Normal rules process; including CR101;
CR 102; CR 103 filings.



AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-010 Designation of community and technical college system retirement plan. There is hereby established for the eligible employees of the community and technical colleges of the state of Washington and the state board, a retirement plan which shall entitle such employees to purchase retirement annuities from the teachers' insurance annuity association (TIAA) and the college retirement equities fund (CREF), hereafter called the TIAA/CREF plan, subject to the provisions of WAC 131-16-011 through 131-16-066. This retirement plan is intended to comply with the requirements of Section 403(b) of the Internal Revenue Code of 1986, as amended. Notwithstanding the previous sentence, the state board shall reserve the right to modify the plan to qualify under Section 403(a) of the Internal Revenue Code of 1986, as amended.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-011 Definitions. For the purpose of WAC (~~131-16-005~~) 131-16-010 through 131-16-066, the following definitions shall apply:

(1) "Participant" means any (~~individual~~) employee who is eligible to purchase retirement annuities through the TIAA/CREF plan (~~and whose required contribution to such plan is matched by the employing college district or the state board pursuant to the provisions of WAC 131-16-050~~) who, as a condition of employment, on and after January 1, 1997, shall participate in the TIAA/CREF plan upon initial eligibility.

(2) "Supplemental retirement benefit" means payments, as calculated in accordance with WAC 131-16-061, made by the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the TIAA/CREF plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution or the state board or any year or fractional year of prior service in a Washington public retirement system while employed at a Washington public higher education institution: *Provided*, That the participant will receive a pension benefit from such other retirement system: *And provided further*, That not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" means the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" means the amount derived when the salary received during the two consecutive highest salaried fiscal years of full-time service for which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution is divided by two.

(6) "TIAA/CREF retirement benefit" means the amount of annual retirement income derived from a participant's accumulated annuities including dividends at the time of retirement: *Provided*, That solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" means all remuneration received by the participant from the employing college district or the state board, including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the college district or state board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leave, or remuneration for unused annual or vacation leave in excess of the amount payable for thirty days or two hundred forty hours of service.

(8) "Designated beneficiary" means the surviving spouse of the retiree or, with the consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education or the state board.

(9) "State board" means the state board for community college education as created in RCW 28B.50.050.

(10) "Appointing authority" means a college district board of trustees or the state board or the designees of such boards.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-021 Employees eligible to participate in retirement annuity purchase plan. (1) Eligibility to participate in the TIAA/CREF plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and who are assigned a cumulative total of at least eighty percent of full-time workload as defined by the appointing authority at one or more college districts or the state board for at least two consecutive college quarters or who otherwise would be eligible for membership in the Washington state teachers retirement system.

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of

Washington: *Provided*, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Participation in the plan without matching employer contributions is also permitted for any employee of a college district or the state board who desires to utilize the plan as a supplemental retirement savings vehicle to any state-sponsored retirement plan in which the employee participates: *Provided*, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed by the same appointing authority. For the purpose of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) ~~((Any eligible employee who at the time of initial employment is required to or elects to become a participant in this plan may also select at that time to delay active participation and payment of required contributions for two years following the date of initial employment.))~~ As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate pursuant to an irrevocable salary reduction agreement. Such participation shall commence upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031(1).

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-050 Contribution rates established. (1) Each participant in the TIAA/CREF plan shall contribute five percent of salary each pay period until attainment of age thirty-five (~~and~~); seven and one-half percent each pay period thereafter (~~and the employing district or state board shall contribute a like sum. A participant may further elect to increase the rate to ten percent of salary each pay period after attaining age fifty and the employing district or state board shall contribute a like sum~~) through and including age forty-nine; and ten percent of salary each pay period after attaining age fifty. Employees who are participants on December 31, 1996, shall make a one-time, irrevocable election to contribute to the plan on a pretax or after-tax basis, and such election shall not be changed during the

remainder of the participant's eligibility at the district or state board. Required contributions made pursuant to an irrevocable salary reduction or deduction agreement are not subject to the elective deferral limits of Section 402(g)(4) or (8) of the Internal Revenue Code of 1986, as amended. The employing district or state board shall contribute a sum equal to all required employee contributions under this plan. All employee and employer contributions to this plan shall be one hundred percent vested when made. The combined contributions may be allocated among the TIAA and CREF funds as directed by the participant.

(2) During periods when participants are on leave of absence and are receiving partial compensation, the employer shall continue to make contributions on the same basis as herein provided if the participant agrees to contribute in a like manner.

(3) ~~((Any))~~ In addition to the required salary reduction or deduction agreement in subsection (1) of this section, an eligible employee may enter into ((an)) a voluntary agreement with the college district or state board to reduce the employee's monthly salary by ((the amount of the required employee's monthly contribution and any)) a supplemental amount, within the limits prescribed in the Internal Revenue Code ((: Provided, That no more than one agreement for such salary reduction may be made within any tax year of the employee, except to the extent otherwise permitted by the Internal Revenue Code)).

AMENDATORY SECTION (Amending WSR 93-01-015, filed 12/4/92, effective 1/4/93)

WAC 131-16-060 ((Repurchase of annuity contract under certain conditions.)) Cashability. ((In the event a participant leaves the employ of all Washington community and technical college districts and the state board and the participant requests repurchase of his or her TIAA/CREF accumulation, such repurchase is authorized: Provided, That TIAA/CREF's published repurchase guidelines applicable to the participant's contract are followed.)) Notwithstanding WAC 131-16-062(1), upon termination of employment at all community and technical college districts and the state board for at least one hundred eighty consecutive calendar days, a participant may elect to receive a lump sum payment of his or her TIAA/CREF account pursuant to the settlement options being made available by TIAA/CREF at that time.