

Chapter 399-30 WAC
PUBLIC WORKS LOANS AND PLEDGES

WAC

399-30-040 Application evaluation procedure and board deliberations.

WAC 399-30-040 Application evaluation procedure and board deliberations. (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) Not less than sixty points, of a one hundred point total, shall be assigned to responses to questions identified in the application as relating to local management effort.

(ii) The remaining forty points shall be assigned to responses to questions identified in the application as relating to project need.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) Type of jurisdiction;

(v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

[Statutory Authority: RCW 43.155.040(4), 95-11-093, § 399-30-040, filed 5/19/95, effective 6/19/95; 93-22-015, § 399-30-040, filed 10/26/93, effective 11/26/93; 92-03-052, § 399-30-040, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040, 88-10-009 (Order 88-02),

§ 399-30-040, filed 4/22/88; 87-17-013 (Order 87-16), § 399-30-040, filed 8/10/87; 86-18-009 (Resolution No. 86-12), § 399-30-040, filed 8/21/86. Statutory Authority: 1985 c 446 § 10, 86-03-051 (Resolution No. 85-17), § 399-30-040, filed 1/15/86.]

Title 415 WAC
RETIREMENT SYSTEMS,
DEPARTMENT OF

Chapters

415-100 Judicial retirement system.

415-104 Law enforcement officers' and fire fighters' retirement system.

415-108 Public employees' retirement system.

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Chapter 415-100 WAC**JUDICIAL RETIREMENT SYSTEM****WAC**

415-100-041 Repealed.

415-100-045 Definition of member.

415-100-051 Married member's benefit selection—Spousal consent required.

415-100-055 Retirement benefit options.

**DISPOSITION OF SECTIONS FORMERLY
 CODIFIED IN THIS CHAPTER**

415-100-041 Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-013, § 415-100-041, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.

WAC 415-100-041 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-100-045 Definition of member. (1) "Member" means:

(a) A judge as defined in RCW 2.10.030(2), who elected to exchange survivor benefits, filed the requisite documents with the department pursuant to RCW 2.10.140(2), and is making contributions to the system; or

(b) A former judge as defined in RCW 2.10.030(2), who elected to exchange survivor benefits, filed the requisite documents with the department pursuant to RCW 2.10.140(2), and left accumulated contributions in the system; or

(c) A retiree.

(2) A retiree means any judge, as defined in RCW 2.10.030(2), in receipt of a retirement allowance or other benefit provided by chapter 2.10 RCW resulting from service rendered to an employer.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-100-045, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-045, filed 1/7/91, effective 2/7/91.]

WAC 415-100-051 Married member's benefit selection—Spousal consent required. The member, if married, must provide the spouse's written consent to the option selected under WAC 415-100-055. If a married member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 2.10.146(2). "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. (The spouse's notarized signature on a completed retirement application constitutes spousal consent.)

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-100-051, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-051, filed 1/7/91, effective 2/7/91.]

WAC 415-100-055 Retirement benefit options. RCW 2.10.146, enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One (standard allowance).** The department pays the retiree a monthly retirement allowance based solely on the single life of the member, in accordance with RCW 2.10.146. When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions, will be paid to:

- (a) The member's designated beneficiary; or if none, to
- (b) The member's surviving spouse; or if none, to
- (c) The member's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) **Option Two (joint and whole allowance).** When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(b) **Option Three (joint and one-half allowance).** When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

(c) **Option Four (joint and two-thirds allowance).**

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the member's gross monthly retirement allowance.

(3) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who selected Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance will increase, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One described in subsection (1) of this section; plus

(ii) Any cost-of-living adjustments received prior to the survivor's death based on original selection.

(c) **Pop-up recalculation example.**

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the pop-up provision, Agnes' monthly benefit will increase to the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—

Total COLA's 191.05

Original Option One Benefit Amount	+ Total COLA's	= New Benefit Amount
\$2000	+ \$191.05	= \$2,191.05*

* In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(4) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-100-055, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-055, filed 1/7/91, effective 2/7/91.]

Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

WAC

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415-104-0111	Commissioned—Definition.
415-104-0112	Director of public safety—Definition.
415-104-0113	Elective employer—Definition.
415-104-0114	Full time—Definition.
415-104-0115	Fully compensated—Definition.
415-104-0117	LEOFF employer—Definition.
415-104-0118	LEOFF Plan I elected official—Definition.
415-104-0120	Public safety officer—Definition.
415-104-0121	Plan I and Plan II—Definition.
415-104-0122	LEOFF—Definition.
415-104-201	Repealed.
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415-104-225	Am I a member?
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415-104-245	Am I required to meet minimum medical and health standards in order to establish or reestablish Plan I membership?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-104-201	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-201, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
415-104-205	Definitions for purposes of WAC 415-104-200 through 415-104-215. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-205, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.

WAC 415-104-011 Definitions. All definitions in RCW 41.26.030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-011, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050(5) and 41.04.120. 93-11-078, § 415-104-011, filed 5/18/93, effective 6/18/93.]

WAC 415-104-0111 Commissioned—Definition. An employee is "commissioned" if he or she is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0111, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0112 Director of public safety—Definition. (1) "Director of public safety" means a person who is employed on or after January 1, 1993, by a city or town on a full-time, fully compensated basis to administer the programs and personnel of a public safety department.

(2) "City or town" as used in this definition, includes only a city or town whose population did not exceed ten thousand at the time the person became employed as a director of public safety.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0112, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0113 Elective employer—Definition. "Elective employer" means the employer of the LEOFF Plan I elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0113, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0114 Full time—Definition. An employee is employed "full time" if the employee is regularly scheduled to earn basic salary from an employer for a minimum of one hundred sixty hours each calendar month.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0114, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0115 Fully compensated—Definition. An employee is "fully compensated" if the employee earns basic salary and benefits from an employer in an amount comparable to the salary received by other full-time employees of the same employer who:

- (1) Hold the same or similar rank; and
- (2) Are employed in a similar position.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0115, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0117 LEOFF employer—Definition. "LEOFF employer" means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or fire fighter.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0117, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0118 LEOFF Plan I elected official—Definition. "LEOFF Plan I elected official" means a LEOFF Plan I member who is a civil service employee on leave of absence by reason of having been elected or

appointed to an elective public office and who chooses to preserve retirement rights as an active LEOFF member under the procedure described in this chapter.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0118, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0120 Public safety officer—

Definition. (1) "Public safety officer" means a person who is employed on or after January 1, 1993, on a full-time, fully compensated basis by a city or town to perform both law enforcement and fire fighter duties.

(2) "City or town" as used in this definition, includes only a city or town whose population did not exceed ten thousand at the time the person became employed as a public safety officer.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0120, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0121 Plan I and Plan II—Definition.

(1) "Plan I" means the law enforcement officers' and fire fighters' retirement system, Plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(2) "Plan II" means the law enforcement officers' and fire fighters' retirement system, Plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0121, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0122 LEOFF—Definition. "LEOFF" means the law enforcement officers' and fire fighters' retirement system established by chapter 41.26 RCW.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0122, filed 7/25/95, effective 8/25/95.]

WAC 415-104-201 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-104-205 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-104-211 Married member's benefit selection—Spousal consent required. A member, if married, must provide the spouse's written consent to the option selected under WAC 415-104-215. If a married member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.26.460(2). "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-104-211, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-211, filed 1/7/91, effective 2/7/91.]

WAC 415-104-215 Retirement benefit options. RCW 41.26.460 enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One (standard allowance).** The department pays the retiree a monthly retirement allowance actuarially based solely on the single life of the member, in accordance with RCW 41.26.430 (service) or 41.26.470 (disability). When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) **Option Two (joint and whole allowance).** When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(b) **Option Three (joint and one-half allowance).** When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

(c) **Option Four (joint and two-thirds allowance).**

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) **Pop-up recalculation example:**

Plan Two:

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
Total COLA's				191.05
Original Option One Benefit Amount		+ Total COLA's	= New Benefit Amount	
\$2000		+ \$191.05	= \$2,191.05*	

* In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(4) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-104-215, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-215, filed 1/7/91, effective 2/7/91.]

WAC 415-104-224 Purpose and scope of eligibility rules. WAC 415-104-225 through 415-104-240 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in LEOFF Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-224, filed 7/25/95, effective 8/25/95.]

WAC 415-104-225 Am I a member? If you are employed by an employer as a full-time, fully compensated law enforcement officer or fire fighter, you are required to be a LEOFF member.

(1) **Law enforcement officers.**

(a) You are a law enforcement officer only if you are commissioned and employed on a full-time, fully compensated basis as a:

- (i) City police officer;
- (ii) Town marshal or deputy marshal;
- (iii) County sheriff;
- (iv) Deputy sheriff, if you passed a civil service exam for deputy sheriff and you possess all of the powers, and

may perform any of the duties, prescribed by law to be performed by the sheriff;

(b) Effective January 1, 1994, "law enforcement officer" also includes commissioned persons employed on a full-time, fully compensated basis as a:

(i) General authority Washington peace officer under RCW 10.93.020(3);

(ii) Port district general authority law enforcement officer and you are commissioned and employed by a port district general authority law enforcement agency;

(iii) State university or college general authority law enforcement officer; or

(c) Effective January 1, 1993, "law enforcement officer" also includes commissioned persons employed on a full-time, fully compensated basis as a public safety officer or director of public safety of a city or town if, at the time you first became employed in this position, the population of the city or town did not exceed ten thousand. See RCW 41.26.030(3).

(d) If you meet the requirements of (a), (b) or (c) of this subsection, you qualify as a law enforcement officer regardless of your rank or status as a probationary or permanent employee.

(e) You are not a law enforcement officer if you are employed in either:

(i) A position that is clerical or secretarial in nature and you are not commissioned; or

(ii) A corrections officer position and the only training required by the Washington criminal justice training commission for your position is basic corrections training under WAC 139-10-210.

(2) **Fire fighters.** You are a fire fighter if you are employed in a uniformed fire fighter position by an employer on a full-time, fully compensated basis, and as a consequence of your employment, you have the legal authority and responsibility to direct or perform fire protection activities that are required for and directly concerned with preventing, controlling or extinguishing fires.

(a) "Fire protection activities" may include incidental functions such as housekeeping, equipment maintenance, grounds maintenance, fire safety inspections, lecturing, performing community fire drills and inspecting homes and schools for fire hazards. These activities qualify as fire protection activities only if the primary duty of your position is preventing, controlling or extinguishing fires.

(b) You are a fire fighter if you qualify as supervisory fire fighter personnel.

(c) If your employer requires fire fighters to pass a civil service examination, you must be actively employed in a position that requires passing such an examination in order to qualify as a fire fighter unless you qualify as supervisory fire fighter personnel.

(d) You are a fire fighter if you meet the requirements of this section regardless of your rank or status as a probationary or permanent employee or your particular specialty or job title.

(e) You do not qualify for membership as a fire fighter if you are a volunteer fire fighter or resident volunteer fire fighter.

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

- (a) "Commissioned" - WAC 415-104-0111.
- (b) "Director of public safety" - WAC 415-104-0112.
- (c) "Employer" - RCW 41.26.030.
- (d) "Fire fighter" - RCW 41.26.030.
- (e) "Full time" - WAC 415-104-0114.
- (f) "Fully compensated" - WAC 415-104-0115.
- (g) "Law enforcement officer" - RCW 41.26.030.
- (h) "Member" - RCW 41.26.030.
- (i) "Public safety officer" - WAC 415-104-0120.
- (j) "Uniformed fire fighter position" - WAC 415-104-0125.

[Statutory Authority: RCW 41.50.050. 96-01-045, § 415-104-225, filed 12/14/95, effective 1/14/96; 95-16-053, § 415-104-225, filed 7/25/95, effective 8/25/95.]

WAC 415-104-235 Can I terminate my status as a member? (1) Your membership in the retirement system is terminated if you:

- (a) Die;
- (b) Separate from service; or
- (c) Cease to be employed full time as a law enforcement officer or fire fighter.

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

- (a) "Fire fighter" - RCW 41.26.030 and WAC 415-104-225(2).
- (b) "Full-time" - WAC 415-104-0114.
- (c) "Law enforcement officer" - RCW 41.26.030 and WAC 415-104-225(1).
- (d) "Member" - RCW 41.26.030.
- (e) "Service" - RCW 41.26.030.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-235, filed 7/25/95, effective 8/25/95.]

WAC 415-104-245 Am I required to meet minimum medical and health standards in order to establish or

reestablish Plan I membership? (1) You may be required to meet minimum medical and health standards in order to establish or reestablish Plan I membership.

You are required to meet minimum medical and health standards codified in WAC 415-104-500 through 415-104-755, if you:

(a) Were first employed as a law enforcement officer or fire fighter on or after August 1, 1971, and before October 1, 1977; and

(b) Have been separated from service for more than six months for reasons other than a disability leave, a disability retirement, or an authorized leave of absence.

(2) **If you are an elected sheriff or an appointed police or fire chief, you are exempt from the age requirement of the standards.**

(3) **If you are required to meet the minimum medical and health standards, your employer will enroll you in Plan I provisionally, depending on the results of your physical examination.**

(a) If you are required to meet the minimum medical and health standards, your employer will begin reporting you in LEOFF Plan I from the first day of your employment. Your enrollment in Plan I, however, is provisional depending upon the results of your medical examination.

(b) Your employer is responsible for having you examined by a physician or surgeon appointed by the local disability board and for paying the cost of your examination. Your employer will send a copy of your examination report to the department along with a certification letter of whether you have met the standards.

(4) **If you are denied Plan I membership because you did not meet minimum medical and health standards, you will enter membership in Plan II.**

(a) The department will review your examination report and if you meet the minimum medical and health standards you will be reported in membership in Plan I.

(b) If you do not meet the standards, your employer must stop reporting you to the department in Plan I and report you in Plan II. The department will transfer your membership from Plan I to Plan II retroactively to the beginning of your term of employment.

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

- (a) "Employer" - RCW 41.26.030.
- (b) "Fire fighter" - RCW 41.26.030.
- (c) "Full time" - WAC 415-104-0114.
- (d) "Fully compensated" - WAC 415-104-0115.
- (e) "Law enforcement officer" - RCW 41.26.030.
- (f) "Member" - RCW 41.26.030.
- (g) "Minimum medical and health standards" - WAC 415-104-500 through 415-104-755.
- (h) "Plan I and Plan II" - WAC 415-104-0121.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-245, filed 7/25/95, effective 8/25/95.]

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-108-320	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-320, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
415-108-322	Definitions for purposes of WAC 415-108-320 through 415-108-326. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-322, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
415-108-461	Standby pay—Location restricted compensation. [Statutory Authority: RCW 41.50.050 and 41.40.020. 94-16-086, § 415-108-461, filed 8/1/94, effective 8/1/94.] Repealed by 96-01-046, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 41.50.050.
415-108-462	Location restricted compensation—Employer policy. [Statutory Authority: RCW 41.50.050 and 41.40.020. 94-16-086, § 415-108-462, filed 8/1/94, effective 8/1/94.] Repealed by 96-01-046, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 41.50.050.

WAC 415-108-010 Definitions. (1) All definitions in RCW 41.40.010 apply to terms used in this chapter. Other [1996 WAC Supp—page 1482]

terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-010, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-010, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-010, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-010, filed 2/15/78. Formerly WAC 184-01-025, 184-01-035.]

WAC 415-108-0101 Level of union organization—Definition. "Level of union organization" means a union or a lodge or division of a union.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0101, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0102 Normally—Definition. "Normally," as used in the definition of eligible position under RCW 41.40.010, means a position is eligible if it is expected to require at least five months of seventy or more hours of compensated service each month during each of two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of seventy or more hours of compensated service during at least one year in any two-year period.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0102, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0103 Project position—Definition. "Project position" means a position established by an employer that has a specific goal and end date.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0103, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0104 Report—Definition. "Report" means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0104, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0105 Retirement plan—Definition. "Retirement plan," as used in RCW 41.40.023 and in this chapter, means any plan operated wholly or in part by the state or a political subdivision. This includes but is not limited to:

- (1) The retirement systems listed under RCW 41.50.030;
- (2) The retirement systems of the cities of Seattle, Spokane and Tacoma; or

(3) Any higher education plan authorized under RCW 28B.10.400.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0105, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0106 Union—Definition. "Union" means a labor guild, labor association, and/or labor organization.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0106, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0107 Union employer—Definition. "Union employer" means a union or a union lodge or other division of the union which has verified that it meets the definition of a Plan I employer in RCW 41.40.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0107, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0108 Year—Definition. "Year" means any twelve consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. The term may include but is not limited to a school year, calendar year or fiscal year.

Example: An employer has used the twelve consecutive month period from July 1 to June 30 to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the July 1 through June 30 period to define a year for the position.

Example: If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0108, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0109 System acronyms—Definition. The acronyms used in this chapter are defined as follows:

(1) "PERS" means the public employees' retirement system.

(2) "TRS" means the teachers' retirement system.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0109, filed 7/25/95, effective 8/25/95.]

WAC 415-108-320 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-322 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-324 Married member's benefit selection—Spousal consent required. The member, if married, must provide the spouse's written consent to the option selected under WAC 415-108-326. If a married

member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor in compliance with chapter 41.40 RCW and RCW 41.40.660(2). "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-108-324, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-324, filed 1/7/91, effective 2/7/91.]

WAC 415-108-326 Retirement benefit options. RCW 41.40.188 (Plan 1) and RCW 41.40.660 (Plan 2) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan I members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement:

(1) **Option One (standard allowance).** The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.40.185, 41.40.190, 41.40.230, 41.40.235, 41.40.250, 41.40.660, or 41.40.670. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) **Option Two (joint and whole allowance).** When the retiree dies, the department pays the survivor an allowance equal to the gross monthly allowance received by the retiree.

(b) **Option Three (joint and one-half allowance).** When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(c) **Option Four (joint and two-thirds allowance).**

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) **Supplemental COLA option for Plan I members.** Retiring Plan I members may select an annual cost-of-living

adjustment (COLA) option, in addition to their choice of retirement benefit options listed in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(4) Benefit increases when survivor predeceases retiree (pop-up provision).

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation examples.

Plan One:

Lucinda retires from PERS Plan I in 1996 (Year 0). She would like Garth, her husband, to receive a monthly allowance when she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is actuarially reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$2,000, the amount she would have received had she chosen the Option One (standard allowance) plus any COLA's Lucinda had received based on her prior benefit allowance:

Original Option 1 Benefit Amount	+	Total COLA's	=	New Benefit Amt.
\$2,000.00	+	0 (None accrued)	=	\$2,000.00*

Plan Two:

Agnes retires from PERS Plan II in 1996 (Year 0). Agnes would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result, her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05

Original Option One Benefit Amount	+	Total COLA's	=	New Benefit Amount
\$2000	+	\$191.05	=	\$2,191.05*

*In the future (i.e. Year 4), COLAs will be based on the increased benefit amount.

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(5) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-108-326, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-326, filed 1/7/91, effective 2/7/91.]

WAC 415-108-461 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-462 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-470 Nonmoney maintenance. Are payments from my employer in any form other than money considered compensation earnable?

(1) **PERS Plan I members.**

(a) **If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not compensation earnable.**

(i) The value of employer-provided materials is not compensation earnable if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities.

Example: An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensa-

tion. Therefore, the value of the uniforms is not compensation earnable.

(b) The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses. Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not compensation earnable.

(c) If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.

(i) "Nonmoney maintenance compensation" means the fair market value of any form of materials other than cash legally furnished by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance does not include any form of payment other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as compensation earnable. If you pay any amount to your employer in order to own or use the materials, your employer must report as compensation earnable the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

Example: An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation.

The employer must report \$400.00 per month to the department as compensation earnable for the employee.

(e) How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation. In addition to the records required under (d) of this subsection, you may provide the department with any oral or written evidence which you or your employer believe corroborates that your use of employer-provided materials qualifies as compensation earnable. However, oral evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than oral evidence or written evidence created years later.

(2) PERS Plan II members. If you are a PERS Plan II member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as compensation earnable.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-108-470, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.40.010(8) and 41.40.020, 87-17-061 (Order DRS 87-08), § 415-108-470, filed 8/19/87.]

WAC 415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable? (1) PERS Plan I members:

(a) If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as compensation earnable. Use of an employer-provided vehicle only qualifies as compensation earnable to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as compensation earnable if:

(i) You use the vehicle solely in connection with your employer's business; or

(ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.

(b) The department presumes that any employer-provided vehicle is used solely in connection with your employer's business and does not qualify as compensation earnable.

(c) A portion of your use of an employer-provided vehicle may qualify as compensation earnable. In order for any portion of your use of an employer vehicle to qualify as compensation earnable, your employer must either:

(i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or

(ii) Maintain monthly records reflecting your personal use of the vehicle.

(d) Your personal use of an employer vehicle qualifies as compensation earnable if your employer reports your use to the IRS as taxable income. Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as compensation earnable.

(e) Your personal use of an employer vehicle qualifies as compensation earnable to the extent your employer

er documents your personal use of the vehicle. If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as compensation earnable if your employer maintains monthly contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:

- (i) Whether your employer authorized you to have the vehicle for personal use, including commuting;
- (ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;
- (iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;
- (iv) The total number of miles you drove the vehicle during the month; and
- (v) The percentage of the total miles you drove the car during the month for personal use, including commuting.

(f) **Your employer must report as compensation earnable an amount based on your personal use of the vehicle.** If your employer maintains records documenting your personal use of the vehicle as provided in (e) of this subsection, your employer must report to the department as monthly compensation earnable the lesser of the following amounts:

- (i) Monthly Fair Market Lease Value of the Vehicle
x
Percentage of Personal Use of the Vehicle During the Month;
or
- (ii) Miles of Personal Use
x
IRS Mileage Rate

"IRS mileage rate" means the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.

(2) **PERS Plan II members.** If you are a PERS Plan II member, you are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

[Statutory Authority: RCW 41.50.050. 95-22-006, § 415-108-480, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.40.010(8) and 41.40.020. 87-17-061 (Order DRS 87-08), § 415-108-480, filed 8/19/87.]

WAC 415-108-485 Vehicle allowances—Are vehicle allowances earnable compensation? (1) **If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not compensation earnable.** Your vehicle allowance does not qualify as compensation earnable if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes. See WAC 415-108-450 (3)(e) and 415-108-460 (3)(g).

(2) **The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not compensation earnable.** If the contract authorizing your vehicle allowance states that it is provided solely in lieu of

reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) **Your vehicle allowance may qualify as compensation earnable to the extent that it exceeds your actual expenses.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is compensation earnable. Your employer must maintain monthly contemporaneous records documenting the following:

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

(4) **How to determine what amount of your vehicle allowance, if any, is reportable as compensation earnable.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as compensation earnable:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

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

(5) **Your vehicle allowance qualifies as compensation earnable if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes.** If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is compensation earnable.

(6) **Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation.** If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050. 95-22-006, § 415-108-485, filed 10/18/95, effective 11/18/95.]

WAC 415-108-679 Purpose and scope of eligibility rules. WAC 415-108-680 through 415-108-728 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in PERS Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-679, filed 7/25/95, effective 8/25/95.]

WAC 415-108-680 Am I eligible for membership?
(1) **You are eligible for membership if you are employed**

in an eligible position. Your position is eligible under RCW 41.40.010 if the position, as defined by your employer, normally requires at least five months of seventy or more hours of compensated service per month during each year.

(2) If you leave an eligible position to serve in a project position, you may retain eligibility. If you are a member and you leave employment in an eligible position to serve in a project position, the project position is eligible if:

(a) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

(b) The position requires at least seventy hours per month and you take the position with the understanding that you are expected to return to your permanent eligible position at the completion of the project.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Member" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Normally" - WAC 415-108-0102.
- (f) "Project position" - WAC 415-108-0103.
- (g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-680, filed 7/25/95, effective 8/25/95.]

WAC 415-108-690 How is my eligibility evaluated?

(1) Your eligibility is based on your position.

In evaluating whether your position is eligible, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010. Your employer will not consider your membership status or individual circumstances unless you:

(a) Leave employment in an eligible position to serve in a project position (See WAC 415-108-680(2)); or

(b) Work in both a PERS and TRS position during the same school year (See WAC 415-108-728).

(2) Your employer will evaluate your position's eligibility for a particular year at the beginning of the year.

(3) Your employer or the department may reclassify your position's eligibility based upon your actual work history. If your employer declares your position to be ineligible at the beginning of a year and by the end of the year, you have actually worked five or more months of seventy or more hours, your employer will, at that time, review your position's eligibility. If at the end of the first year:

(a) Your employer believes your position meets the requirements for an eligible position and declares the position as eligible, you will enter membership and your employer will report you to the department effective from the date your employer declares the position as eligible; or

(b) Your employer believes that the position will not meet the criteria for an eligible position during the next year, your employer may continue to define your position as ineligible. However, if during the next year the position actually requires you to again work seventy or more hours each month for at least five months, the department will

declare your position as eligible. You will enter membership in the retirement system.

(i) Except as provided in (b)(ii) of this subsection, your employer will report you to the department effective from the first month of the first year in which your position required you to work for seventy or more hours.

(ii) If:

(A) Your employer has monitored the work history of your position for PERS eligibility;

(B) Has notified you in writing when you entered the position that the position was not considered eligible; and

(C) The months of employment in a twelve-month period required by the position are determined by the occurrence or nonoccurrence of natural disasters such as forest fires;

You will enter membership prospectively.

(4) The department will not reclassify your position's eligibility until history of the position shows that it meets the criteria for an eligible position. If your employer has declared your position ineligible, the department will not reclassify your position as eligible until history of the position shows a period of two consecutive years of at least five months of seventy or more hours of compensated employment each month.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Project position" - WAC 415-108-0103.
- (f) "Report" - WAC 415-108-0104.
- (g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-690, filed 7/25/95, effective 8/25/95.]

WAC 415-108-700 Can I qualify for membership if I work in more than one ineligible position with the same employer? (1) All of your monthly work for an employer counts as one position. If you are employed with the same employer in two ineligible positions during a year which, when combined, equate to an eligible position and your employer expects you to continue in this employment for a second consecutive year, your employer will report the total hours you work in both positions to the department as an eligible position.

Example: A person normally works for one employer as a cook for forty hours each month and as a bus driver for forty hours each month. The person is eligible for membership because he works a total of eighty hours each month for at least five months each year and this is the normal pattern of his employment.

Example: A person normally works for one employer for forty hours each month as a cook. For one year only, she takes on extra duties by also working forty hours per month as a bus driver. Although she worked eighty hours each month for five or more months during one year, she

is not eligible for membership because these hours are not the normal pattern of her employment.

Example: A person works for one employer for forty hours each month as a cook and also works for another employer for forty hours each month as a bus driver. The person is not eligible for membership because he cannot combine the hours of employment with these separate employers to establish membership.

(2) You may be reported in TRS if you work in two positions and one position is covered under TRS. See WAC 415-108-728.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Normally" - WAC 415-108-0102.
- (f) "Report" - WAC 415-108-0104.
- (g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-700, filed 7/25/95, effective 8/25/95.]

WAC 415-108-710 If I work for an employer after I retire, will my retirement benefit be affected? (1) If you reenter membership after retiring, the department will suspend payment of your benefit.

(2) You may work for an employer in some circumstances without reentering membership. You may enter employment with an employer after retirement without having to reenter membership if:

- (a) You are employed in an ineligible position; or
- (b) You are employed in an eligible position on a temporary basis for five months or less in a calendar year.
 - (i) If you enter compensated employment in an eligible position during a month, that month is counted as a month of employment in the calendar year regardless of the number of hours you worked in the month.
 - (ii) If you are employed in an eligible position for any five months during a calendar year, the department will count your employment as five months of employment, regardless of whether or not the months are consecutive or your employment is with one or more employers.

(3) You are required to reenter membership if you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year. If you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year you will reenter membership in the retirement system beginning with the sixth month of your employment. Effective at the beginning of the sixth month of your employment:

- (a) Your employer will report you to the department; and
- (b) The department will suspend your retirement allowance.

(4) You are required to reenter membership if you become permanently reemployed in an eligible position. If you become reemployed in an eligible position on a permanent basis you will immediately become a member. Effective from the date of your reemployment in a permanent eligible position:

- (a) Your employer will report you to the department; and
- (b) The department will suspend your retirement allowance.

(5) Meaning of employment on a temporary or permanent basis.

(a) "Employed on a temporary basis" under subsection (2) of this section means your employer expects your employment to last for five months or less and not be on a recurring basis.

(b) "Employed on a permanent basis" under subsection (3) of this section means either:

- (i) Your employer expects you to continue in your position for more than five months in any calendar year; or
- (ii) Your employer expects you to continue in the same position for more than one year on a recurring basis and your employment is for five months or less during each year.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Report" - WAC 415-108-0104.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-710, filed 7/25/95, effective 8/25/95.]

WAC 415-108-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position? (1) You may be exempt from participating in membership even if you meet eligibility criteria. Even if you are employed in an eligible position you are exempt from participating in PERS if your individual circumstances qualify you for one of the exceptions to membership under RCW 41.40.023.

(2) If you work for a PERS employer after you retire, you are subject to post-retirement employment restrictions even if you are excluded from participating in membership. If you become employed in an eligible position after you retire, you are subject to the post-retirement employment restrictions under RCW 41.40.150 and 41.40.690 even if you are excluded from membership.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-720, filed 7/25/95, effective 8/25/95.]

WAC 415-108-725 If I have retired from another retirement plan or am eligible to retire, am I excluded

from participating in PERS? (1) If you have retired or are eligible to retire from another retirement system authorized by the laws of this state you cannot participate in PERS membership unless:

- (a) You established membership in PERS prior to March 1, 1976; or
- (b) You accrued less than fifteen years of service credit in the other retirement plan.

(2) If you are receiving a disability allowance from any retirement system administered by the department you can not participate in PERS unless you established membership in PERS prior to March 1, 1976.

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

- (a) "Membership" - RCW 41.40.023.
- (b) "Retirement plan" - WAC 415-108-0105.
- (c) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-725, filed 7/25/95, effective 8/25/95.]

WAC 415-108-726 If I have accrued service credit in another retirement plan, am I excluded from participating in PERS? (1) If you have earned service credit in any retirement plan operated wholly or in part by the state or a political subdivision, you can participate in PERS membership if an agreement exists between PERS and the

other plan which permits you to retain service credit in more than one retirement system. See RCW 41.40.023(4). Such an agreement exists between PERS and the following systems:

- (a) The retirement systems listed under RCW 41.50.030;
- (b) The retirement systems of the cities of Seattle, Spokane and Tacoma; and
- (c) The Teachers Insurance & Annuity Association/College Retirement Equity Fund retirement plan.

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

- (a) "Membership" - RCW 41.40.023.
- (b) "Retirement plan" - WAC 415-108-0105
- (c) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-726, filed 7/25/95, effective 8/25/95.]

WAC 415-108-728 If I work in both a PERS position and TRS position during the same school year, which system will I be in? (1) If you work in both a PERS and TRS position during the same year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either PERS or TRS according to the following table:

Former TRS Plan I Members ^{1/}

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, you must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

TRS Plan I Members

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

TRS Plan II Members

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. ^{3/}
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

PERS Members

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Neither TRS Nor PERS Member

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

^{1/} "Former TRS I member", as used here, means you terminate your membership by withdrawing your contributions.

^{2/} "Concurrently" means during the same school year.

^{3/} EXAMPLE: A TRS II member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS II through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS II.

EXAMPLE: A TRS II member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS II member, School District B employer must report his service and compensation from the PERS position to the Department in TRS II. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Member" - RCW 41.40.010.
- (e) "Membership" - RCW 41.40.023.
- (f) "Report" - WAC 415-108-0104
- (g) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-728, filed 7/25/95, effective 8/25/95.]

Chapter 415-112 WAC

TEACHERS' RETIREMENT BOARD OF TRUSTEES

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-112-720	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-720, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
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WAC 415-112-015 Definitions. (1) All definitions in RCW 41.32.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

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(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness, as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-015, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-112-015, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-015, filed 9/24/93, effective 10/25/93.]

WAC 415-112-0151 Contract period—Definition.

"Contract period" means for Plan I members as used in RCW 41.32.345 means the period from July 1 to June 30 of the following year.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0151, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0152 Day—Definition.

"Day" means for purposes of administering RCW 41.32.570 means seven compensated hours. "Seventy-five days" means five hundred twenty-five cumulative compensated hours.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0152, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0154 Ineligible position—Definition.

"Ineligible position" means a position which does not qualify as an eligible position under RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0154, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0156 Pension benefit—Definition.

"Pension benefit" means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0156, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0157 Public educational institution—Definition.

"Public educational institution" means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community colleges.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0157, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0158 Public school—Definition. (1)

"Public school," as defined in RCW 41.32.010, includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(2) As applied to other TRS employers, "public school" means an institution employing teachers and whose primary function is to educate students. "Employing teachers" means

fifty percent or more of a public school's employees are qualified to teach as defined in WAC 415-112-0159.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0158, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0159 Qualified to teach—Definition. "Qualified to teach," as used under RCW 41.32.010, means either:

(1) Having the authority to provide instruction at a common school as defined under RCW 28A.150.020 pursuant to:

(a) A valid teaching certificate issued by the office of the superintendent of public instruction under WAC 180-75-055; or

(b) A permit to teach issued by lawful authority of this state under RCW 28A.405.010; or

(2) Being employed under a contract to teach with an institution of higher education as defined in RCW 28A.150.020.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0159, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0161 School year—Definition. (1) "School year" for Plan I members means the fiscal year running from July 1 to June 30.

(2) "School year" for Plan II members means the twelve-month period from September 1 of one year to August 31 of the following year.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0161, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0162 Service in an administrative or supervisory capacity—Definition. As used under RCW 41.32.010 and in this chapter:

(1) "Service in an administrative or supervisory capacity," means:

(a) Service in a managerial role relating to the administration of a public school; or

(b) Service involving the exercise of direction over employees of the public school.

(2) The phrase "service in an administrative or supervisory capacity" includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0162, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0163 Service in an instructional capacity—Definition. "Service in an instructional capacity," means a qualified teacher performing services as a classroom teacher.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0163, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0165 Spousal consent—Definition. "Spousal consent" means written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, when such application is duly

executed and filed with the department, shall constitute "spousal consent."

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0165, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0167 System acronyms—Definition. The acronyms used in this chapter mean:

(1) "PERS" means the Public Employees' Retirement System.

(2) "TRS" means the Teachers' Retirement System.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0167, filed 7/25/95, effective 8/25/95.]

WAC 415-112-119 Purpose and scope of eligibility rules. WAC 415-112-120 through 415-112-155 codifies the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in TRS Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-119, filed 7/25/95, effective 8/25/95.]

WAC 415-112-120 Am I eligible to establish membership? (1) **You must be a teacher.** You are eligible to establish membership as provided under WAC 415-112-125 only if you work as a teacher. You are a teacher if you are qualified to teach and work for a public school in an instructional, administrative or supervisory capacity.

(2) **Nonteaching positions.** Positions which do not require service in an instructional, administrative or supervisory capacity include, but are not limited to, the following: Custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, and payroll clerk.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-120, filed 7/25/95, effective 8/25/95.]

WAC 415-112-125 If I am eligible, how can I establish membership? (1) **If you met the conditions in the following table, you established TRS membership.** Your plan status depends upon the date you established membership, as indicated in the following table:

Period of Service	Type of Employment	Plan
Prior to 10/01/77 ^{1/}	If you were contracted to teach full-time you were mandated into membership. If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days ^{2/} during a fiscal year.	Plan I
10/01/77 through 06/06/90	If you were contracted to teach full-time you were required to be a member. If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days ^{2/} during a school year, provided 1 month had at least 90 hours.	Plan II
6/07/90 through 08/31/91	You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during a school year). For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.	Plan II
9/01/91 forward	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during a school year). For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan II

^{1/} If you previously established Plan I membership as detailed above, you may reestablish Plan I membership after October 1, 1977.

^{2/} "Ninety days of employment," under RCW 41.32.240 and this section means either:

(a) Ninety full-time calendar days, or the equivalent, during a school year if you were employed as a teacher under a contract; or

(b) Ninety full-time days of actual, compensated service, or the equivalent, during a school year if you were employed as a substitute teacher.

(c) The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

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

- (a) "Member" - RCW 41.32.010.
- (b) "Eligible position" - RCW 41.32.010.
- (c) "Employer" - RCW 41.32.010.
- (d) "Full-time" - RCW 41.32.240
- (e) "Service" - RCW 41.32.010.
- (f) "Substitute teacher" - RCW 41.32.010.
- (g) "Teacher" - RCW 41.32.010.
- (h) "School year" - WAC 415-112-0161.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-125, filed 7/25/95, effective 8/25/95.]

WAC 415-112-130 If I separate from, and then reenter employment, can I continue to participate in TRS? (1) If you are a TRS Plan I member, you will participate in TRS Plan I if you become reemployed with

a TRS employer. If you are a Plan I member and have separated from service without withdrawing contributions, you will participate in the system again if you become reemployed with a TRS employer, even if you are not working as a teacher.

(2) **If you terminate TRS Plan I membership, you will not reenter TRS Plan I unless you requalify for membership or repay withdrawn contributions as a dual member.** If you were a Plan I member and have terminated your membership, you can reestablish your membership and be eligible to participate in the system again only if you:

(a) Become reemployed as a teacher in a position or positions meeting the membership eligibility criteria under RCW 41.32.240 and WAC 415-112-125(1); or

(b) Repaid withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).

(3) **If you have service credit in TRS Plan II, you will only reestablish membership if you work as a teacher in an eligible position.** If you were a Plan II

member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:

- (a) Become reemployed as a teacher; and
- (b) Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).

(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 and WAC 415-113-041.
- (b) "Eligible position" - RCW 41.32.010.
- (c) "Employer" - RCW 41.32.010.
- (d) "Member" - RCW 41.32.010.
- (e) "Service" - RCW 41.32.010.
- (f) "Service in an administrative or supervisory capacity" - WAC 415-112-0162.
- (g) "Service in an instructional capacity" - WAC 415-112-0163.
- (h) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-130, filed 7/25/95, effective 8/25/95.]

WAC 415-112-135 Can I be a member if I work as an educational staff associate? (1) **You are eligible for membership if you are certificated and employed as an educational staff associate.** You are a teacher for purposes of TRS membership if you:

- (a) Possess a valid educational staff associate certificate issued by the office of the superintendent of public instruction under WAC 180-75-055(3); and

- (b) Serve in an educational staff associate position.

(2) **Positions which qualify as an educational staff associate.** "Educational staff associate," includes but is not limited to a person employed by a public school in any of the following positions: Communications disorder specialist, occupational therapist, physical therapist, reading resource technician, school counselor, school nurse, school psychologist, school social worker and school librarian.

(3) **If you were enrolled in PERS before June 7, 1984, based on your employment as an educational staff associate, you may remain in PERS.** If you were enrolled in the PERS prior to June 7, 1984, based on employment as an educational staff associate, you will remain in PERS unless you choose either to:

- (a) Transfer your membership to TRS within the time limits established in RCW 41.32.032; or

- (b) Terminate your membership in PERS by withdrawing your accumulated contributions.

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

- (a) "Member" - RCW 41.32.010.
- (b) "Employer" - RCW 41.32.010.
- (c) "Public school" - RCW 41.32.010 and WAC 415-112-0158.
- (d) "Service" - RCW 41.32.010.
- (e) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-135, filed 7/25/95, effective 8/25/95.]

WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher? (1) **You may apply for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria.**

- (a) **TRS Plan I.**

(i) If you are a former Plan I member, you may apply to reestablish Plan I membership if you work ninety or more full-time days during a school year as a teacher.

(ii) If you are a Plan I member, you may apply to the department for service credit in Plan I as a substitute teacher if you work a minimum of twenty full-time days during a school year.

- (b) **TRS Plan II.**

(i) You may apply to the department for membership in Plan II if you:

(A) Work at least seventy hours for five or more months during a school year; or

(B) Worked at least ninety hours for two consecutive months during the school year of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan II and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher during a school year.

(2) **To apply, you must submit your employer's quarterly reports to the department at the end of a year.**

(a) To apply for membership and service credit as a substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:

(i) June 30 of the year for which you are applying for Plan I service credit; or

(ii) August 31 of the year for which you are applying for Plan II service credit.

(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.

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

- (a) "Member" - RCW 41.32.010.
- (b) "Service" - RCW 41.32.010.
- (c) "Substitute teacher" - RCW 41.32.010.
- (d) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-140, filed 7/25/95, effective 8/25/95.]

WAC 415-112-145 Can I terminate my status as a member? (1) If you are a TRS Plan I member, you will remain a member until you:

- (a) Die;
- (b) Retire for service or disability; or
- (c) Withdraw your accumulated contributions.

(2) If you are a TRS Plan II member, you will remain a member until you:

- (a) Die;
- (b) Retire for service or disability; or
- (c) Separate from service as a teacher in an eligible position.

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

- (a) "Eligible position" - RCW 41.32.010.
- (b) "Member" - RCW 41.32.010.
- (c) "Service" - RCW 41.32.010.
- (d) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-112-145, filed 7/25/95, effective 8/25/95.]

WAC 415-112-155 If I work in both a TRS position and PERS position during the same school year, which system will I be in? (1) If you work in both a TRS and PERS position during the same school year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS or PERS according to the following tables:

Former TRS Plan I Members ^{1/}

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, you must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

TRS Plan I Members

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

TRS Plan II Members

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. ^{3/}
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

PERS Members

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions: or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Neither TRS Nor PERS Member

Type of Concurrent Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

^{1/} "Former TRS I member", as used here, means you terminate your membership by withdrawing your contributions.

^{2/} "Concurrently" means during the same school year.

^{3/} EXAMPLE: A TRS II member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS II through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS II.

EXAMPLE: A TRS II member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS II member, School District B employer must report his service and compensation from the PERS position to the Department in TRS II. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

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

(a) "Eligible position" - RCW 41.32.010 (TRS); RCW 41.40.010 (PERS).

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Full time" - RCW 41.32.240.

(d) "Ineligible position" - WAC 415-112-0154 (TRS); RCW 41.40.010 (PERS).

(e) "Member" - RCW 41.40.010.

(f) "Membership" - RCW 41.40.023.

(g) "Report" - WAC 415-108-0104.

(h) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-155, filed 7/25/95, effective 8/25/95.]

WAC 415-112-412 Nonmoney maintenance compensation. Are payments from my employer in any form other than money considered compensation earnable?

(1) **TRS Plan I members.**

(a) **If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not earnable compensation.**

(i) The value of employer-provided materials is not earnable compensation if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities:

Example: An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not earnable compensation.

(b) **The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses.** Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not earnable compensation.

(c) **If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.**

(i) "Nonmoney maintenance compensation" means the fair market value of materials legally furnished by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance compensation does not include any form of compensation other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) **Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your**

employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as earnable compensation. If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records, or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

Example: An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation. The employer must report \$400.00 per month to the department as earnable compensation for the employee.

(e) **How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation.** In addition to the records required under (d) of this subsection, you may provide the department with any oral or written evidence which you or your employer believe corroborates that your use of employer-provided materials qualifies as earnable compensation. However, oral evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than oral evidence or written evidence created years later.

(2) **TRS Plan II members.** If you are a TRS Plan II member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as earnable compensation.

[Statutory Authority: RCW 41.50.050. 95-22-006, § 415-112-412, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.32.010(11) and 41.32.160. 87-17-060 (Order DRS 87-07), § 415-112-412, filed 8/19/87.]

WAC 415-112-413 Vehicles—Does the value of my use of an employer vehicle qualify as earnable compensation? (1) TRS Plan I members:

(a) **If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as earnable compensation.** Use of an employer-provided vehicle only qualifies as earnable compensation to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as earnable compensation if:

(i) You use the vehicle solely in connection with your employer's business; or

(ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.

(b) **The department presumes that any employer-provided vehicle is used solely in connection with your employer's business and does not qualify as earnable compensation.**

(c) **A portion of your use of an employer-provided vehicle may qualify as earnable compensation.** In order for any portion of your use of an employer vehicle to qualify as earnable compensation, your employer must either:

(i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or

(ii) Maintain monthly records reflecting your personal use of the vehicle.

(d) **Your personal use of an employer vehicle qualifies as earnable compensation if your employer reports your use to the IRS as taxable income.** Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as earnable compensation.

(e) **Your personal use of an employer vehicle qualifies as earnable compensation to the extent your employer documents your personal use of the vehicle.** If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as earnable compensation if your employer maintains monthly contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:

(i) Whether your employer authorized you to use the vehicle for personal use, including commuting;

(ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;

(iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;

(iv) The total number of miles you drove the vehicle during the month; and

(v) The percentage of the total miles you drove the vehicle during the month for personal use, including commuting.

(f) **Your employer must report as earnable compensation an amount based on your personal use of the vehicle.** If your employer maintains records documenting your personal use of the vehicle as provided in (e) of this

subsection, your employer must report to the department as monthly earnable compensation the lesser of the following amounts;

- (i) Monthly Fair Market Lease Value of the Vehicle
 \times
 Percentage of Personal Use of the Vehicle During the Month;
 or
 Miles of Personal Use
 \times
 IRS Mileage Rate

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

(2) **TRS Plan II members.** If you are a TRS Plan II member, you are not entitled to count any of the value of an employer-provided vehicle as earnable compensation.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-112-413, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.32.010(11) and 41.32.160, 87-17-060 (Order DRS 87-07), § 415-112-413, filed 8/19/87.]

WAC 415-112-41301 Vehicle allowances—Are vehicle allowances earnable compensation? (1) If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not earnable compensation. Your vehicle allowance does not qualify as earnable compensation if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes. See WAC 415-112-410 (3)(e) and 415-112-411 (3)(g).

(2) **The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not earnable compensation.** If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) **Your vehicle allowance may qualify as earnable compensation to the extent that it exceeds your actual expenses.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is earnable compensation. Your employer must maintain monthly contemporaneous records documenting the following:

(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; and

(c) Your itinerary for each of these trips.

(4) **How to determine what amount of your vehicle allowance, if any, is reportable as earnable compensation.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as earnable compensation:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

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

(5) **Your vehicle allowance qualifies as earnable compensation if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes.** If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is earnable compensation.

(6) **Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation.** If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-112-41301, filed 10/18/95, effective 11/18/95.]

WAC 415-112-720 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-725 Married member's benefit selection—Spousal consent required. A member, if married, must provide the spouse's written consent to the option selected under WAC 415-112-727. If a married member does not provide spousal consent, the department will pay the retired member a joint and fifty percent survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.32.530(2) and 41.32.785(2). Spousal consent means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-112-725, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-725, filed 1/7/91, effective 2/7/91.]

WAC 415-112-727 Retirement benefit options. RCW 41.32.530 (Plan I) and RCW 41.32.785 (Plan II) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan I members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement.

(1) Benefit options without survivor feature.

(a) **Maximum benefit allowance.** Plan I retirees may elect to receive the maximum benefit possible which is based on a single life annuity. The maximum benefit allowance does not include a survivor allowance or beneficiary payment. When the retiree dies, all benefits cease. Any remaining balance in employee contributions is retained by the retirement system.

(b) **Option One (standard allowance).** The department pays a monthly retirement allowance based on a reduced single life annuity of the member, as provided in RCW 41.32.480 (Plan I - Service), RCW 41.32.550 (Plan I - Disability), RCW 41.32.765 (Plan II - Service), or RCW 41.32.790 (Plan II - Disability). When the retiree dies, all benefits cease. Any remaining balance of the member's accumulated contributions will be paid to:

- (i) The retiree's designated beneficiary; or if none,
- (ii) The retiree's surviving spouse; or if none,
- (iii) The retiree's legal representative.

A member selecting Option One must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) **Option Two (joint and whole allowance).** When the retiree dies, the department pays the survivor a retirement allowance equal to the gross monthly allowance received by the retiree.

(b) **Option Three (joint and one-half allowance).** When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(c) **Option Four (joint and two-thirds allowance).**

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement benefit allowance.

(3) **Supplemental COLA option for Plan I members.** Retiring Plan I members may select an annual cost-of-living adjustment (COLA) option in addition to their choice of retirement benefit options listed above in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(4) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) **Plan I members.** If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

- (i) The amount that would have been received had the retiree chosen the maximum benefit, minus;
- (ii) Any reduction in the maximum allowance resulting from a withdrawal of contributions, plus;

(iii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Plan II members. If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen the standard allowance; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(d) Pop-up recalculation example.

Plan One:

Lucinda retires from TRS Plan I in 1996 (Year 0) with \$55,000 in accumulated contributions. As a TRS I member she is allowed to withdraw some or all of her contributions when she retires. She decides to withdraw \$5,000 so she and Garth, her husband, can take a cruise. This will actuarially reduce Lucinda's maximum benefit from \$2,000 per month to \$1,963.86. Lucinda would also like Garth to receive a monthly allowance after she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is further actuarially reduced from \$1,963.86 to \$1,846.03. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$1,963.86, the amount she would have received had she chosen the maximum benefit (after reduction for her withdrawals). If Lucinda selected the COLA option or if she has otherwise become eligible for a COLA, the accumulated COLAs (based on the prior benefit allowance) will be added to the \$1,963.86*.

Plan Two:

Agnes retires from TRS Plan II in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allowance)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount			+ Total COLA's	= New Benefit Amount
\$2000			+ \$191.05	= \$2,191.05*

*In the future (i.e., 2001 or Year 5), COLAs will be based on the increased benefit amount.

(e) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(5) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-112-727, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-727, filed 1/7/91, effective 2/7/91.]

Chapter 415-113 WAC PORTABILITY OF PUBLIC EMPLOYMENT BENEFITS

WAC

415-113-005	Purpose and scope.
415-113-010	Repealed.
415-113-020	Repealed.
415-113-030	Definitions for purposes of WAC 415-113-035 through 415-113-100.
415-113-0301	Accumulated contributions—Definition.
415-113-0302	Average compensation—Definition.
415-113-0303	Dual member system—Definition.
415-113-0304	First class city retirement systems—Definition.

415-113-0305	Member participant—Definition.
415-113-0306	Multiple system benefit—Definition.
415-113-0307	Multiple system participant—Definition.
415-113-0308	Multiple system retiree—Definition.
415-113-0309	Nonmember participant—Definition.
415-113-0310	System acronyms—Definition.
415-113-040	Repealed.
415-113-041	Am I a dual member?
415-113-050	Repealed.
415-113-042	Can I terminate my status as a dual member? Termination of dual member status—Reestablishing dual member status.
415-113-045	Can I reestablish service credit in a prior system?
415-113-055	Am I eligible for a multiple system benefit?
415-113-057	Am I required to retire with a multiple system benefit?
415-113-059	Can I combine service from different systems to qualify for increased benefits?
415-113-060	Repealed.
415-113-065	Can I substitute salary from one system to another?
415-113-070	Can I defer my retirement allowance from a system if I retire with a multiple system benefit?
415-113-080	Can I retire retroactively? You may retire retroactively.
415-113-082	Could retroactive retirement cancel my membership in a subsequent system?
415-113-084	How will my benefit be computed if I retire retroactively from LEOFF Plan II?
415-113-090	What is the maximum retirement benefit that I may receive under chapter 41.54 RCW?
415-113-100	Am I eligible for a lump sum retirement allowance?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-113-010	Background and purpose. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-010, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-020	Authority to assess costs of portability. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-020, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-040	Additional costs. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-040, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-050	Election to participate. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-050, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-060	Reimbursement of additional costs. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-060, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.

WAC 415-113-005 Purpose and scope. (1) **Purpose.** The rules adopted in this chapter further define and clarify the application of the portability statutes, chapter 41.54 RCW. Chapter 41.54 RCW allows:

(a) Service in dual member systems to be combined to determine service retirement eligibility; and
 (b) Compensation earned in one dual member system to be used to calculate a retirement allowance in another designated system.

(2) **Scope.** This chapter shall apply to the retirement systems listed in RCW 41.50.030, except for LEOFF Plan I. This chapter must be read to be consistent with the statutory

provisions of chapter 41.54 RCW and the statutory provisions governing the dual member systems. These rules may be used by the first class city retirement systems but do not mandatorily apply to them. These rules do apply to all dual member benefits calculated and paid by the department, even if one of the member's systems is a first class city retirement system.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-005, filed 1/4/95, effective 2/4/95.]

WAC 415-113-010 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-113-020 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-113-030 Definitions for purposes of WAC 415-113-035 through 415-113-100. All definitions in RCW 41.54.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are defined in this chapter at WAC 415-113-0301 through 415-113-0310.

[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 415-113-0301 Accumulated contributions—Definition. "Accumulated contributions" means all member contributions to a system plus interest as determined by the director.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0301, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0302 Average compensation—Definition. "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:

(1) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;

(2) **State-wide cities retirement systems:** Final compensation as defined in 41.44.030(14);

(3) **TRS:**

(a) Plan I: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;

(b) Plan II: Average final compensation as defined in RCW 41.32.010(30);

(4) **PERS:** Average final compensation as defined in RCW 41.40.010(17);

(5) **LEOFF Plan II:** Final average salary as defined in RCW 41.26.030 (12)(b); and

(6) **WSPRS:** Average final salary as defined in RCW 43.43.120.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0302, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0303 Dual member system—Definition. "Dual member system" means the state and city

retirement systems admitted to participate under chapter 41.54 RCW. These systems are:

- (1) PERS Plans I and II;
- (2) TRS Plans I and II;
- (3) LEOFF Plan II;
- (4) WSPRS;
- (5) State-wide city employees' retirement system; and
- (6) The first class city retirement systems.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0303, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0304 First class city retirement systems—Definition. "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.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0304, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0305 Member participant—Definition. (1) For all dual member systems administered by the department other than TRS Plan I "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.

(2) For TRS Plan I, "member participant" includes persons meeting the definition of subsection (1) of this section and also means a member who is not employed for compensation but has accumulated contributions standing to his or her credit with TRS.

(3) For the first class city systems, this definition may not apply, see WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0305, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0306 Multiple system benefit—Definition. "Multiple system benefit" means service retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0306, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0307 Multiple system participant—Definition. "Multiple system participant" means a person who is a participant in two or more dual member systems.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0307, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0308 Multiple system retiree—Definition. "Multiple system retiree" means a person who elects to retire under the provisions of chapter 41.54 RCW.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0308, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0309 Nonmember participant—Definition. (1) "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.

(2) This definition does not apply to TRS Plan I. A TRS Plan I member who meets the criteria of subsection (1) of this section is a member participant, see WAC 415-113-0307.

(3) This section applies only to the retirement systems listed in RCW 41.50.030.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0309, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0310 System acronyms—Definition. The acronyms used in this chapter mean:

(1) "LEOFF Plan II" means Law Enforcement Officers' and Fire Fighters' Retirement System Plan II.

(2) "PERS Plan I" means Public Employees' Retirement System Plan I.

(3) "PERS Plan II" means Public Employees' Retirement System Plan II.

(4) "TRS Plan I" means Teachers' Retirement System Plan I.

(5) "TRS Plan II" means Teachers' Retirement System Plan II.

(6) "WSPRS" means Washington State Patrol Retirement System.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0310, filed 1/4/95, effective 2/4/95.]

WAC 415-113-040 Repealed. See Disposition Table at beginning of this chapter.

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 member of a dual member system.** You must be a current member participant in at least one dual member system to be a dual member. You may have established dual member status if you are or were a member participant of a dual member system on or after:

(a) July 1, 1988, for current or former members of PERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan II; or

(c) January 1, 1994, for current or former members of a first class city retirement system;

(2) **You must be a former or current member of another dual member system.**

(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) **You must not be in receipt of a disability benefit from a dual member system.** If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan I, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan II, TRS Plan II or LEOFF Plan II 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.

Example 1: A former PERS Plan I member who has never been retired and becomes a member participant in TRS Plan II 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 415-113-0303.
- (c) "Member participant" - WAC 415-113-0305.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-041, filed 1/4/95, effective 2/4/95.]

WAC 415-113-042 Can I terminate my status as a dual member? Termination of dual member status—Reestablishing dual member status. (1) **If you are not a member, you are not 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 II eligible employment, the person in Example 1 in WAC 415-113-041 is no longer a member of TRS Plan II nor a dual member.

(2) **If you retire, you are no longer a dual member.** Upon retirement from any or all dual member systems, a person is 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 are not a dual member, you may still be eligible for a multiple system benefit.** If you are no longer a dual member you may still be able 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) **PERS I:** RCW 41.40.193;
- (b) **PERS II:** RCW 41.40.680;
- (c) **TRS I:** WAC 415-112-520;
- (d) **TRS II:** RCW 41.32.795;
- (e) **LEOFF II:** RCW 41.26.490.

(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 415-113-0303.
- (c) "Member participant" - WAC 415-113-0305.
- (d) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-042, filed 1/4/95, effective 2/4/95.]

WAC 415-113-045 Can I reestablish service credit in a prior system? (1) **You may reestablish service credit terminated by a withdrawal of contributions from a prior system.** If you repay contributions you withdrew from a prior dual member system plus interest from the date of withdrawal you will recover the service terminated by the withdrawal. To qualify, you must repay the contributions plus interest within twenty-four consecutive months from the date you became a dual member.

(a) The twenty-four-month restoration period continues to run even if you terminate dual member status.

(b) If you terminate your dual member status but later become a dual member again, you have twenty-four consecutive months from the date you regain dual member status to repay withdrawn contributions.

Example 3: A person becomes a dual member on January 1, 1994. She has until December 31, 1995, to restore any previously withdrawn contributions for service credit in a prior system regardless of whether she subsequently loses her status as a dual member.

Example 4: A person becomes a dual member on January 1, 1994, separates from membership on January 1, 1995, and then reenters membership on January 1, 1996. He has until December 31, 1997, twenty-four consecutive months from the date he regained dual member status, to restore withdrawn contributions in any prior system.

(c) If you have previous service in LEOFF Plan II or a first class city system:

(i) If you were a dual member on July 25, 1993, and you used to be a member of LEOFF Plan II, you have until July 24, 1995, to repay your withdrawn contributions.

(ii) If you were a dual member on January 1, 1994, and you used to be a member of a first class city retirement system, you have until December 31, 1995, to repay your withdrawn contributions.

Example 5: A person is a member participant in PERS Plan II and has previous service in LEOFF Plan II. LEOFF Plan II was newly admitted to participate under the portability provisions of chapter 41.54 RCW on July 25, 1993. Therefore, the person has until July 24, 1995, to restore her prior LEOFF Plan II service.

(2) **You may reestablish TRS Plan I membership.** If a PERS member restores withdrawn TRS Plan I contributions under this section he or she:

- (a) Reestablishes membership in TRS Plan I; and
- (b) Will participate prospectively in TRS Plan I if employed by a state agency, school district or other TRS employer.

(3) **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 415-113-0303.

(c) "First class city retirement system" - WAC 415-113-0304.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-045, filed 1/4/95, effective 2/4/95.]

WAC 415-113-050 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-113-055 Am I eligible for a multiple system benefit? To be eligible for a multiple system benefit, you must meet the criteria listed in this section.

(1) **You must retire for service.** You may only retire with a multiple system benefit if you retire from all systems for service, not disability.

(2) **You must retire from all systems.** You may only retire with a multiple system benefit if you retire from all dual member systems that you participate in.

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

(a) "Accumulated contributions" - WAC 415-113-0301.

(b) "Dual member system" - WAC 415-113-0303.

(c) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-055, filed 1/4/95, effective 2/4/95.]

WAC 415-113-057 Am I required to retire with a multiple system benefit? You are not required to retire with a multiple system benefit. You may elect to retire from a system or systems without the benefits or restrictions of chapter 41.54 RCW. If you choose to retire from more than one system without receiving a multiple system benefit, you are not subject to the maximum benefit limitation of RCW 41.54.070 and WAC 415-113-090(1).

(1) **Waiver of benefits.** If you decide not to receive a multiple system benefit, you waive the right to:

(a) Substitute your base salary between retirement systems for purposes of calculating a retirement allowance; or

(b) Combining your service from each system for purposes of determining retirement eligibility.

(2) **You are not required to retire with a multiple system benefit even if you repaid contributions as a dual member.** If you repaid previously withdrawn contributions from a prior dual member system under RCW 41.54.020, you may still elect to retire from one or more systems without receiving a multiple system benefit.

(3) **If you decline a multiple system benefit, you may withdraw your contributions.** If you elect to retire without receiving a multiple system benefit, you may withdraw your accumulated contributions from a system in lieu of receiving a retirement allowance, provided that withdrawal is otherwise permissible under the systems' provisions.

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

(a) "Accumulated contributions" - WAC 415-113-0301.

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

(c) "Dual member" - RCW 41.54.010(4), WAC 415-113-0303.

(d) "Dual member system" - WAC 415-113-0303.

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(e) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-057, filed 1/4/95, effective 2/4/95.]

WAC 415-113-059 Can I combine service from different systems to qualify for increased benefits? (1) **You may combine service to determine retirement eligibility.** You may combine your service in all systems for the sole purpose of determining your eligibility for a service retirement allowance.

(2) **You may not combine service for any other purpose.** You may not combine your service in all systems to qualify for additional benefits offered by a particular system. Those additional benefits include but are not limited to:

(a) PERS Plan I military service. You may not combine service from other systems to qualify for military service credit in PERS Plan I under RCW 41.40.170.

(b) LEOFF Plan II post-separation benefits. You may not combine your accrued service under both systems for purposes of qualifying for:

(i) A LEOFF Plan II indexed retirement allowance under RCW 41.26.530(2); or

(ii) A refund of one hundred fifty percent of the LEOFF Plan II member's accumulated contributions under RCW 41.26.540.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "System" - RCW 41.54.010(6).

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-059, filed 1/4/95, effective 2/4/95.]

WAC 415-113-060 Repealed. See Disposition Table at beginning of this chapter.

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

(a) If you elect 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, a person is a member participant in PERS Plan II and has prior creditable service in TRS Plan I. Assume the multiple system retiree earned her highest compensation during her PERS Plan II service. The retiree's PERS Plan II retirement allowance will be based on her PERS Plan II average compensation. For purposes of computing her TRS average compensation and retirement allowance, she may substitute her PERS Plan II base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

Example 7: At retirement, a person is a member participant in TRS Plan I and has prior creditable service in PERS Plan I. Assume the multiple

system retiree earned his highest compensation during his membership in TRS Plan I. The retiree may substitute his base salary earned while a member in TRS Plan I for his PERS Plan I compensation earnable. However, because he may substitute only his base salary from TRS Plan I for his compensation earnable in PERS, his PERS average compensation will not include any 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: A person who has creditable service in TRS Plan I and PERS Plan II retires at age sixty-five having accrued twenty-four months of service in PERS Plan II. Under PERS Plan II, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute the multiple system retiree's PERS Plan II retirement allowance, the department will substitute her 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 I or II as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan I or II as defined in RCW 41.40.010(8);

(c) Basic salary under LEOFF Plan II as defined in RCW 41.26.030 (13)(b); and

(d) Monthly salary under WSPRS as used in RCW 43.43.120(15).

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

(a) "Average compensation" - WAC 415-113-0302.

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

(c) "Dual member system" - WAC 415-113-0303.

(d) "Member participant" - WAC 415-113-0305.

(e) "Multiple system benefit" - WAC 415-113-0306.

(f) "Multiple system retiree" - WAC 415-113-0308.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-065, filed 1/4/95, effective 2/4/95.]

WAC 415-113-070 Can I defer my retirement allowance from a system if I retire with a multiple system benefit? (1) **You may defer receipt of your retirement allowance.** If, by combining creditable service, you qualify to retire in one system but not in a second system, you must either:

(a) Receive an actuarially reduced retirement allowance from the second system; or

(b) Defer retirement in the second system until fully eligible to receive a retirement allowance from that system.

(i) If you elect to defer retirement in the second system, you retain dual member status for the sole purpose of receiving a multiple system benefit when fully eligible;

(ii) If you retire from all systems but elect to defer retirement in one dual member system under RCW 41.54.030(3), you may not subsequently withdraw accumulated contributions from that system.

(2) **If you defer your retirement allowance and later reenter membership, you are no longer a dual member.** If, after deferring retirement, you enter membership in a dual member system, your dual member status terminates. Once your dual member status terminates:

(a) You may only retire under the deferred system if eligible based solely upon that system's retirement eligibility criteria; and

(b) Your retirement allowance under the deferred system will be based solely upon service actually established in that system.

Example 9: A sixty-two year old dual member of PERS Plan I and TRS Plan II retires. He elects to receive PERS Plan I benefits but defer receipt of a TRS Plan II retirement allowance until eligible for full benefits at age sixty-five. If he becomes reemployed in a TRS Plan II eligible position, he will reenter TRS Plan II membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan I retirement allowance. The member's eligibility to retire from TRS Plan II will be based solely on his accrued service credit in TRS Plan II and his TRS Plan II retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan II.

Example 10: Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan II position. The retiree would reenter PERS Plan I membership, if otherwise eligible, and terminate his dual member status. The effect on the person's right to a TRS Plan II benefit is the same as in Example 9. Because the retiree reentered PERS membership, the department would also suspend his PERS Plan I retirement allowance.

(3) **If you defer your retirement allowance and die before you are fully eligible, your survivor may receive a continuing benefit.** If you defer receipt of your retirement allowance from a system and die before you are fully eligible:

(a) Your surviving spouse, if any, must elect to receive either:

(i) A joint and one hundred percent survivor option from the deferred system. If your surviving spouse selects this option, your base salary under one system may be substituted for your includable compensation in the deferred

system to compute the survivor retirement allowance from the deferred system; or

(ii) A refund of your accumulated contributions from the deferred system.

(b) If you do not have a surviving spouse, the department will pay your accumulated contributions from the deferred system to:

(i) Your designated beneficiary or beneficiaries; or

(ii) Your estate, if there are no living beneficiaries.

(4) **"Fully eligible" defined.** "Fully eligible" means a person who is eligible to receive a retirement allowance from a dual member system without receiving a reduction for:

(a) Early retirement from a Plan II system pursuant to RCW 41.40.630(2), 41.32.765(2), 41.26.430(2); or

(b) Retirement as a nonmember participant from PERS Plan I under RCW 41.40.150 (4) and (6) or from WSPRS under RCW 43.43.280(2).

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

(a) "Dual member system" - RCW 41.32.010(4), WAC 415-113-041.

(b) "Member participant" - WAC 415-113-0305.

(c) "Includable compensation" - WAC 415-113-065(3)

(d) "Multiple system participant" - WAC 415-113-0307.

(e) "Nonmember participant" - WAC 415-113-0309.

(f) "System" - RCW 41.54.010(6).

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-070, filed 1/4/95, effective 2/4/95.]

WAC 415-113-080 Can I retire retroactively? You may retire retroactively. If you retire from all dual member systems, your retirement allowance from a prior system will be retroactive back to your accrual date under the prior system.

(1) **Accrual date determined.** The department will determine your accrual date in each system by combining your total service and applying the statute or rule designating accrual dates in the particular system. Your accrual date for purposes of this section is the date that your combined service first makes you eligible for an unreduced benefit.

Example 11: A person is a fifty-five year old member participant in PERS Plan II and a nonmember participant in LEOFF Plan II. The person decides not to retire from LEOFF Plan II until he is eligible to retire with full benefits from PERS Plan II at age sixty-five. Upon retirement, he will be entitled to a LEOFF Plan II retirement allowance effective on his accrual date under LEOFF Plan II (i.e., age fifty-five).

Example 12: A person with twenty years of prior service in TRS Plan I becomes a member participant in PERS Plan II on her fifty-fourth birthday. By combining her service in both systems under chapter 41.54 RCW, she will become eligible to retire under TRS Plan I at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty-five. Her TRS Plan I retirement allowance will be effective back to the date it

accrued under TRS Plan I (i.e., the first of month following the month she turns fifty-nine).

(2) **You cannot use salary earned after your accrual date in calculating your retroactive benefit.** If you retire retroactively from a prior system, the department will not use any of the salary you earned after your accrual date to compute your benefit from the prior system.

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

(a) "Dual member system" - WAC 415-113-0303.

(b) "Member participant" - WAC 415-113-0305.

(c) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-080, filed 1/4/95, effective 2/4/95.]

WAC 415-113-082 Could retroactive retirement cancel my membership in a subsequent system? (1) If you retire retroactively from a prior system, you could cancel your membership in a subsequent system. If your membership in a subsequent system would have been prohibited under RCW 41.04.270 but for your status as a dual member, and you retire retroactively from a prior system, the department will cancel your membership and refund your contributions in the subsequent system under RCW 41.54.020(1). Your retroactive retirement from a prior system may cancel your membership in a subsequent system according to the following table:

How much service did you earn in your prior system?	Were you eligible to retire in the prior system before you became a member of your subsequent system?	Will retroactive retirement from your prior system cancel your membership in subsequent system?
15 years or more	No	No (See Example 13)
15 years or more	Yes	Yes, unless you retire from both the prior and subsequent system under RCW 41.54.030(2). (See Example 14)
Less than 15 years	No	No (See Example 15)
Less than 15 years	Yes	No (See Example 15)

See RCW 41.54.020(1) and RCW 41.04.270.

Example 13: A nonmember participant in LEOFF Plan II who has accrued sixteen years of service in LEOFF Plan II became a member of PERS Plan II at age fifty-four. Because she became a member participant of PERS Plan II at age fifty-four, prior to attaining retirement eligibility under LEOFF Plan II (i.e., age fifty-five), she may later retire retroactively from LEOFF Plan II, subject to LEOFF Plan II criteria, while continuing membership in PERS Plan II.

Example 14: A nonmember participant in LEOFF Plan II with sixteen years of accrued service became a member of PERS Plan II at age fifty-five. If he attempts to retire from LEOFF Plan II while continuing membership in PERS Plan II, the department will cancel his PERS Plan II membership and refund his PERS contributions. However, if he retires from both systems, he is entitled to retain the benefits of his PERS Plan II membership.

Example 15: Assume either of the retirees in Examples 13 and 14 above had accrued less than fifteen years of service in LEOFF Plan II. In this case, RCW 41.04.270 would not apply to prevent the retirees from establishing PERS Plan II membership. Either person could retire retroactively from the LEOFF Plan II without canceling membership and participation in PERS Plan II.

(2) **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) "Member participant" - WAC 415-113-0305.
- (c) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-082, filed 1/4/95, effective 2/4/95.]

WAC 415-113-084 How will my benefit be computed if I retire retroactively from LEOFF Plan II? (1) Computation of your retroactive LEOFF Plan II retirement allowance. If you retire with a multiple system benefit and one of your retirement allowances is a retroactive LEOFF Plan II allowance, the department will compute your LEOFF Plan II allowance based upon the greater of:

- (a) Your LEOFF Plan II final average salary, substituting some or all of your base salary under the second system which you earned prior to the date your LEOFF Plan II retirement allowance began to accrue (i.e., age fifty-five); or
- (b) An indexed retirement allowance under RCW 41.26.530(2) using your LEOFF Plan II average compensation.

Example 16: A person who is a nonmember participant of LEOFF Plan II and a member participant of PERS Plan II retires from both systems at age sixty-five. If he had accrued twenty-one years of creditable service in LEOFF Plan II, the multiple system retiree's LEOFF Plan II retirement allowance may be based upon either: His substituted PERS Plan II base salary which he earned prior to attaining retirement eligibility in LEOFF at age fifty-five; or the LEOFF Plan II indexed retirement allowance under RCW 41.26.530(2) using his LEOFF Plan II average compensation. The department will use the method which results in the largest retirement allowance.

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

- (a) "Member participant" - WAC 415-113-0305.

- (b) "Multiple system benefit" - WAC 415-113-0306.
- (c) "Multiple system retiree" - WAC 415-113-0308.
- (d) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-084, 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 benefit may not exceed the lowest benefit limit under any one system. Your multiple system benefit may not exceed the lowest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring. 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. If you retire from PERS Plan I, TRS Plan I, WSPRS or a first class city retirement system, the department will compute your maximum benefit according to the benefit limitation provisions of the relevant system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under the relevant system or systems, the department will:

(i) Apply the provisions of the individual dual member system or systems regarding the determination of your average compensation for each 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 17: A multiple system retiree retires from TRS Plan I state employment with prior creditable PERS Plan I service. His state employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either his PERS Plan I or TRS Plan I maximum benefit.

Example 18: A multiple system retiree retires from PERS Plan I 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 I and TRS Plan I.

(b) Determine your retirement allowances from each system. After computing your maximum benefit, the department will determine the retirement allowances which you are entitled to 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 PERS Plan I pursuant to RCW 41.40.150 (4) and (6), or a nonmember participant of WSPRS pursuant to RCW 43.43.280(2); or

(ii) Your election to retire early from a Plan II system pursuant to RCW 41.40.630(2), 41.32.765(2), and 41.26.430(2).

(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;

(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 19: A person with twenty-nine years of prior service in TRS Plan I and one year of subsequent service in PERS Plan II retires from both systems at age sixty-five. The retiree's TRS Plan I average compensation is thirty thousand dollars. The TRS Plan I 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. Because PERS Plan II does not have a maximum benefit limit, the TRS Plan I maximum benefit amount is the retiree's maximum benefit.

Assume the retiree's accrued service is such that her actual TRS Plan I monthly benefit is one thousand four hundred fifty dollars and her PERS Plan II monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan I and PERS Plan II 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 I and PERS Plan II benefits. Her TRS Plan I benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan II benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan I benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents ($50 \times .97$) and her PERS Plan II benefit by three percent of the overage, or one dollar and fifty cents ($50 \times .03$).

(3) If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate. After making any applicable reductions in your benefit under subsection (1)(d) of this section, the department will further reduce your benefit if you elect:

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

(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 415-113-0302.

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

(c) "Dual member system" - WAC 415-113-0303.

(d) "First class city system" - WAC 415-113-0304.

(e) "Member participant" - WAC 415-113-0305.

(f) "Multiple system benefit" - WAC 415-113-0306.

(g) "Multiple system retiree" - WAC 415-113-0308.

(h) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-090, filed 1/4/95, effective 2/4/95.]

WAC 415-113-100 Am I eligible for a lump sum retirement allowance? (1) If you retire with a multiple system benefit and one of your retirement allowances is less than fifty dollars per month, you may receive a lump sum payment as allowed under RCW 41.54.090.

(2) Unless you are retiring from TRS Plan I, the department will use your standard retirement allowance to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(3) If you are retiring from TRS Plan I, the department will use your maximum retirement allowance under TRS Plan I to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-100, filed 1/4/95, effective 2/4/95.]

Chapter 415-115 WAC ASSESSMENT OF AN ADDITIONAL ADMINISTRATIVE FEE

WAC

415-115-030	Assessment of additional administrative fee.
415-115-050	What is considered an inaccurate report.
415-115-060	Deficiencies in reporting.
415-115-070	Evaluation of reports and assessment of additional administrative fee.
415-115-080	Determination of additional administrative fee.
415-115-120	Reconsideration of additional administrative fee billing.

WAC 415-115-030 Assessment of additional administrative fee. (1) An employer who fails to submit timely and accurate reports to the department will be assessed an

additional fee related to the increased costs incurred by the department to process the deficient reports.

(2) Every month, the department will determine the amount of the fee to be assessed by evaluating the timeliness and accuracy of the reports submitted by employers in the preceding month. If those reports are either untimely or inaccurate, the department will assess an additional administrative fee. This additional administrative fee will not exceed fifty percent of the standard administrative fee.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-030, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-030, filed 6/12/91, effective 7/13/91.]

WAC 415-115-050 What is considered an inaccurate report. Reports are inaccurate if they cannot be processed or if they contain errors.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-050, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-050, filed 6/12/91, effective 7/13/91.]

WAC 415-115-060 Deficiencies in reporting. Any report which is overdue or which is inaccurate is considered a deficient report. Each day a report is late, each report which cannot be processed, or each error contained in a report constitutes a single deficiency in reporting. Employers are notified of reporting deficiencies each month through the department of retirement systems transmittal edit report.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-060, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-060, filed 6/12/91, effective 7/13/91.]

WAC 415-115-070 Evaluation of reports and assessment of additional administrative fee. Beginning with July 1995 reports which are due on or before August 15, 1995, the department will evaluate reports under the 1995 amendments to this chapter.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-070, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-070, filed 6/12/91, effective 7/13/91.]

WAC 415-115-080 Determination of additional administrative fee. The department will determine the additional administrative fee that may be assessed to employers who have submitted untimely or inaccurate reports. This fee will be determined as follows:

(1) The department will base the additional administrative fee on costs incurred for processing late or inaccurate reports. Costs related to processing deficient data may include, but are not limited to, costs of personnel, equipment, services and facilities.

(2) The department will determine the total number of deficiencies reported by all employers during each month.

(3) Based upon the costs identified in subsection (1) of this section, the department will determine the additional administrative fee to be charged per deficiency.

(4) The department will determine the additional administrative fee to charge each employer. The total fee shall be an amount equal to the per deficiency fee deter-

mined under subsection (3) of this section multiplied by the deficiencies reported by an employer.

(5) From time to time, the department may review and adjust the charge calculated under subsection (3) of this section.

(6) Additional administrative fees are due and payable the 15th day of the calendar month following the month that the statement is dated.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-080, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 41.50.050 and 41.50.110(3). 92-16-032 § 415-115-080, filed 7/29/92, effective 8/29/92. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-080, filed 6/12/91, effective 7/13/91.]

WAC 415-115-120 Reconsideration of additional administrative fee billing. (1) An employer who has received a billing for untimely or inaccurate reporting under this chapter may request a reconsideration of the billing. The employer must request reconsideration within six months of the date that the billing was issued by the department. The employer must state the reason why, and present evidence that, the specific assessment was not untimely or inaccurate.

(2) In instances where an additional administrative fee has been assessed incorrectly, the department will credit the employer's account in the amount of the incorrect assessment. An employer must provide suitable verification of the incorrectness of the assessment. An employer will be credited only for those reporting deficiencies charged to the employer for which the employer is not responsible.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-120, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-120, filed 6/12/91, effective 7/13/91.]

Title 419 WAC

FINANCIAL INSTITUTIONS, DEPARTMENT OF (SAVINGS AND LOAN ASSOCIATIONS, DIVISION OF)

Chapters

- 419-18 Examination and supervision charges for credit unions.**
- 419-70 Credit union common bond definition.**
- 419-72 Credit union field of membership expansion.**

Chapter 419-18 WAC

EXAMINATION AND SUPERVISION CHARGES FOR CREDIT UNIONS

WAC

- 419-18-020 Collection of examination and supervision costs—
Collection method.
- 419-18-030 Hourly charge for examinations.

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- 419-18-040 Semiannual asset charge.
- 419-18-045 Credit unions examination fund—Minimum cash balance—Acceleration of semiannual asset charge.
- 419-18-050 Hourly charge for legal assistance.
- 419-18-060 Hourly charge for supervisory review of examinations.
- 419-18-070 Hourly charge for special examinations.
- 419-18-080 Scheduled increases in rate of examination and supervision charges.

WAC 419-18-020 Collection of examination and supervision costs—Collection method. The requirement of RCW 31.12.545 that the director collect from each credit union the actual costs of examinations and supervision shall be met in accordance with the procedures established in this chapter. The charges for this purpose shall consist of: (1) An hourly charge for conducting an examination of the credit union, (2) a semiannual asset charge, (3) an hourly charge for legal assistance, (4) an hourly charge for supervisory review of examinations, and (5) an hourly charge for special examinations. Charges must be paid promptly when due.

[Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-020, filed 2/28/95, effective 3/31/95. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-020, filed 9/26/83; 82-13-016 (Order 82-5), § 419-18-020, filed 6/7/82.]

WAC 419-18-030 Hourly charge for examinations.

(1) The hourly charge for hours spent by personnel of the credit union division in conducting examinations shall be assessed as follows:

- (a) For division personnel classified as analyst, \$42.48 per hour;
- (b) For division personnel classified as senior analyst, \$47.79 per hour; and
- (c) For division personnel classified as review analyst or above, \$53.10 per hour.

(2) In addition, the director may charge the actual cost of examinations performed under personal service contracts by third parties.

(3) The director shall submit a statement for the charges following the completion of any applicable examination, and the charges must be paid not later than thirty days after submission of the statement.

(4) The rate of the charges set forth in subsection (1) of this section is subject to increase as provided in WAC 419-18-080.

[Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-030, filed 2/28/95, effective 3/31/95; 91-06-062, § 419-18-030, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1). 85-07-008 (Order 85-2), § 419-18-030, filed 3/8/85. Statutory Authority: RCW 31.12.320. 82-13-016 (Order 82-5), § 419-18-030, filed 6/7/82.]

WAC 419-18-040 Semiannual asset charge. (1) The semiannual asset charge will be assessed at a rate of 3.1863 cents per thousand dollars of total assets (defined below), computed on total assets as of March 31 and September 30 of each calendar year, and payable no later than fifteen days after the respective date. Credit unions with total assets of less than two hundred thousand dollars as of a particular assessment date are not required to pay the asset charge for that assessment date.

(2) For the purpose of this section, "total assets" includes all assets held by a Washington chartered credit