

site for which a proposed public works project is the subject of a financial assistance application, and; whether the proposed public works project will eliminate or reduce the chance of such vehicle-caused critical substantial environmental degradation.

(2) For domestic water projects - whether a drinking water system regulated by the department of health has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce the chance of substantial environmental degradation.

(3) For sanitary sewer projects - whether failure of an existing wastewater system, including individual on-site systems, has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(4) For storm sewer systems - whether of an existing storm sewer system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(5) For solid waste or recycling projects - whether failure of an existing solid waste system or recycling system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(6) For all projects - whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - whether the substantial environmental degradation is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - other factors the board finds on the record are significant in light of facts and circumstances unique to the project. Fish passage, water quality, or water quantity issues directly impacting salmonid fish survival in a watershed which is designated as a candidate for listing, proposed for listing, threatened listing, or endangered listing under the federal Endangered Species Act may be considered significant and unique to a project.

(9) The factors enumerated in subsections (1) through (5) of this section must be addressed in a letter of request, with

supporting documentation, to the director of the Washington state department of ecology and signed by the public official who signed the application for financial assistance. A determination of substantial environmental degradation may be made by the director or designee and addressed to the same public official. The board will consider the determination of the director. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

[Statutory Authority: RCW 43.155.040(4). 99-09-020, § 399-30-034, filed 4/14/99, effective 5/15/99.]

## Title 415 WAC

### RETIREMENT SYSTEMS, DEPARTMENT OF

#### Chapters

<b>415-104</b>	<b>Law enforcement officers' and fire fighters' retirement system.</b>
<b>415-105</b>	<b>Local disability board procedures.</b>
<b>415-108</b>	<b>Public employees' retirement system.</b>
<b>415-112</b>	<b>Teachers' retirement board of trustees.</b>
<b>415-113</b>	<b>Portability of public employment benefits.</b>
<b>415-115</b>	<b>Assessment of an additional administrative fee.</b>
<b>415-116</b>	<b>Administrative fee rate.</b>

#### Chapter 415-104 WAC

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

#### WAC

415-104-035	Jurisdiction of director.
415-104-045	Appeal of a local disability board decision.
415-104-050	Review of disability board action—Appeal of director's decision.
415-104-060	Records reviewed on appeals filed under RCW 41.26.200.
415-104-070	Parties to a de novo hearing.
415-104-080	The department can require an examination.
415-104-090	Notice of appeal to the superior court.
415-104-112	Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.
415-104-125	DRS review of disability board order.
415-104-135	Notice for hearing.
415-104-145	Department examination.
415-104-165	Payment of benefits pending final determination.
415-104-175	Comparison of disability retirement allowance and service retirement allowance.
415-104-211	Married member's benefit selection—Spousal consent required.
415-104-215	Retirement benefit options.
415-104-299	Basic salary table.

**WAC 415-104-035 Jurisdiction of director.** The director or the director's designee (director, designee or DRS) does not have authority to review local disability board findings or decisions regarding:

(1) Whether a member's disability was incurred in the line of duty under RCW 41.26.120 or not incurred in the line of duty under RCW 41.26.125; or

(2) A member's right to the employer's payment for medical services pursuant to RCW 41.26.030(22) and 41.26.150.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-035, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-035, filed 3/11/87.]

**WAC 415-104-045 Appeal of a local disability board decision.** Any person aggrieved by the decision of a local disability board may appeal the decision if it:

- (1) Denies disability leave;
- (2) Denies disability retirement; or
- (3) Cancels a previously granted disability retirement.

The written notice of appeal must be submitted to DRS within thirty days in accordance with RCW 41.26.200.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-045, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-045, filed 3/11/87.]

**WAC 415-104-050 Review of disability board action—Appeal of director's decision.** Under RCW 41.26.120(3) and 41.26.125(3), DRS must review a disability board's order to grant a disability retirement allowance. DRS must:

- (1) Affirm (approve) the board's decision; or
- (2) Remand (send back) the case for further proceeding;

or

- (3) Reverse (deny) the board's decision.

DRS must serve a copy of the decision on the applicant, employer, and disability board. DRS must notify the applicant of the right to file a notice for hearing (an appeal under RCW 41.26.200) if the DRS decision denies the disability retirement allowance.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-050, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-050, filed 3/11/87.]

**WAC 415-104-060 Records reviewed on appeals filed under RCW 41.26.200.** DRS will review the appeal based on the record established by the disability board and materials appearing in the records of the department of retirement systems. DRS must:

- (1) Affirm (approve) the board's decision; or
- (2) Remand (send back) the case for further proceeding;

or

- (3) Reverse (deny) the board's decision.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-060, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-060, filed 3/11/87.]

**WAC 415-104-070 Parties to a de novo hearing.** The applicant, the employer, and the department are parties to a hearing held under RCW 41.26.221. The disability board may appear at such hearing only in support of the department's decision.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-070, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-070, filed 3/11/87.]

**WAC 415-104-080 The department can require an examination.** The department has discretion to require an

[2000 WAC Supp—page 1982]

applicant for disability retirement to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW 41.26.221. The cost of such examination is the responsibility of the department.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-080, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-080, filed 3/11/87.]

**WAC 415-104-090 Notice of appeal to the superior court.** Any party aggrieved by a DRS final decision and order issued under RCW 41.26.211 may petition for judicial review within thirty days after the decision and order was mailed. Any party wishing to perfect a superior court appeal must comply with chapter 34.05 RCW, the Administrative Procedure Act.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-090, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-090, filed 3/11/87.]

**WAC 415-104-112 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.** (1) At the time of a member's application for retirement, the department does not have all information necessary to make a final computation of the member's retirement allowance. The department shall compute an interim retirement allowance that shall be paid to the member until the department's final computation of the member's retirement allowance. The interim retirement allowance is an initial, estimated computation of the retiree's retirement allowance subject to adjustment by the department based upon subsequent review of information provided by the member's employer.

(2) In computing the interim retirement allowance, the department may, subject to later correction, consider only the amount of the member's salary actually reported by the employer up to the date of the interim computation, but may impute the member's earned service credit for the same period.

(3) Every employer of a member who applies for retirement shall provide the department with a final compensation report for that member. The report shall be completed on a form provided or approved by the department.

(4) Following the department's computation of the interim benefit and receipt of the employer final compensation report, earnings history, and any additional information requested by the department, the department will complete a final computation of the member's retirement allowance. The department's final computation may increase, decrease, or leave unchanged the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, either before or after the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may adjust a member's retirement allowance to correct any error in retirement system records. For purposes of this subsection, errors in retirement system records include, but are not limited to, the following:

(a) Applying an incorrect retirement allowance formula in computing the retirement allowance;

(b) Including service that is not creditable to the member;

(c) Including payments that do not constitute basic salary to a member in the member's retirement allowance computation, or excluding basic salary not reported by an employer;

(d) Benefit overpayments and underpayments;

(e) Including an individual in the membership of the retirement system or plan who is not entitled to such membership;

(f) Excluding an individual from membership in the retirement system or plan who is entitled to such membership.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-112, filed 8/3/99, effective 9/3/99.]

**WAC 415-104-125 DRS review of disability board order.** (1) Under the provisions of RCW 41.26.135, DRS must review a disability board determination that an applicant's disability has ceased pursuant to RCW 41.26.130(3). DRS must:

(a) Affirm (approve) the board's decision; or

(b) Remand (send back) the case for further proceedings; or

(c) Reverse (deny) the board's decision.

(2) A retiree aggrieved by a decision of the local disability board that the disability has not ceased may appeal the determination to the director. The written notice of appeal must be submitted to DRS within thirty days as provided by RCW 41.26.140(6).

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-125, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-125, filed 3/11/87.]

**WAC 415-104-135 Notice for hearing.** A person aggrieved by:

(1) The director's decision on review of the local board determination; or

(2) The director's decision after review of the record on appeal must invoke the director's jurisdiction by filing a notice for hearing in accordance with RCW 41.26.211 and WAC 415-08-020 before they can appeal to the superior court. Such hearing shall be in accordance with RCW 41.26.221.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-135, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-135, filed 3/11/87.]

**WAC 415-104-145 Department examination.** The director or his representative, in his/her discretion, may require a disability retiree to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW 41.26.221. The cost of such examination is the responsibility of the department.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-145, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-145, filed 3/11/87.]

**WAC 415-104-165 Payment of benefits pending final determination.** The department will continue to pay monthly benefits when a disability board determines that a retiree's

disability has ceased until there is a final determination from which no appeal is taken. The department will pay either the retiree's monthly service retirement allowance or monthly disability retirement allowance, whichever is less. Any retroactive adjustment required as the result of the final determination will be made after the appeal period has passed.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-165, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-165, filed 3/11/87.]

**WAC 415-104-175 Comparison of disability retirement allowance and service retirement allowance.** In comparing the disability retirement allowance and the service retirement allowance as required by RCW 41.26.130(3), the department must:

(1) Compute the service retirement allowance using a final average salary calculated as follows:

(a) The department shall first calculate the greatest basic salaries that were or would have been payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed;

(b) The department shall then divide the total basic salaries during the selected twenty-four month period by twenty-four to compute the final average salary.

(2) Compute the service retirement allowance. The service retirement allowance does not include any cost-of-living increases that would have been granted if the service retirement allowance had been in effect during the period of disability retirement.

(3) Compare the service retirement allowance to the monthly disability retirement allowance that the member was receiving on the date that the disability ceased.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-175, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-175, filed 3/11/87.]

**WAC 415-104-211 Married member's benefit selection—Spousal consent required.** (1) 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).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "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 41.50.050, 99-16-075, § 415-104-211, filed 8/3/99, effective 9/3/99. 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 mem-

bers 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

**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	—	—
			<b>Total COLA's</b>	<b>191.05</b>
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.

(5) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

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) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(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 example:**

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death.

The retiree is not required to apply for the increased benefit provided in this subsection. The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated ben-

eficiary, whichever comes last. The adjustment is computed as described in RCW 41.26.460 (3)(c) for Plan 2 retirees.

(6) **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 41.50.050, 99-16-075, § 415-104-215, filed 8/3/99, effective 9/3/99. 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 415-104-299 Basic salary table.** The following table is provided as a quick reference guide to help you characterize payments under LEOFF Plan I and LEOFF Plan II. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines basic salary based upon the nature of the payment, not the name applied to it. See WAC 415-104-311 (Plan 1) and WAC 415-104-360 (Plan 2).

Type of Payment	LEOFF I Basic Salary?	LEOFF II Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-3205	Yes - WAC 415-104-360
Allowances (i.e. uniform)	No - WAC 415-104-3404	No - WAC 415-104-390
Basic Monthly Rate	Yes - WAC 415-104-3200	Yes - WAC 415-104-360
Cafeteria Plans	No - WAC 415-104-3303	Yes - WAC 415-104-367
Deferred Wages Attached to Position	Yes - WAC 415-104-3201(1)	Yes - WAC 415-104-363(1)
Deferred Wages not attached to a Position	No - WAC 415-104-3306	No - WAC 415-104-363(2)
Disability Payments	No - WAC 415-104-340	No - WAC 415-104-380
Education Attainment Pay	No - WAC 415-104-3301	Yes - WAC 415-104-375
Employer taxes/contributions	No - WAC 415-104-3401	No - WAC 415-104-383
Fringe Benefits	No - WAC 415-104-3402	No - WAC 415-104-385
Illegal Payments	No - WAC 415-104-3403	No - WAC 415-104-387
Leave Cash Outs/Severance	No - WAC 415-104-3304	No - WAC 415-104-401
Longevity	Yes - WAC 415-104-311	Yes - WAC 415-104-375
Overtime	No - WAC 415-104-3305	Yes - WAC 415-104-370
Paid Leave	Yes - WAC 415-104-3203	Yes - WAC 415-104-373
Payments in Lieu of Excluded Items	No - WAC 415-104-350	No - WAC 415-104-405
Performance Bonuses	No - WAC 415-104-3302	Yes - WAC 415-104-377
Retroactive Salary Increase	Yes - WAC 415-104-3202	Yes - WAC 415-104-365
Reimbursements	No - WAC 415-104-3404	No - WAC 415-104-390
Retirement or Termination Bonuses	No - WAC 415-104-3406	No - WAC 415-104-395
Shift Differential	Yes - WAC 415-104-3204	Yes - WAC 415-104-379
Special Salary or Wages	No - WAC 415-104-330	Yes - WAC 415-104-375
Standby Pay	No - WAC 415-104-3405	No - WAC 415-104-393
Tuition/Fee Reimbursement	No - WAC 415-104-3404	No - WAC 415-104-390
Worker's Compensation	Not Applicable	No - WAC 415-104-380

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-299, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050 and 41.50.055, 97-01-016, § 415-104-299, filed 12/6/96, effective 1/6/97.]

**Chapter 415-105 WAC**

**LOCAL DISABILITY BOARD PROCEDURES**

**WAC**

- 415-105-010 Preamble.
- 415-105-020 Purpose.
- 415-105-030 Board doctor.
- 415-105-040 Disability leave.
- 415-105-050 Examination, review and determination.
- 415-105-060 Granting disability retirement.
- 415-105-070 Decision and order.
- 415-105-072 Burden of proof to cancel disability allowance.
- 415-105-074 Determination to cancel disability allowance.
- 415-105-080 Notice of denial of benefits and right to appeal.
- 415-105-090 Reexamination after retirement.
- 415-105-100 Purpose—Age fifty and older.
- 415-105-110 Application to disability board—Age fifty and older.
- 415-105-120 Burden of proof in disability board proceedings.
- 415-105-140 Examination by board physician.
- 415-105-150 Disability board order.
- 415-105-160 Purpose—Under age fifty.
- 415-105-170 Application to the disability board—Under age fifty.
- 415-105-180 Disability board hearing and order.

**WAC 415-105-010 Preamble.** These rules are not intended to weaken the authority of the local disability board nor to prevent the disability board from adopting additional rules or procedures necessary for performing its duties.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-010, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 81-23-032 (Order 81-03), § 415-105-010, filed 11/16/81.]

**WAC 415-105-020 Purpose.** These rules are adopted under the authority of section 1, chapter 294, Laws of 1981 (RCW 41.26.115) to provide a basis for uniform administration of disability retirement matters. These rules must be followed by each disability board.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-020, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 81-23-032 (Order 81-03), § 415-105-020, filed 11/16/81.]

**WAC 415-105-030 Board doctor.** (1) Each board must appoint a board doctor. The board must not approve a disability retirement without prior examination of the applicant by the board doctor or a specialist selected by the board doctor. The board doctor must be a practicing physician licensed

under the provisions of chapter 18.71 RCW; or, if the board doctor practices outside the state of Washington, then he/she must be a physician licensed by the state in which he/she practices.

(2) The board doctor and any selected specialist must be knowledgeable about the normal, routine duties, functions and general demands of the position the applicant held at the time the applicant discontinued service.

(3) The board must furnish the examining physician with the applicant's job and/or position description. The board must inform the physician that the board's decision to grant or deny a disability retirement allowance is to be measured against the actual, normal, routine duties that the applicant performs.

(4) The board doctor or approved specialist will provide medical services requested by the board including examinations pursuant to RCW 41.26.120(1); 41.26.125(1); 41.26.130(5); and 41.26.150 (1)(a).

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-030, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 81-23-032 (Order 81-03), § 415-105-030, filed 11/16/81.]

**WAC 415-105-040 Disability leave.** (1) The applicant must prove the existence of:

(a) A disabling condition; and  
(b) Whether or not the condition was incurred in the line of duty.

(2) The application must include the name of each physician contacted by the applicant within the last six months for the disabling illness or injury. The applicant must advise each examining physician that:

(a) The board has requested the evaluation;  
(b) Any reports of the evaluation will be reviewed by the board;  
(c) That the doctor-patient privilege may not be invoked with respect to the evaluation; and  
(d) The physician may be requested by the board to testify as to his or her findings.

(3) The disability board is authorized to demand the appearance of the applicant and to request the appearance of any other persons it deems appropriate.

(4) Following receipt of an application for disability benefits, the board must:

(a) Review the application and all relevant information about the applicant's fitness for duty;  
(b) Consider the duties of the applicant's position; and  
(c) Consider any other pertinent evidence.

The board must either grant or deny disability leave based on the evidence or continue the matter pending receipt of additional information.

(5) If the information before the board is insufficient to determine whether or not the applicant is disabled, the matter can be continued to the next regular meeting or set for consideration at a special meeting. The board must advise the applicant of:

(a) The additional information needed;  
(b) The applicant's obligation to provide the additional information; and  
(c) The date by which the information must be provided.

(6) The applicant may waive any or all of the disability leave granted pursuant to RCW 41.26.120(4) and 41.26.125(4).

(7) The board is not to use the minimum medical and health standards (MMHS) to determine whether or not an applicant is unfit for duty. The MMHS established pursuant to RCW 41.26.046 govern entry or reentry into LEOFF System membership and were provided only to safeguard the fiscal integrity of the pension system.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-040, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 81-23-032 (Order 81-03), § 415-105-040, filed 11/16/81.]

**WAC 415-105-050 Examination, review and determination.** (1) The board must have the applicant examined during the fifth or sixth month of disability leave. The examination is to be performed by the board doctor or a specialist selected by the board doctor. The board shall not approve the disability retirement without this examination unless:

(a) The applicant establishes that the disabling condition will exist for at least six months; and

(b) The applicant voluntarily waives disability leave.

(2) Following receipt of the examination report, the board must:

(a) Review the medical evidence and all relevant information about the applicant's fitness for duty;  
(b) Consider the duties of the applicant's position; and  
(c) Consider any other pertinent evidence.

The board must either grant or deny disability retirement based on the evidence or return the applicant to duty for a reasonable period of trial service.

(3) If the board cannot determine with reasonable certainty whether or not the applicant is disabled, the board may issue a written order that the applicant is to return to duty for a reasonable period of trial service to determine the applicant's fitness for active duty.

(a) The length of the trial service period must be supported by medical evidence.

(b) During the period of trial service the applicant is to return to the same duties in the same position held at the time of discontinuance of service.

(c) If the applicant is found to be disabled, the board is not to grant a second six-month period of disability leave, but is to return the applicant to disability leave status for the remainder, if any, of the initial six-month leave period.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-050, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-050, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-050, filed 11/16/81.]

**WAC 415-105-060 Granting disability retirement.**

(1) The applicant is required to prove that he or she is disabled and unable to perform with average efficiency the duties of the position held at the time of discontinuance of service.

(2) The board must determine, based on the evidence, that the applicant is disabled from performing his or her duties and the disability has been continuous since the beginning of the disability leave period.

(3) The board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period if:

(a) The regular meeting of the board does not precede the end of the six-month disability leave period by more than forty days; and

(b) Medical evidence shows the disability is expected to continue through the full six-month period.

(4) The applicant is not entitled to a disability retirement allowance if:

(a) The employer advises the board that there is an available position for which the applicant is qualified and to which a person of the same grade or rank is normally assigned; and

(b) The board determines that the applicant is capable of discharging the duties of the position with average efficiency.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-060, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-060, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-060, filed 11/16/81.]

**WAC 415-105-070 Decision and order.** (1) After granting or denying a disability retirement allowance, the board must enter a written decision and order that includes:

(a) Appropriate findings of fact supported by credible evidence sufficient to sustain the decision; and

(b) Conclusions of law.

(2) When a disability retirement allowance is granted, the decision and order and all supporting documentation must be sent to the director of the department of retirement systems.

(a) The accompanying findings of fact shall include at least the following:

(i) The applicant's length of service with the employer and the position held at discontinuance of service;

(ii) The names of the examining physicians and the dates of the examinations;

(iii) The nature of the disability;

(iv) Whether or not the disability was incurred in the line of duty;

(v) Whether or not the disability was incurred in other employment;

(vi) Dates encompassing disability leave;

(vii) Dates related to authorized return to duty on a trial basis and the factual basis for the decision; and

(viii) Dates encompassing waiver of disability leave, if applicable, and that applicant established that the disability will be continuous for at least six months.

(b) The supporting documentation shall include a copy of at least the following:

(i) The application for disability benefits showing the applicant's current mailing address;

(ii) The job description accurately reflecting the duties of the position the applicant held at discontinuance of service;

(iii) Employer statement(s), if any, relevant to the applicant's position and/or fitness for duty;

(iv) All medical and other evidence considered by the board; and

(v) The minutes and/or transcript of all meetings at which the applicant's disability status was considered.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-070, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-070, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-070, filed 11/16/81.]

**WAC 415-105-072 Burden of proof to cancel disability allowance.** The disability board has the burden of proof in any proceeding to cancel a disability retirement allowance.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-072, filed 8/3/99, effective 9/3/99.]

**WAC 415-105-074 Determination to cancel disability allowance.** The board need not rely solely on medical evidence in making its determination. To cancel a disability retirement allowance, the board must demonstrate that:

(1) The retiree is reasonably able to perform the ordinary duties of his or her former position or a position within the retiree's former rank with average efficiency; and

(2) There has been a material change in the circumstances upon which the retirement was based; and

(3) No other physical or mental disability now prevents the retiree from performing the ordinary duties of his or her position or rank.

The board may not cancel a disability retirement allowance based on a determination that the medical condition was incorrectly diagnosed at the time of the initial disability hearing. If the medical condition for which the retiree was granted disability retirement has improved, but the retiree is still not physically or mentally able to perform his or her duties with average efficiency, the retiree shall continue to receive the disability retirement allowance. The board must send a copy of all determinations and the examination reports and other evidence on which they are based to the department of retirement systems.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-074, filed 8/3/99, effective 9/3/99.]

**WAC 415-105-080 Notice of denial of benefits and right to appeal.** (1) The board must immediately notify the applicant if the board:

(a) Denies disability leave or retirement; or

(b) Cancels a previously granted disability leave or retirement.

(2) The board must advise the applicant of his or her right to appeal the board's decision to the director of the department of retirement systems pursuant to RCW 41.26.200.

(3) Notification and advice must be in writing and served by personal service or mail unless the applicant or the applicant's authorized representative attends the meeting and is advised in person of the board's decision and the applicant's right to appeal.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-080, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-080, filed 11/16/81.]

**WAC 415-105-090 Reexamination after retirement.** (1) Every retiree under 49.5 years of age must be medically reexamined every six months by the board doctor or

approved physician, except as provided in subsection (4) of this section.

(2) The retirement allowance of any retiree who fails to submit to a medical examination as required in subsection (1) of this section shall be discontinued until the retiree complies with the reexamination requirement. If the retiree continues for one year to refuse to undergo reexamination, the board shall cancel his or her retirement allowance.

(3) If the retiree resides more than one hundred miles from his or her former employer, the board may authorize the retiree to be examined by a physician in the retiree's local area. The board must approve the local area physician and provide him or her with information about the purpose of the examination and the issues to be addressed in the physician's report to the board.

(4) If the board doctor or approved physician finds that no possibility exists for the retiree's recovery and return to duty, the board may determine that subsequent medical examinations are not required. The determination may be made at the time of retirement or at any time thereafter, but must be based on a current (within ninety days) recommendation of the examining physician. The board must notify the department of retirement systems when it makes a determination of permanent disability. A copy of the physician's report must accompany the notice.

(5) If the examination shows that the retiree is fit to perform the duties of the rank or position held at retirement, the retiree shall be entitled to a hearing before the board. The notification and hearing shall comply with the requirements of the Administrative Procedure Act, chapter 34.05 RCW. Unless the retiree waives his or her right to the hearing, the board must hold the hearing before it can cancel the disability retirement allowance.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-090, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-090, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-090, filed 11/16/81.]

#### **WAC 415-105-100 Purpose—Age fifty and older.**

These rules are adopted under RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and 41.26.135 and establish procedures to be followed by the applicant and the disability board. These rules apply only to a disability retiree age fifty and older who seeks a determination that his/her disability has ceased.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-100, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-100, filed 3/11/87.]

**WAC 415-105-110 Application to disability board—Age fifty and older.** (1) When a disability retiree over age fifty believes that his/her disability has ceased, he/she may make application to cancel the disability retirement allowance. Such application shall be made to the disability board that originally considered the application for disability retirement.

(2) The application must be in writing and contain the following information:

(a) The retiree's name, birthdate, Social Security number, mailing address, telephone number, former LEOFF

[2000 WAC Supp—page 1988]

employer, and the name and mailing address of the retiree's legal representative, if any;

(b) The nature of the disability and the date the disability ceased;

(c) The names, addresses and telephone numbers of all physicians and other health care practitioners who have been contacted by the retiree or his/her representative in the last year for medical care, consultation or evaluation;

(3) The application must be accompanied by the following documents:

(a) Copies of any written documents supporting the retiree's claim that his/her disability has ceased and that no other physical or mental disability now prevents the retiree from performing the ordinary duties of his/her position or rank;

(b) A copy of the local disability board order granting disability retirement if the original disability board order was summarily affirmed by the director or the LEOFF retirement board; or

(c) A copy of the director's order or the LEOFF retirement board's order if the director or the LEOFF retirement board entered the final order granting disability retirement.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-110, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-110, filed 3/11/87.]

**WAC 415-105-120 Burden of proof in disability board proceedings.** The retiree has the burden of proof in the proceedings before the disability board.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-120, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-120, filed 3/11/87.]

#### **WAC 415-105-140 Examination by board physician.**

(1) Before acting on an application, the disability board shall have the retiree examined by the board doctor as provided in WAC 415-105-030. If the board doctor has seen the retiree before in any capacity except evaluation on behalf of the disability board, the board doctor must refer the retiree to another physician who has not seen the retiree in any capacity except evaluation on behalf of the disability board.

(2) Before the retiree is examined, the disability board must furnish the board doctor or other physician with a current job description for the rank or position held by the member at the time he/she was granted disability retirement and a copy of these regulations.

(3) The board doctor or other physician will examine the retiree to determine if he/she is able to perform with average efficiency the duties of the rank or position held by the retiree at the time of discontinuance of service and that he/she meets the requirements of WAC 415-105-130.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-140, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-140, filed 3/11/87.]

**WAC 415-105-150 Disability board order.** (1) The board must review the application, the medical evaluation by the board doctor, and any other relevant evidence. The board must determine whether the retiree has met the standards set



out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency.

(2) If the board determines that the retiree's disability has ceased, it shall enter its written decision and order including appropriate findings of fact and conclusions of law. The disability board must:

(a) Enter a decision which specifies the date the disability retirement allowance will cease;

(b) Immediately send a copy of the decision and order to the department of retirement systems.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-150, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-150, filed 3/11/87.]

**WAC 415-105-160 Purpose—Under age fifty.** These rules are adopted under RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and establish procedures to be followed by the applicant and the disability board in cases in which the applicant is under age fifty and believes that his/her disability has ceased.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-160, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-160, filed 3/11/87.]

**WAC 415-105-170 Application to the disability board—Under age fifty.** A disability retiree under age fifty who believes that his/her disability has ceased may apply for a determination that the disability has ceased. The application must be:

(a) Made to the disability board which originally found the member to be disabled; and

(b) In writing; and

(c) Contain the information stated in WAC 415-105-110(2).

Thereafter, the rules and procedures stated in WAC 415-105-120 through 415-105-140 shall be in effect.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-170, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-170, filed 3/11/87.]

**WAC 415-105-180 Disability board hearing and order.** (1) The board must review the application, the medical evaluation of the board doctor, and any other relevant evidence. The board must then determine whether the retiree has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency. If the board determines that the retiree's disability has ceased, both the retiree and the former employer shall be entitled to a notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW.

(2) After the hearing, the board must enter its written decision and order, including appropriate findings of fact and conclusions of law. The board order must either deny the retiree's application or cancel his/her disability retirement allowance and restore him/her to duty pursuant to RCW 41.26.140(2).

(3) Any person aggrieved by a determination or order of a disability board that the applicant's disability has not ceased

may file an appeal with the director pursuant to RCW 41.26.140(6).

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-180, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-180, filed 3/11/87.]

## Chapter 415-108 WAC

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM

#### WAC

415-108-050	Repealed.
415-108-060	Repealed.
415-108-180	Repealed.
415-108-190	Repealed.
415-108-195	Repealed.
415-108-200	Repealed.
415-108-210	Repealed.
415-108-220	Repealed.
415-108-230	Repealed.
415-108-240	Repealed.
415-108-250	Repealed.
415-108-260	Repealed.
415-108-270	Repealed.
415-108-280	Repealed.
415-108-290	Repealed.
415-108-324	Married member's benefit selection—Spousal consent required.
415-108-326	Retirement benefit options.
415-108-475	Fringe benefits.
415-108-485	Vehicle allowances—Are vehicle allowances earnable compensation?
415-108-510	Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions.
415-108-520	Membership exceptions—Student and spouse of student.
415-108-671	Repealed.
415-108-726	If I accrue service credit in PERS and another retirement plan at the same time, may I participate in PERS?

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

415-108-050	Appeal to superior court—Notice. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-050, filed 2/15/78. Formerly WAC 184-09-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-060	Appeal to superior court—Certification of record. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-060, filed 2/15/78. Formerly WAC 184-09-020.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-180	Correspondence. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-180, filed 2/15/78. Formerly WAC 184-01-070.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-190	Nominations. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-190, filed 2/15/78. Formerly WAC 184-01-07001.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-195	Identification. [Recodified as § 415-108-195. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-200	Disability and benefit claims. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-200, filed 2/15/78. Formerly WAC 184-03-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-210	Disability and benefit claims—Acknowledgment and forms. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-210, filed 2/15/78. Formerly WAC 184-03-020.] Repealed by 99-

- 21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-220 Disability and benefit claims—Processing applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-220, filed 2/15/78. Formerly WAC 184-03-030.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-230 Disability and benefit claims—Recording. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-230, filed 2/15/78. Formerly WAC 184-03-040.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-240 Disability and benefit claims—Legal examination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-240, filed 2/15/78. Formerly WAC 184-03-050.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-250 Disability and benefit claims—Medical examination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-250, filed 2/15/78. Formerly WAC 184-03-060.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-260 Disability and benefit claims—Medical recommendation. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-260, filed 2/15/78. Formerly WAC 184-03-070.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-270 Disability and benefit claims—Recommendation and conclusion. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-270, filed 2/15/78. Formerly WAC 184-03-080.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-280 Disability and benefit claims—Board decision on application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-280, filed 2/15/78. Formerly WAC 184-03-090.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-290 Disability and benefit claims—Notification of member. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-290, filed 2/15/78. Formerly WAC 184-03-100.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-671 Administration of early retirement. [Statutory Authority: RCW 41.50.050. 93-20-020, § 415-108-671, filed 9/24/93, effective 10/25/93.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.

**WAC 415-108-050 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-060 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-180 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-190 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-195 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-200 Repealed.** See Disposition Table at beginning of this chapter.

[2000 WAC Supp—page 1990]

**WAC 415-108-210 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-220 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-230 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-240 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-250 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-260 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-270 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-280 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-290 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-324 Married member's benefit selection—Spousal consent required.** (1) 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).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "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 41.50.050. 99-14-008, § 415-108-324, filed 6/24/99, effective 7/25/99. 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 1 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).

**Plan One:**

Lucinda retires from PERS Plan 1 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 2 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.

(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) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) **Supplemental COLA option for Plan 1 members.** Retiring Plan 1 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.

(5) **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.

(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.

(6) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides to the department proper proof of the designated beneficiary's death. The retiree is not required to apply for the increased benefit provided by this subsection.

The adjusted retirement allowance will be effective on July 1, 1998, or the first of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.40.188 (3)(c) for Plan 1 retirees or RCW 41.40.660 (3)(c) for Plan 2 retirees.

(7) **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 41.50.050, 99-14-008, § 415-108-326, filed 6/24/99, effective 7/25/99. 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 415-108-475 Fringe benefits.** Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-108-455) and matching and nonmatching employer contributions to a benefit plan.

**Note:** Mandatory salary deferrals are salary, not benefits. Such payments are reportable see WAC 415-108-459.

**Example:** An employer makes matching payments to employees who participate in a deferred compensation plan. This is not a mandatory salary deferral for purposes of PERS reportable compensation. Since the employer matching payment (employer match) is made contingent upon employee plan participation, it is not payment for services rendered. Therefore, it is a fringe benefit that is not reportable compensation under PERS.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-475, filed 6/24/99, effective 7/25/99; 98-09-059, § 415-108-475, filed 4/17/98, effective 5/18/98.]

**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 reim-**

**bursement 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.

(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, 99-14-008, § 415-108-485, filed 6/24/99, effective 7/25/99; 95-22-006, § 415-108-485, filed 10/18/95, effective 11/18/95.]

**WAC 415-108-510 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions.** (1) Cash compensation in lieu of unused annual or sick leave may be considered compensation earnable for Plan 1 members subject to the provisions of RCW 41.40.010 (8)(a) and WAC 415-108-456. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual or sick leave as compensation earnable in conflict with RCW 41.40.010 (8)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.40.010 (8)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual or sick leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned, and when or whether the leave was used or cashed out, with the following exceptions:

(a) As otherwise provided in *Bowles v. Department of Retirement Systems*, 121 Wn.2d 52 (1993); and

(b) The employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-108-010, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer from one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-510, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-510, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.40.010(8) and 41.40.020, 87-17-061 (Order DRS 87-08), § 415-108-510, filed 8/19/87.]

**WAC 415-108-520 Membership exceptions—Student and spouse of student.** (1) A person employed by a Washington state institution of higher education or community college (employer), who is employed at such institution or college primarily for the purpose of furthering her/his education or the education of the person's spouse, is excepted from membership in PERS when:

(a) The person is a full-time student or the spouse of a full-time student; and

(b) The person is employed at the same institution where she/he is a full-time student or where the person's spouse is a full-time student; and

(c) The person determines her/his employment is primarily an incident to and in furtherance of her/his education or training, or the education or training of the person's spouse.

(2) For purposes of this section, RCW 41.40.023(7) shall be administered as follows:

(a) When a person begins employment in a PERS eligible position, a determination shall be made by the person as to whether the provisions of this section apply. If this section applies to the person, she/he shall determine her/his membership status as either being excepted from membership in PERS, or being a member of PERS, based upon whether employment at the institution of higher education or community college is primarily as an incident to and in furtherance of her/his education or training, or the education or training of the person's spouse. The person shall notify the employer in writing of her/his determination of membership status no later than two months after commencing employment in a PERS eligible position. Based upon the provisions herein and the written notification of status, the person shall either be excepted from membership in PERS or become a member of PERS. In the event that no written notification of status is provided to the employer, based upon the provisions of this section, the employer shall make the presumption:

(i) That the person shall remain a member of PERS where the person is employed in a PERS eligible position and is a member of PERS at the time the person, or his or her spouse, becomes a full-time student;

(ii) That the person shall be excepted from PERS membership where the person or the person's spouse is a full-time student at the time of becoming employed in a PERS eligible position.

(b) A person employed in a PERS eligible position at the time of becoming a full-time student or becoming the spouse of a full-time student, shall remain a member of PERS; except, at the time of becoming a full-time student or becoming the spouse of a full-time student, the person may elect to waive her/his membership in PERS, based upon the provisions of this section excepting membership. The person must provide written notification of the waiver to the employer. If the person elects to waive membership in PERS, she/he cannot later elect membership in PERS unless there is a change of status of the person or of the person's spouse, as set forth

below, and the employer has received written notification from the person of the change of status.

(c) A person who is a full-time student or who is the spouse of a full-time student at the time of becoming employed in a PERS eligible position, shall not be eligible for membership in PERS; except, at the time of becoming employed in a PERS eligible position, the person may elect to become a member of PERS, based upon the person's determination that the provisions of this section excepting membership do not apply. The person must provide written notification of the election to be a member of PERS to the employer. If the person elects to become a member of PERS, she/he cannot later waive PERS membership unless there is a change of status of the person or of the person's spouse, as set forth below, and the employer has received written notification from the person of the change of status.

(d) For purposes of this section, status is defined as:

(i) Student status - is full-time student, part-time student or nonstudent. Part-time student and nonstudent status do not meet the threshold for exception from PERS; only full-time student status meets the threshold:

(ii) Employment status - is employment in a PERS eligible position, employment in a PERS ineligible position, or unemployment. Unemployment refers to termination of employment from a Washington state institution of higher education or community college employer;

(iii) Marital status - is single, married, widowed or divorced.

(3) The department shall rely upon the institutions of higher education and community college employers to:

(a) Notify each person, at the time of hire, of the provisions of this section;

(b) Request all written notifications from persons electing membership or waiving membership under this section;

(c) Retain and make available to the department upon request, all written notifications electing membership or waiving membership on a sixty-four year record retention schedule.

(4) It is recommended, but not required, that no less than annually employers provide notice that employees are required to notify the employer of any change in status as set forth in this section.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-520, filed 6/24/99, effective 7/25/99; 91-21-083, § 415-108-520, filed 10/18/91, effective 12/31/91.]

**WAC 415-108-671 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-108-726 If I accrue service credit in PERS and another retirement plan at the same time, may I participate in PERS?** (1)(a) Yes. You may earn service credit in PERS and any of the following systems at the same time if:

(i) You work for a PERS employer and an employer covered by a retirement system of the city of Seattle, Spokane or Tacoma (First Class City Retirement System); and

(ii) You cannot report service for the First Class City Retirement System in PERS;

(b) The combined service credit under PERS and the retirement system listed in (a) of this subsection may not

[2000 WAC Supp—page 1994]

exceed one month of service for a calendar month of employment.

(c) To qualify for PERS service credit, it is up to the employee to initiate the process by applying under subsection (2) of this section.

**Example:** A member works part time for the City of Seattle and part time for the University of Washington (UW). She may receive partial service credit in PERS for the UW service since she cannot report the time she works for Seattle under PERS.

**Note:** The combined service credit under PERS and the City of Seattle Retirement System may not exceed one month of service for a calendar month of employment. To receive PERS service credit she must apply to the department.

## (2) How do I apply?

(a) To apply for membership and service credit under subsection (1) of this section you must send the department an application. The application is a statement that you want membership and/or service credit in PERS. Include:

(i) Your name;

(ii) Your SSN;

(iii) All period(s) of service that you want to receive service credit for;

(iv) All PERS and non-PERS employer(s) that you worked for during the periods of service referenced in (a)(iii) of this subsection.

(b) After the department receives your application, it will contact your employer(s) to verify how much service credit you have earned. When the department receives the necessary information, it will determine how much service credit you will receive. At that time the department will send you a bill for member contributions and interest that must be paid in order to establish the service credit.

## (3) When should I submit my payment?

You should pay contributions and interest required under subsection (2)(b) of this section within twenty-four consecutive months from the last day of the calendar year for which you claim service credit. After that date, you must pay the actuarial cost of purchasing the service credit under RCW 41.40.104 and 41.50.165.

## (4) What if I worked before this WAC became effective?

If you worked for a PERS employer and for one of the retirement systems listed in subsection (1) of this section, before this WAC became effective, you have until December 31, 2000, to apply in order to purchase service credit by paying member contributions plus interest. After December 31, 2000, you must pay the actuarial cost of purchasing the service credit under RCW 41.40.104 and 41.50.165.

(5) **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.

(d) "Normally" - WAC 415-108-0102.

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-108-726, filed 10/29/99, effective 11/29/99; 95-16-053, § 415-108-726, filed 7/25/95, effective 8/25/95.]

## Chapter 415-112 WAC

## TEACHERS' RETIREMENT BOARD OF TRUSTEES

## WAC

415-112-010	Repealed.
415-112-0152	Repealed.
415-112-030	Repealed.
415-112-100	Minimum requirement for membership.
415-112-110	Repealed.
415-112-270	Evaluating credit for professional preparation.
415-112-290	Credit for out-of-state service.
415-112-400	Salary deductions required by employer.
415-112-41301	Vehicle allowances—Are vehicle allowances earnable compensation?
415-112-420	Repealed.
415-112-515	When a member of the teacher's retirement system Plan 1 enters retirement status.
415-112-520	Date from which service retirement allowance accrues.
415-112-561	Repealed.
415-112-600	Eligibility for temporary disability benefits.
415-112-700	Determining dependency under RCW 41.32.520.
415-112-710	When are survivor benefits payable?
415-112-725	Married member's benefit selection—Spousal consent required.
415-112-727	Retirement benefit options.
415-112-800	Scope.

## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-112-010	Description of teachers' retirement system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-010, filed 2/15/78. Formerly WAC 462-04-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-112-0152	Day—Definition. [Statutory Authority: RCW 41.50.050. 97-01-015, § 415-112-0152, filed 12/6/96, effective 1/6/97; 95-16-053, § 415-112-0152, filed 7/25/95, effective 8/25/95.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-112-030	Appeals—Forms and procedures. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-030, filed 2/15/78. Formerly WAC 462-08-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-112-110	Teachers' retirement system employees eligible for membership. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-110, filed 2/15/78. Formerly WAC 462-16-020.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-112-420	Determining the earnable compensation. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-420, filed 2/15/78. Formerly WAC 462-24-030.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-112-561	Administration of early retirement. [Statutory Authority: RCW 41.50.050. 93-20-020, § 415-112-561, filed 9/24/93, effective 10/25/93.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.

**WAC 415-112-010 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-112-0152 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-112-030 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-112-100 Minimum requirement for membership.** With respect to members of TRS Plan 1 only, ninety

calendar days of employment within a fiscal year as a full-time teacher, or the equivalent of ninety days of service within a fiscal year as a teacher employed on a part-time, occasional, hourly, or daily basis, shall be required, together with necessary contributions, before membership in the teachers' retirement system is established and before the director may approve an application for cancellation of exemption, for the granting of additional credit for previous service, or for the payment of any benefit.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-100, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-100, filed 2/15/78. Formerly WAC 462-16-010.]

**WAC 415-112-110 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-112-270 Evaluating credit for professional preparation.** If a TRS Plan 1 member is otherwise eligible, professional preparation credit may be allowed for additional study at an institution of higher learning, or at a commercial or technical school where the courses supplement the member's professional preparation. Thirty-six quarter hours of credit, or the equivalent, shall be considered a year's work. Any less credits shall be evaluated as a fractional part of a year.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-270, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-270, filed 2/15/78. Formerly WAC 462-20-040.]

**WAC 415-112-290 Credit for out-of-state service. (1)** A TRS Plan 1 member who leaves Washington public school service and terminates his membership in the teachers' retirement system by lapsation or withdrawal and who subsequently returns to service and membership may establish or reestablish only such credit for out-of-state service as may be credited under the laws in effect at the time when he reestablishes membership.

(2) Effective July 1, 1964, a new or former TRS Plan 1 member who returns to membership after his former membership was cancelled by lapsation or withdrawal may not establish or reestablish out-of-state prior service credit of any kind, including out-of-state prior service credit for teaching, professional preparation, or military service.

(3) Out-of-state membership service credit, regardless of when the service was rendered, may be established or reestablished after July 1, 1964, within the limitations of existing law, only if the out-of-state service was rendered while the member was on official leave of absence granted by a state of Washington employer.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-290, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-290, filed 2/15/78. Formerly WAC 462-20-055.]

**WAC 415-112-400 Salary deductions required by employer. When does the employer deduct salary for retirement contributions?** If the teacher or member is entitled to have salary deducted for retirement contributions, the

employer must make the deductions when the teacher or member starts work.

(1) Plan 1.

(a) The employer must deduct salary for retirement contributions for a teacher who has not been a member if:

(i) They are employed full time (at least four-fifths of a school day or full time assignment); and

(ii) Their employment contract calls for at least ninety days of employment in a school year.

(b) The employer must also deduct the salary of each teacher who is a member employed full time if their employment contract calls for at least twenty days of employment in a school year.

(c) If a teacher who is not a member is employed for less than ninety days in a school year, they will fail to establish membership. The employer must refund their salary deductions for retirement when they terminate employment as a teacher. The nonmember must file a refund application with the department before they can receive the refund.

(d) If a member is employed by an employer for less than twenty days in a school year, the employer must refund all salary deductions for retirement based on service during that year at the time the member terminates for the year. The nonmember must file a refund application with the department before they can receive the refund.

(2) Plan 2.

(a) The employer must deduct salary for retirement contributions for a teacher if:

(i) They work at least eight hundred ten hours for nine or more months between September and August of the following year; and

(ii) Their employment contract calls for at least ninety days of employment in a school year.

(b) If a teacher who is not a member is employed for less than ninety days in a school year, they will fail to establish membership. The employer must refund their salary deductions for retirement when they terminate employment as a teacher. The nonmember must file a refund application with the department before they can receive the refund.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-400, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6), 79-10-024 (Order 79-02), § 415-112-400, filed 9/10/79. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-400, filed 2/15/78. Formerly WAC 462-24-010.]

**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.

**(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 reim-

bursement 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, 99-14-008, § 415-112-41301, filed 6/24/99, effective 7/25/99; 95-22-006, § 415-112-41301, filed 10/18/95, effective 11/18/95.]

**WAC 415-112-420 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-112-515 When a member of the teacher's retirement system Plan 1 enters retirement status.** A member of the teacher's retirement system Plan 1 enters retirement status when he or she:

(1) Has terminated all public school employment in the state of Washington;



(2) Has no written agreement to return to public school employment; and

(3) Has made application, the accrual date has been determined, and the benefit begins to accrue.

**Example:** A member who is eligible for retirement on July 1st submits an application on June 1st with a July 1st retirement date. They terminate all employment on June 30th and do not have an agreement to return to work. Their benefit will begin to accrue on July 1st and they will receive their first retirement allowance payment at the end of July. The member is a "retiree" beginning July 1st because that is when the benefit begins to accrue.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-515, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050 and 41.32.570, 91-21-084, § 415-112-515, filed 10/18/91, effective 11/18/91.]

**WAC 415-112-520 Date from which service retirement allowance accrues. When does my retirement allowance become payable?**

(1) The department must receive proof and payment to establish membership or additional service credit before your retirement allowance will be payable. After the department receives the necessary proof and payment and approves your application for service retirement, your retirement allowance is payable on:

(a) July 1 following your final year of service if you established a full year of Washington service credit for the year in which you retired; or

(b) The first of the month following the month that you terminated public school service.

(2) If you terminate public school employment before you are eligible for a service retirement allowance, you may later qualify for a deferred retirement allowance based on your age if you are not employed in public education. If you qualify, your retirement allowance is payable on the date you reach the minimum age required to start receiving payments.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-520, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-520, filed 2/15/78. Formerly WAC 462-28-020.]

**WAC 415-112-561 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 415-112-600 Eligibility for temporary disability benefits.** A member of the teachers' retirement system shall be covered for benefits under the temporary disability program only while employed on a full-time basis. Full-time employment during one school year shall afford disability protection until the beginning of the regular school term of the following school year.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-600, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-600, filed 2/15/78. Formerly WAC 462-32-010.]

**WAC 415-112-700 Determining dependency under RCW 41.32.520.** To qualify as a dependent of a deceased

member under the authority of RCW 41.32.520 the individual must provide proof of the following conditions:

(1) The beneficiary must receive one-half or more of their financial support from the deceased member. Such support must have been continuous prior to death and in effect at the time of the member's death.

(2) The term "financial support" shall include the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-700, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-700, filed 2/15/78. Formerly WAC 462-36-010.]

**WAC 415-112-710 When are survivor benefits payable?** (1) If there is a named beneficiary, monthly survivor benefits under RCW 41.32.520(1) are payable on the later of the following two dates:

(a) The day after the member's death; or

(b) The beneficiary's fiftieth birthday.

(2) If there is no named beneficiary, the survivor retirement allowance under RCW 41.32.520(2) is payable on:

(a) July 1st of the first fiscal year after the member's death if the deceased established a full year of service credit for their final year of service; or

(b) The day after the death of a member eligible for retirement.

In all cases the rate of the annuity benefit will be computed as of the day after the member's death.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-710, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-710, filed 2/15/78. Formerly WAC 462-36-020.]

**WAC 415-112-725 Married member's benefit selection—Spousal consent required.** (1) 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).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an expense under RCW 41.50.790.

(3) "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 41.50.050, 99-14-008, § 415-112-725, filed 6/24/99, effective 7/25/99. 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 1) and RCW 41.32.785 (Plan 2) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan 1 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 1 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 1 - Service), RCW 41.32.550 (Plan 1 - Disability), RCW 41.32.765 (Plan 2 - Service), or RCW 41.32.790 (Plan 2 - 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, to
- (ii) The retiree's surviving spouse; or if none, to
- (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 allow-

ance 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) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

**(4) Supplemental COLA option for Plan 1 members.** Retiring Plan 1 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.

**(5) 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 1 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 2 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 1 in 1996 (Year 0) with \$55,000 in accumulated contributions. As a TRS 1 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 2 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 \$2000 + Total COLA's = New Benefit Amount  
 + \$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.

(6) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death. The retiree is not required to apply for the increased benefit provided in this subsection.

The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.32.530 (3)(c) for Plan 1 retirees or RCW 41.32.785 (3)(c) for Plan 2 retirees.

(7) **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 41.50.050, 99-14-008, § 415-112-727, filed 6/24/99, effective 7/25/99. 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.]

**WAC 415-112-800 Scope.** WAC 415-112-800 through 415-112-820 govern the application of RCW 41.32.010 (10)(a)(ii), as amended by section 1, chapter 265, Laws of 1987 and by section 2, chapter 265, Laws of 1987, and shall apply only to persons who became members prior to October 1, 1977.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-800, filed 6/24/99, effective 7/25/99. Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265. 87-20-082 (Order 87-09), § 415-112-800, filed 10/7/87.]

**Chapter 415-113 WAC**

**PORTABILITY OF PUBLIC EMPLOYMENT BENEFITS**

**WAC**

415-113-005	Purpose and scope.
415-113-0302	Average compensation—Definition.
415-113-0303	Dual member system—Definition.
415-113-0305	Member participant—Definition.
415-113-0309	Nonmember participant—Definition.
415-113-0310	System acronyms—Definition.
415-113-041	Am I a dual member?
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?
415-113-059	Can I combine service from different systems to qualify for increased benefits?
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 2?
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?

**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 1. 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, 99-22-043, § 415-113-005, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-005, 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 1: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;

(b) Plans 2 and 3: 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 2:** 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, 99-22-043, § 415-113-0302, filed 10/29/99, effective 11/29/99; 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 1 and 2;

(2) TRS Plans 1, 2 and 3;

(3) LEOFF Plan 2;

(4) WSPRS;

(5) State-wide city employees' retirement system; and

(6) The first class city retirement systems.

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-0303, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0303, 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 1 "member participant" means a person who is employed for compensation in a dual member system qualifying position and is admitted into the membership of the system.

(2) For TRS Plan 1, "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, 99-22-043, § 415-113-0305, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0305, 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 1. A TRS Plan 1 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, 99-22-043, § 415-113-0309, filed 10/29/99, effective 11/29/99; 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 2" means Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2.

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

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

(4) "TRS Plan 1" means Teachers' Retirement System Plan 1.

(5) "TRS Plan 2" means Teachers' Retirement System Plan 2.

(6) "TRS Plan 3" means Teachers' Retirement System Plan 3.

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

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-0310, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0310, filed 1/4/95, effective 2/4/95.]

**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 1, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan 2, TRS Plan 2 or 3 or LEOFF Plan 2 you are

in receipt of a disability benefit unless the department has found that you are no longer disabled.

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

(i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or

(ii) Retired for disability from service from WSPRS.

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

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

(a) "Dual member" - RCW 41.54.010(4).

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

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

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-041, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-041, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-042 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 2 eligible employment, the person in Example 1 in WAC 415-113-041 is no longer a member of TRS Plan 2 nor a dual member.

(2) **If you retire, you are no longer a dual member.** 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 1:** RCW 41.40.193;

(b) **PERS 2:** RCW 41.40.680;

(c) **TRS 1:** WAC 415-112-520;

(d) **TRS 2:** RCW 41.32.795;

(e) **TRS 3:** RCW 41.32.855;

(f) **LEOFF 2:** 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, 99-22-043, § 415-113-042, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-042, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-045 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 2 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 2, 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 2 and has previous service in LEOFF Plan 2. LEOFF Plan 2 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 2 service.

(2) **You may reestablish TRS Plan 1 membership.** If a PERS member restores withdrawn TRS Plan 1 contributions under this section he or she:

(a) Reestablishes membership in TRS Plan 1; and

(b) Will participate prospectively in TRS Plan 1 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, 99-22-043, § 415-113-045, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-045, 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 disability or service retirement allowance from your current system and a service retirement allowance from your prior system.

(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 1 military service. You may not combine service from other systems to qualify for military service credit in PERS Plan 1 under RCW 41.40.170.

(b) LEOFF Plan 2 post-separation benefits. You may not combine your accrued service under both systems for purposes of qualifying for:

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

(ii) A refund of one hundred fifty percent of the LEOFF Plan 2 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, 99-22-043, § 415-113-059, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-059, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-059, filed 1/4/95, effective 2/4/95.]

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

(a) If you 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 2 and has prior creditable service in TRS Plan 1. Assume the multiple system retiree earned her highest compensation during her PERS Plan 2 service. The retiree's PERS Plan 2 retirement allowance will be based on her PERS Plan 2 average compensation. For purposes of computing her TRS average compensation

and retirement allowance, she may substitute her PERS Plan 2 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 1 and has prior creditable service in PERS Plan 1. Assume the multiple system retiree earned his highest compensation during his membership in TRS Plan 1. The retiree may substitute his base salary earned while a member in TRS Plan 1 for his PERS Plan 1 compensation earnable. However, because he may substitute only his base salary from TRS Plan 1 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 1 and PERS Plan 2 retires at age sixty-five having accrued twenty-four months of service in PERS Plan 2. Under PERS Plan 2, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute the multiple system retiree's PERS Plan 2 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 1, 2 or 3 as defined in RCW 41.32.010(10);

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

(c) Basic salary under LEOFF Plan 2 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, 99-22-043, § 415-113-065, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-065, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-070 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 a later date of your choice. If you choose to begin receiving a retirement allowance from your second system before you are fully eligible, the benefit will be actuarially reduced.

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

(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.

(c) An actuarial reduction under (a) or (b) of this subsection, if applicable, will account for the difference between your age at the time you begin receiving the retirement allowance and the earliest age where you would be fully eligible based upon your combined service. "Fully eligible" means a person who has enough combined service to qualify for a retirement allowance from a dual member system without receiving a reduction for:

(i) Early retirement from a Plan 2 system under RCW 41.40.630(2), 41.32.765(2), 41.26.430(2); or

(ii) Early retirement from a Plan 3 system under RCW 41.32.875(2); or

(iii) Retirement as a nonmember participant from WSPRS under RCW 43.43.280(2).

**(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 1 and TRS Plan 2 retires. He elects to receive PERS Plan 1 benefits but defer receipt of a TRS Plan 2 retirement allowance. If he becomes reemployed in a TRS Plan 2 eligible position, he will reenter TRS Plan 2 membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan 1 retirement allowance until he works more than the work-limit in a calendar year under WAC 415-108-710. The member's eligibility to retire from TRS Plan 2 will be

based solely on his accrued service credit in TRS Plan 2 and his TRS Plan 2 retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan 2.

**Example 10:** Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan 2 position. He could work in this position up to the work-limit in a calendar year under WAC 415-108-710 without having his PERS retirement allowance suspended. If the retiree works over the work-limit:

- The department would suspend his retirement allowance until the next calendar year. He would remain a dual member. He would be able to retire in TRS 2 if otherwise eligible;

- The retiree could elect to reenter PERS Plan 1 membership at any time, if otherwise eligible, and terminate his dual member status. His election for membership is not retroactive. The effect on the person's right to a TRS Plan 2 benefit is the same as in Example 9. See WAC 415-108-710.

**(3) If you defer your retirement allowance and die before you begin receiving the allowance, your survivor may receive a continuing benefit.** If you defer receipt of your retirement allowance from a system and die before you elect to begin receiving the allowance:

(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) 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, 99-22-043, § 415-113-070, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-070, filed 9/19/96, effective 10/20/96; 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 2 and a nonmember participant in LEOFF Plan 2. The person decides not to retire from LEOFF Plan 2 until he is eligible to retire with full benefits from PERS Plan 2 at age sixty-five. Upon retirement, he will be entitled to a LEOFF Plan 2 retirement allowance effective on his accrual date under LEOFF Plan 2 (i.e., age fifty-five).

**Example 12:** A person with twenty years of prior service in TRS Plan 1 becomes a member participant in PERS Plan 2 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 1 at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty-five. Her TRS Plan 1 retirement allowance will be effective back to the date it accrued under TRS Plan 1 (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.

**Example 13:** A PERS Plan 1 member receives a salary of \$3,000 per month. She has 30 years of service credit at age 50 and is eligible to retire with an unreduced (full) benefit.

Subsequently, she is offered a TRS Plan 3 covered position at a monthly salary of \$3,500. If she accepts the TRS Plan 3 position, will she be able to use its higher monthly salary of \$3,500 as base salary to calculate her PERS Plan 1 retirement benefit when she does retire? **No, she will not.** The TRS Plan 3 salary would have been earned after the PERS Plan 1 accrual date: The date that she first became eligible to retire with an unreduced benefit under PERS Plan 1 rules.

(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, 99-22-043, § 415-113-080, filed 10/29/99, effective 11/29/99; 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 14:** A nonmember participant in LEOFF Plan 2 who has accrued sixteen years of service in LEOFF Plan 2 became a member of PERS Plan 2 at age fifty-four. Because she became a member participant of PERS Plan 2 at age fifty-four, prior to attaining retirement eligibility under LEOFF Plan 2 (i.e., age fifty-five), she may later retire retroactively from LEOFF Plan 2, subject to

LEOFF Plan 2 criteria, while continuing membership in PERS Plan 2.

**Example 15:** A nonmember participant in LEOFF Plan 2 with sixteen years of accrued service became a member of PERS Plan 2 at age fifty-five. If he attempts to retire from LEOFF Plan 2 while continuing membership in PERS Plan 2, the department will cancel his PERS Plan 2 membership and refund his PERS contributions. However, if he retires from both systems, he is entitled



to retain the benefits of his PERS Plan 2 membership.

**Example 16:** Assume either of the retirees in Examples 13 and 14 above had accrued less than fifteen years of service in LEOFF Plan 2. In this case, RCW 41.04.270 would not apply to prevent the retirees from establishing PERS Plan 2 membership. Either person could retire retroactively from the LEOFF Plan 2 without canceling membership and participation in PERS Plan 2.

(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, 99-22-043, § 415-113-082, filed 10/29/99, effective 11/29/99; 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 2? (1) Computation of your retroactive LEOFF Plan 2 retirement allowance.** If you retire with a multiple system benefit and one of your retirement allowances is a retroactive LEOFF Plan 2 allowance, the department will compute your LEOFF Plan 2 allowance based upon the greater of:

- (a) Your LEOFF Plan 2 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 2 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 2 average compensation.

**Example 17:** A person who is a nonmember participant of LEOFF Plan 2 and a member participant of PERS Plan 2 retires from both systems at age sixty-five. If he had accrued twenty-one years of creditable service in LEOFF Plan 2, the multiple system retiree's LEOFF Plan 2 retirement allowance may be based upon either: His substituted PERS Plan 2 base salary which he earned prior to attaining retirement eligibility in LEOFF at age fifty-five; or the LEOFF Plan 2 indexed retirement allowance under RCW 41.26.530(2) using his LEOFF Plan 2 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, 99-22-043, § 415-113-084, filed 10/29/99, effective 11/29/99; 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 highest benefit limit under any one system.** Your multiple system benefit may not exceed the highest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring. See RCW 41.54.070.

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

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

- (i) Apply the provisions of each system governing the calculation of your average compensation in that system; and
- (ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

**Example 18:** A multiple system retiree retires from TRS Plan 1 state employment with prior creditable PERS Plan 1 service. His 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 1 or TRS Plan 1 maximum benefit.

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

(b) **Determine your retirement allowances from each system.** After computing your maximum benefit, the department will determine the retirement allowances 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 WSPRS pursuant to RCW 43.43.280(2); or
- (ii) Your election to retire early from a Plan 2 system under RCW 41.40.630(2), 41.32.765(2), and 41.26.430(2) or Plan 3 system under RCW 41.32.875(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 20:** A person with twenty-nine years of prior service in TRS Plan 1 and one year of subsequent service in PERS Plan 2 retires from both systems at age sixty-five. The retiree's TRS Plan 1 average compensation is thirty thousand dollars. The TRS Plan 1 maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. The retiree's PERS Plan 2 average compensation is twenty-eight thousand dollars. The retiree's maximum PERS 2 benefit is sixteen thousand eight hundred dollars or one thousand four hundred dollars per month. The retiree's maximum benefit is the higher of the two amounts, one thousand five hundred dollars per month.

Assume the retiree's accrued service is such that her actual TRS Plan 1 monthly benefit is one thousand four hundred fifty dollars and her PERS Plan 2 monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan 1 and PERS Plan 2 benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would proportionately reduce her TRS Plan 1 and PERS Plan 2 benefits. Her TRS Plan 1 benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan 2 benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan 1 benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x .97) and her PERS Plan 2 benefit by three percent of the overage, or one dollar and fifty cents (50 x .03).

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

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

(b) A survivor benefit option; or

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

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

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

(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, 99-22-043, § 415-113-090, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-090, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-090, filed 1/4/95, effective 2/4/95.]

**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 1, 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 1, the department will use your maximum retirement allowance under TRS Plan 1 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, 99-22-043, § 415-113-100, filed 10/29/99, effective 11/29/99; 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  
415-115-070 Repealed.

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

415-115-070 Evaluation of reports and assessment of additional administrative fee. [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.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.

**WAC 415-115-070 Repealed.** See Disposition Table at beginning of this chapter.

#### Chapter 415-116 WAC

#### ADMINISTRATIVE FEE RATE

WAC  
415-116-010 through 415-116-050 Repealed.

DISPOSITION OF SECTIONS FORMERLY  
CODIFIED IN THIS CHAPTER

415-116-010	Purpose. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-010, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-020	Definitions. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-020, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-030	Administrative fee rate. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-030, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-040	Criteria for changing administrative fee rate. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-040, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-050	Current administrative fee rate. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-050, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.

**WAC 415-116-010 through 415-116-050 Repealed.**  
See Disposition Table at beginning of this chapter.

## Title 419 WAC

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

## Chapters

**419-14 Examination and supervision fees for sav-  
ings and loan associations.**

## Chapter 419-14 WAC

EXAMINATION AND SUPERVISION FEES FOR  
SAVINGS AND LOAN ASSOCIATIONS

## WAC

419-14-135 Charges and fees effective June 25, 1999.  
419-14-140 Charges and fees effective July 1, 1999.

**WAC 419-14-135 Charges and fees effective June 25,  
1999.** Effective June 25, 1999, the rate of charges and fees  
under chapter 419-14 and 419-56 WAC shall be as follows:

- (1) WAC 419-14-030(1) - The fee shall be \$41.67 per hour.
- (2) WAC 419-14-030(2) - The fee shall be \$46.88 per hour.
- (3) WAC 419-14-030(3) - The fee shall be \$52.09 per hour.
- (4) WAC 419-14-040 - The asset charge shall be .031254 per thousand dollars of assets.

(5) WAC 419-14-075 - The fee shall be \$2,500.00 for the first branch and \$500.00 for each additional branch.

(6) WAC 419-14-080 - The fee shall be \$50.00 for the home office and each branch.

(7) WAC 419-14-090 - The fee shall be \$62.50 per hour.

(8) WAC 419-14-100 - The fee shall be \$52.09 per hour.

(9) WAC 419-14-110 - The fee shall be \$52.09 per hour.

(10) WAC 419-14-110 - The fee shall be \$5,000.00.

(11) WAC 419-56-070 - The fee shall be \$1,000.00.

[Statutory Authority: RCW 30.04.030, 30.04.070, 30.08.095, 33.04.025 and 43.320.040. 99-10-024, § 419-14-135, filed 4/28/99, effective 6/25/99.]

**WAC 419-14-140 Charges and fees effective July 1,  
1999.** (1) Effective July 1, 1999, the rate of charges and fees  
under chapters 419-14 and 419-56 WAC shall be as follows:

(a) WAC 419-14-030(1) - The fee shall be \$43.05 per hour.

(b) WAC 419-14-030(2) - The fee shall be \$48.43 per hour.

(c) WAC 419-14-030(3) - The fee shall be \$53.81 per hour.

(d) WAC 419-14-040 - The asset charge shall be .0322916 per thousand dollars of assets.

(e) WAC 419-14-075 - The fee shall be \$2,500.00 for the first branch and \$500.00 for each additional branch.

(f) WAC 419-14-080 - The fee shall be \$50.00 for the home office and each branch.

(g) WAC 419-14-090 - The fee shall be \$64.57 per hour.

(h) WAC 419-14-100 - The fee shall be \$53.81 per hour.

(i) WAC 419-14-110 - The fee shall be \$53.81 per hour.

(j) WAC 419-14-110 - The fee shall be \$5,000.00.

(k) WAC 419-56-070 - The fee shall be \$1,000.00.

(2) Thereafter, effective July 1, 2000, and again on July 1, 2001, the charges and fees set forth in subsection (1)(a), (b), (c), (d), (g), (h), and (i) of this section shall be increased by the fiscal growth factor as determined by the office of financial management pursuant to RCW 43.135.025.

(3) The director may suspend the collection of any or all of the charges and/or fees imposed under this section when he or she determines the banking examination fund established in RCW 43.320.110 exceeds the projected acceptable minimum fund balance level approved by the office of financial management and that such course of action would be fiscally prudent.

[Statutory Authority: RCW 30.04.030, 30.04.070, 30.08.095, 33.04.025 and 43.320.040. 99-10-024, § 419-14-140, filed 4/28/99, effective 6/25/99.]

## Title 434 WAC

# SECRETARY OF STATE

## Chapters

**434-55 Limited partnership filings—Centralized system.**

**434-130 Limited liability companies.**

**434-166 International student exchange agency registration.**

**434-180 Electronic authentication.**

**434-219 Presidential preference primary.**