

information requests initiated by the board as provided in (h) of this subsection.

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

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

[Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-30-040, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-040, filed 11/19/98, effective 12/20/98. Statutory Authority: RCW 43.155.040(4). 95-11-093, § 399-30-040, filed 5/19/95, effective 6/19/95; 93-22-015, § 399-30-040, filed 10/26/93, effective 11/26/93; 92-03-052, § 399-30-040, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 88-10-009 (Order 88-02), § 399-30-040, filed 4/22/88; 87-17-013 (Order 87-16), § 399-30-040, filed 8/10/87; 86-18-009 (Resolution No. 86-12), § 399-30-040, filed 8/21/86. Statutory Authority: 1985 c 446 § 10. 86-03-051 (Resolution No. 85-17), § 399-30-040, filed 1/15/86.]

WAC 399-30-042 Application evaluation procedure and board deliberations—Capital planning support. (1) The board will consider and approve, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) All applications will be evaluated in accordance with the following procedures:

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

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

(c) Staff will perform an evaluation of applications which meet the requirements of WAC 399-30-030(2) to determine if the application is consistent with the policies contained in the capital planning support loan application.

(d) Those applications found to be consistent with board policies may be recommended to the board for funding. All application materials will be available to the board for its deliberations. The board will approve a list of projects based on the information provided to it by the staff and the applications.

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

(i) Geographical balance;

(ii) Economic distress;

(iii) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;

(iv) Other criteria that the board considers advisable.

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

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

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

[Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-30-042, filed 4/6/01, effective 5/7/01. Statutory Authority: RCW 43.155.040 (4) and (5). 98-24-010, § 399-30-042, filed 11/19/98, effective 12/20/98. Statutory

Authority: RCW 43.155.040(4). 92-03-052, § 399-30-042, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 88-17-080 (Order 88-03), § 399-30-042, filed 8/22/88.]

Chapter 399-50 WAC ETHICS IN PUBLIC SERVICE

WAC

399-50-040

Disclosure of recusal.

WAC 399-50-040 Disclosure of recusal. A board member shall disclose to the public the reasons for his or her recusal from any board action at the time of the recusal. A board member shall disclose to the public the nature of any interest the member has in a project on the annual construction roster or other aggregated list or roster of contracts, projects, or loans at the time the roster or list is considered by the board. Board staff shall record each such recusal or disclosure and the basis therefor.

[Statutory Authority: RCW 43.155.040(5). 01-09-014, § 399-50-040, filed 4/6/01, effective 5/7/01. Statutory Authority: Chapter 42.52 RCW and RCW 43.155.040(4). 00-11-021, § 399-50-040, filed 5/9/00, effective 6/9/00.]

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Chapter 415-02 WAC
GENERAL PROVISIONS

WAC

415-02-030

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What happens if I do not cash a warrant or check?

WAC 415-02-030 Definitions. This section contains a central location for definitions of words and phrases used in the department of retirement system's rules. It also serves as a directory for finding definitions within the RCWs and WACs.

(1) **Accumulated contributions** means the sum of all contributions paid into a member's defined benefit account, including interest.

(2) **Appeal** means the proceeding through which a party obtains review of a department action in an adjudicative proceeding conducted under chapter 34.05 RCW (the Administrative Procedure Act) and chapter 415-08 WAC (the department's appeal rules).

(3) **Average final compensation** - is defined in RCW 41.32.010(30) (TRS); RCW 41.35.010(14) (SERS); RCW 41.40.010(17) (PERS); and RCW 43.42.120(15) (WSP).

(4) **Cafeteria plan** means a "qualified" employee benefit program under section 125 of the Internal Revenue Code, such as certain health and welfare plans.

(5) **Compensation earnable or earnable compensation** definitions can be found in RCW 41.32.010(10) and 41.32.345 (TRS); RCW 41.35.010(6) (SERS); and RCW 41.40.010(8) (PERS).

(6) **Contribution rate** is:

(a) For employees: The fraction (percent) of compensation a member contributes to a retirement system each month.

(b) For employers: The fraction (percent) of payroll a member's employer contributes to a retirement system each month. Contribution rates vary for the different systems and plans.

(7) **Deferred compensation** refers to the amount of the participant's compensation which the participant voluntarily defers from earnings before taxes.

(8) **Defined benefit plan** is a pension plan in which a lifetime retirement benefit is available, based on the member's service credit and compensation.

(9) **Defined contribution plan** is a plan in which part of members' or participants' earnings are deferred into an investment account in which tax is deferred until funds are withdrawn. The benefit is based on the contribution rate and the amount of return from the investment of the contributions. Members or participants receive the full market rate of return minus expenses. There is no guaranteed rate of return and the value of an account will increase or decrease based upon market fluctuations.

(10) **Department** means the department of retirement systems.

(11) **Dependent care assistance salary reduction plan (DCAP)** is a plan that allows an eligible employee of the state of Washington to set aside a "before tax" portion of his or her gross salary before federal income and Social Security taxes to be used for the reimbursement of dependent care expenses.

(12) **Director** means the director of the department of retirement systems.

(13) **Employee** means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

(14) **Employer** is defined in RCW 41.26.030(2) (LEOFF), 41.32.010(11) (TRS), 41.34.010(5) (Plan 3), 41.35.010(4) (SERS), and 41.40.010(4) (PERS).

(15) **Final average salary** is defined in RCW 41.26.030(12) (LEOFF).

(16) **Gainsharing** is the process through which members of certain plans share in the extraordinary investment gains on earnings on retirement assets under chapters 41.31 and 41.31A RCW.

(17) **Independent contractor** means a contract worker who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

(18) **Member** means a person who is included in the membership of one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.40, or 43.43 RCW.

(19) **Participant** means an eligible employee who participates in a deferred compensation or dependent care assistance plan.

(20) **Participation agreement** means an agreement that an eligible employee signs to become a participant in a deferred compensation or dependent care assistance plan.

(21) **Pension plan** is a plan that provides a lifelong post retirement payment of benefits to employees.

(22) **Petition** means the method by which a party requests a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415-04 WAC.

(23) **Plan 1** means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(24) **Plan 2** means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., and chapter 341, Laws of 1998.

(25) **Plan 3** means the retirement plans established by chapter 239, Laws of 1995, chapter 341 Laws of 1998, and chapter 247 Laws of 2000.

(26) **Pop-up** is a term that the department uses to refer to the benefit available to a retiree where the survivor of a retiree receiving a benefit reduced by a survivor option predeceases the retiree. Example: Linda is receiving a retirement benefit reduced by a survivor option for her husband, Joe. Joe dies before Linda. Linda's monthly retirement allowance increases. The department refers to the increase as a "pop-up."

(27) **Portability** is the ability to use membership in more than one Washington state retirement system in order to qualify for retirement benefits. See chapters 41.54 RCW and 415-113 WAC.

(28) **Public record** is defined in RCW 42.17.020(36).

(29) **Restoration** is the process of restoring a member's service credit for prior periods.

(30) **Retirement system employer** - see "employer."

(31) **Rollover** means a distribution that is paid to or from an eligible retirement plan within the statutory time limit allowed.

(32) **Separation date** is the date a member ends employment in a position eligible for retirement or disability benefit coverage.

(33) **Survivor** means a person designated by the member to receive a monthly benefit allowance after the member dies.

(34) **The Uniform Services Employment and Reemployment Rights Act of 1994** is the federal law that requires employers to reemploy and preserve job security, pension and welfare benefits for qualified employees who engage in military service.

[Statutory Authority: RCW 41.50.050(5), 02-01-120, § 415-02-030, filed 12/19/01, effective 1/19/02. Statutory Authority: RCW 41.50.050, 00-10-016, § 415-02-030, filed 4/21/00, effective 5/22/00; 94-09-039, § 415-02-030, filed 4/19/94, effective 5/20/94; Order 4, § 415-02-030, filed 7/27/77.]

WAC 415-02-060 What happens if I do not cash a warrant or check? (1) *Warrant for defined benefit retirement allowance.* A warrant for your monthly retirement allowance will be canceled if it is not cashed within the time frame set by RCW 43.08.062. If the warrant is canceled, the department will attempt to contact you for instructions. You will not earn interest on the warrant amount pending payment.

(2) *Warrant for defined benefit withdrawal.* When you request a withdrawal of some or all of your defined benefit accumulated contributions:

(a) Once the department issues the warrant you will stop receiving interest.

(b) Whether payable to you or to a qualified investment account, the warrant will be canceled if it is not cashed within the time frame set by RCW 43.08.062.

(c) After the department receives notice that the warrant has been canceled, the department will attempt to contact you and ask for further instructions.

(3) *Check for defined contribution distribution.* When you request a withdrawal of some or all of your defined contribution fund:

(a) The requested amount will be liquidated and the department's third-party recordkeeper will transfer the funds into a noninterest bearing account.

(b) You will not receive interest, earnings, or losses after the third-party recordkeeper processes your request.

(c) Whether you request that the refund check be sent directly to you or to a qualified investment account, the check will be canceled if it is not cashed within one hundred eighty days from the date on the check.

(d) If the check is canceled:

(i) The funds will continue to receive no interest, earnings, or losses while the recordkeeper waits to receive instructions from you; and

(ii) The department or the third-party recordkeeper will attempt to contact you and ask for further instructions.

[Statutory Authority: RCW 41.50.050(5), 43.08.062, 41.50.055(5), 41.50.260, 01-08-043, § 415-02-060, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 41.50.050, 00-10-016, § 415-02-060, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-02-060, filed 2/15/78.]

Chapter 415-04 WAC PETITION PROCEDURE

WAC

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415-04-020	How do I file a petition for review?
415-04-025	Who may file a petition?
415-04-030	What should my petition include?
415-04-035	How much information do I need to provide in support of my petition?
415-04-037	If I petition for disability retirement benefits, who pays the cost of obtaining additional medical data?
415-04-040	What will the department do after receiving my petition?
415-04-050	How do I appeal a petition decision?

WAC 415-04-010 Definitions. **Good reason** means a strong reason for failing to respond to a request for information by the petition examiner. A good reason you may need more time to respond to the petition examiner's request for information may include, but is not limited to, the following examples:

(1) You could not provide information within the requested time period because you were in the hospital, which prevented you from responding; or

(2) The information that you need to submit is not readily accessible and requires additional time to obtain. If this is the case, you must explain why it will require more time to obtain this information.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-010, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-010, filed 7/29/96, effective 7/29/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250, 93-11-079, § 415-04-010, filed 5/18/93, effective 6/18/93; Order 4, § 415-04-010, filed 7/27/77.]

WAC 415-04-015 When can I use the petition process? You may use the petition process to request review of administrative decisions that address the following matters, including, but not limited to:

- (1) Service credits;
- (2) Service retirement benefits;
- (3) Membership in the retirement systems;
- (4) Disability benefits, except as otherwise provided by law;
- (5) Survivor benefits; and
- (6) Benefit increases provided by RCW 41.16.145 or 41.18.104.

(7) Deferred compensation accounts, except that review of decisions regarding payments due to unforeseeable emergency, are governed by WAC 415-08-015.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-015, filed 8/24/01, effective 9/24/01.]

WAC 415-04-017 What is not covered by this chapter? You may not use the petition process to request review of administrative decisions that address the following matters, including, but not limited to:

(1) Overpayments if the procedures in RCW 41.50.135 or 41.50.138 apply.

(2) Deferred compensation plan payments because of an unforeseeable emergency (see WAC 415-08-015).

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-017, filed 8/24/01, effective 9/24/01.]

WAC 415-04-020 How do I file a petition for review?

(1) You may request administrative review of an administrator's decision by filing a petition with the petition examiner.

(2) You must file the petition within one hundred twenty days from the date you received the administrator's decision.

(3) If you fail to file the petition within one hundred twenty days, you lose the right to judicial review, because of your failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-020, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-020, filed 7/29/96, effective 7/29/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-04-020, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050. 91-19-064, § 415-04-020, filed 9/16/91, effective 10/17/91; Order 4, § 415-04-020, filed 7/27/77.]

WAC 415-04-025 Who may file a petition? You may file a petition if you are a member, current or former spouse, designated beneficiary or employer, and have a sufficient stake in the outcome of the petition proceeding.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-025, filed 8/24/01, effective 9/24/01.]

WAC 415-04-030 What should my petition include?

Your petition should include:

(1) A statement of what you want the department to do (relief requested) after considering the petition;

(2) An explanation of why your request has merit;

(3) All facts relating to the petition, including any relevant documents or sworn statements;

(4) The name and address of your attorney, if applicable; and

(5) Your name, address, phone number, fax number, e-mail address, and signature.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-030, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-030, filed 7/29/96, effective 7/29/96.]

WAC 415-04-035 How much information do I need to provide in support of my petition? You bear the burden of convincing the petition examiner that you are entitled to the relief requested. You must provide sufficient information to outweigh the information that the plan administrator used in making the administrative determination that is being reviewed.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-035, filed 8/24/01, effective 9/24/01.]

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WAC 415-04-037 If I petition for disability retirement benefits, who pays the cost of obtaining additional medical data? If you petition the department for a disability retirement benefit and you need to provide additional medical data in support of your petition, you must pay any cost involved.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-037, filed 8/24/01, effective 9/24/01.]

WAC 415-04-040 What will the department do after receiving my petition? (1) A petition examiner will review your petition.

(2) Within fourteen days from the date that you file a petition with the department, the petition examiner will determine whether you have a sufficient stake in the outcome of the proceeding to have the department consider the issues in your petition.

(a) If the petition examiner determines that you **do not** have a sufficient stake in the outcome, the petition examiner:

(i) May refer the matter back to the plan administrator for further investigation.

(ii) Will notify you of this decision within fourteen days of the date you file the petition. You may appeal this decision to the presiding officer under WAC 415-04-050.

(b) If the petition examiner determines that you **do** have a sufficient stake in the outcome, the petition examiner:

(i) Will notify interested parties, such as the member, current or former employer(s), designated beneficiaries, former spouse or the department, that you filed a petition;

(ii) Will request that the interested parties submit any written response to the petition no later than twenty days from the date of receipt of the notice;

(iii) May extend the time limit for response if the interested party shows a good reason to need more time.

(3) The petition examiner may request additional information at any time.

(4) The petition examiner will forward a copy of an interested party's response to you.

(a) You will have ten days to reply.

(b) The petition examiner may extend your time to respond if you demonstrate that you need more time for good reason.

(c) If an extension is not granted and you do not reply within ten days, you waive the right to reply.

(5) The petition examiner will issue a written decision within sixty days of:

(a) The end of your final period to reply under subsection (4) of this section; or

(b) Receipt of additional information from the department or the office of the attorney general necessary to make a decision.

(6) The written decision will include the findings of fact and conclusions of law necessary to decide the matter. The decision will be sent to you and to other interested parties.

(7) The petition examiner may refer the petition back to the plan administrator for an administrative determination without issuing a petition decision if:

(a) The petition adds new issues or facts that have not been addressed in the plan administrator's final determination; or

(b) The plan administrator did not have access to a petition decision or final order of the department that would have changed the outcome of the administrative determination.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-040, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-040, filed 7/29/96, effective 7/29/96.]

WAC 415-04-050 How do I appeal a petition decision? (1) You may file an appeal of the petition decision with the department's director no later than sixty days after you receive the petition decision.

(2) You must follow the procedures in chapter 415-08 WAC in filing your appeal.

(3) If you fail to file your appeal within sixty days, you lose your right to judicial review, because of your failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-050, filed 8/24/01, effective 9/24/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-050, filed 7/29/96, effective 7/29/96.]

Chapter 415-06 WAC PUBLIC RECORDS

WAC

415-06-100

How do I contact the department?

WAC 415-06-100 How do I contact the department?

(1) Mailing address: Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380.

(2) Street address: 6835 Capitol Blvd., Tumwater, WA 98501.

(3) Phone numbers: (360) 664-7000 or toll-free (outside Olympia area) 1 (800) 547-6657, or TDD (for the hearing impaired) (360) 586-5450.

(4) E-mail address: recep@drs.wa.gov.

(5) Website: <http://www.wa.gov/drs>.

[Statutory Authority: RCW 41.50.050(5), 41.50.055(5), 34.05.220 (1)(b), 42.17.250, 01-18-017, § 415-06-100, filed 8/24/01, effective 9/24/01; Order 4, § 415-06-100, filed 7/27/77.]

Chapter 415-100 WAC JUDICIAL RETIREMENT SYSTEM

WAC

415-100-055

Retirement benefit options.

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

(1) **Option One: Benefit option without survivor features (standard allowance).** The department pays the retiree a monthly retirement allowance based solely on the

single life of the member, in accordance with RCW 2.10.146. When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems; or

(b) If there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(2) Benefit options with a survivor feature.

(a) 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, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems; or

(ii) If there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

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

(c) 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.

(d) Option Four (joint and two-thirds allowance).

(i) Option Four is available to members retiring on or after January 1, 1996.

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

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

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

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

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

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

(c) Pop-up recalculation example.

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes

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

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

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

(d) If the survivor dies and the retiree's benefit increases under this subsection, and thereafter the retiree also dies before all contributions are exhausted, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems; or

(b) If there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(4) **Survivor.** For the purposes of this section, "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(5), 2.10.052, 2.10.070(6), 2.10.140 - [2.10.]146, 2.12.030. 01-13-009, § 415-100-055, filed 6/8/01, effective 7/9/01. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-100-055, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-055, filed 1/7/91, effective 2/7/91.]

Chapter 415-103 WAC

WASHINGTON STATE PATROL RETIREMENT SYSTEM (WSPRS)

WAC

415-103-010 WSPRS definitions.
415-103-215 WSPRS retirement benefit options.

WAC 415-103-010 WSPRS definitions. (1) General. The definitions in RCW 43.43.120 and 41.50.010 apply to this chapter. In case of conflict between definitions, RCW 43.43.120 will prevail.

[2002 WAC Supp—page 2134]

(2) **"Salary,"** for members commissioned:

(a) Prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or voluntary overtime earned on or after July 1, 2001.

(b) On or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

[Statutory Authority: RCW 41.50.050(5), 43.43.142, 43.43.278, 43.43.280. 01-13-010, § 415-103-010, filed 6/8/01, effective 7/9/01.]

WAC 415-103-215 WSPRS retirement benefit options. (1) When retiring for service, a married member can select either Option A (historic retirement option) under RCW 43.43.270 or Option B under RCW 43.43.278. Both options include a survivor feature that entitles the eligible surviving spouse to receive a monthly allowance after the retiree dies.

(2) As used in this section, the terms "spouse," "surviving spouse" and "eligible spouse" mean "lawful surviving spouse."

(3) **Option A (historic retirement option and survivor benefit).** The department pays the retiree a monthly retirement allowance in accordance with RCW 43.43.260 (Benefits). The department pays survivor benefits in accordance with RCW 43.43.270 (Retirement allowances).

(a) When the retiree dies, the department pays the retiree's lawful spouse a monthly retirement allowance equal to the gross monthly allowance received by the retiree, or an allowance equal to fifty percent of the average final salary (AFS) used to determine the retiree's benefit, whichever is less. This allowance is paid for the duration of the spouse's lifetime. The surviving spouse allowance will be adjusted by the annual increase amount as provided by RCW 43.43.272 (Surviving spouse allowance—Annual adjustment).

(b) If a surviving spouse who is receiving benefits under this subsection marries another member of this retirement

system and the retiree predeceases the spouse, the spouse can receive only the higher of the two survivor's allowances for which he or she qualifies. The surviving spouse cannot receive more than one survivor allowance at a time under this subsection.

(c) To be eligible for an allowance, the lawful surviving spouse of a retired member must have been married to the member prior to the member's retirement and continuously thereafter until the date of the member's death, or must have been married to the retired member at least two years prior to the member's death.

(d) If the retiree has surviving unmarried children under the age of eighteen years, each child shall be entitled to a benefit equal to five percent of the retiree's AFS at retirement. The combined benefits to the surviving spouse and all children cannot exceed sixty percent of the retiree's AFS.

(e) If there is no surviving spouse or the spouse dies, the child or children will receive a benefit equal to thirty percent of the retiree's AFS for one child and an additional ten percent of AFS for each additional child.

(f) All benefits cease upon the death of the surviving spouse or the youngest unmarried child's attainment of age eighteen, whichever occurs last. Any remaining balance of the member's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the department of retirement systems; or

(ii) The member's estate; or

(iii) If there is neither such designated person or persons still living at the time of death, then to the member's legal representative.

(4) **Option B (actuarially equivalent retirement option and survivor benefit).** The department pays the retiree a monthly benefit that is actuarially reduced by three percent to offset the cost of the survivor feature. The retiree's annual post-retirement increase (PRI) is based upon the amount of the retiree's reduced benefit.

(a) When the retiree dies, the department pays the retiree's eligible spouse a monthly retirement allowance equal to the gross monthly allowance received by the retiree. This allowance is paid for the duration of the spouse's lifetime. The surviving spouse allowance will be increased every

July 1 by the amount of the PRI that had been paid to the retiree under the provisions of RCW 43.43.260(5).

(b) Benefits to the surviving spouse cease upon the spouse's death. Any remaining balance of the member's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the department of retirement systems; or

(ii) The member's estate; or

(iii) If there is neither such designated person or persons still living at the time of death, then to the member's legal representative.

(5) **Retiree's benefit increases if spouse ceases to be married to retiree or predeceases retiree (pop-up provision).**

(a) This subsection applies to members retiring on or after July 1, 2000, who select Option B.

(b) If the retiree's spouse ceases to be married to the retiree or 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 A; plus

(ii) Any post-retirement increases the retiree received prior to the survivor's death or the termination of marriage.

(c) Pop-up recalculation example:

Option B:

Bob retires on August 1, 2000. He selects Option B so that his spouse Linda, to whom he has been married for 30 years, will receive his monthly allowance and post-retirement increases after he dies. As a result, his monthly allowance is reduced by three percent from \$3,000, the Option A, historic retirement and survivor benefit, to \$2,910. Bob's PRI is \$58.20, two percent of his reduced retirement allowance.

Unfortunately, Linda dies in September 2002. Under the "pop-up" provision, Bob's monthly benefit will increase in October 2002 to a total of \$3,116.40. His new benefit amount is composed of the \$3,000 he would have received had he originally chosen Option A, plus the total of the PRIs he received in 2001 and 2002.

Year	Option A (Historic Survivor Benefit)	Annual PRI Based on Option A Benefit	Option B (Full Survivor Benefit)	Annual PRI Based on Optional B Benefit	Total Benefit
08/01/2000			2,910.00	(not eligible.)	2,910.00
07/01/2001			2,910.00	58.20	2,968.20
07/01/2002			2,968.20	58.20	3,026.40
10/01/2002	3,000.00				3,116.40
07/01/2003	3,000.00	60.00			3,176.40

On July 1, 2003, Bob's PRI will be two percent of the Option A amount (\$60.00) and his benefit will increase to \$3,176.40.

(d) If the retiree whose benefit increases under this section thereafter dies before all contributions are exhausted and there is no surviving spouse or eligible child, all benefits cease. Any remaining balance is paid to:

(i) Such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the department of retirement systems; or

(ii) The member's estate; or

(iii) If there is neither such designated person or persons still living at the time of death, then to the member's legal representative.

[Statutory Authority: RCW 41.50.050(5), 43.43.142, 43.43.278, 43.43.280, 01-13-010, § 415-103-215, filed 6/8/01, effective 7/9/01. Statutory Authority: RCW 43.43.278 and 41.50.050, 00-11-103, § 415-103-215, filed 5/18/00, effective 6/18/00.]

Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

WAC

415-104-215 Retirement benefit options.

WAC 415-104-215 Retirement benefit options. RCW 41.26.460 enables the department to provide retiring LEOFF Plan 2 members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One: Benefit option without survivor features (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) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **Benefit options with a survivor feature.**

(a) 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, any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

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

(c) **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.

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

(i) Option Four is available 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 subsection applies to members retiring on or after January 1, 1996, who select a benefit option with a survivor feature (Option Two, Three, or Four).

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

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

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

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

Plan Two:

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

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

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

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all employee contributions are exhausted, any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(5) Any retiree who retired before January 1, 1996, and who elected to receive a benefit option with a survivor feature 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 41.26.460 (3)(c) for Plan 2 retirees.

(6) Postretirement benefit options.

(a) **Postretirement marriage option.** Members who select the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birthdate of the new spouse; and

(iv) A member may exercise this option one time only.

(b) **Removal of a nonspouse survivor option.** Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.

(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(5), 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, 41.40.845, 01-10-045, § 415-104-215, filed 4/26/01, effective 6/1/01. 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.]

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WAC

415-108-010	Definitions in the public employees' retirement system.
415-108-0101	Repealed.
415-108-0102	Repealed.
415-108-0103	Repealed.
415-108-0104	Repealed.
415-108-0105	Repealed.
415-108-0106	Repealed.
415-108-0107	Repealed.
415-108-0108	Repealed.
415-108-0109	Repealed.
415-108-0110	Repealed.
415-108-0111	Repealed.
415-108-326	Retirement benefit options.
415-108-467	Reinstatement or payment instead of reinstatement.
415-108-710	How will returning to work affect my PERS monthly benefit?
415-108-800	When does a member of the public employees' retirement system (PERS) enter retirement status?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-108-0101	Level of union organization—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0101, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
415-108-0102	Normally—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0102, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
415-108-0103	Project position—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0103, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
415-108-0104	Report—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0104, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
415-108-0105	Retirement plan—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0105, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
415-108-0106	Union—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0106, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
415-108-0107	Union employer—Definition. [Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-0107, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.

- 415-108-0108 Year—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0108, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
- 415-108-0109 System acronyms—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-0109, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0109, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
- 415-108-0110 Reportable compensation—Definition. [Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0110, filed 4/17/98, effective 5/18/98.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.
- 415-108-0111 Annual leave—Definition. [Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0111, filed 4/17/98, effective 5/18/98.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.

WAC 415-108-010 Definitions in the public employees' retirement system. All definitions in RCW 41.40.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

Annual leave means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different from vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

Level of union organization means a union or a lodge or division of a union.

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

Project position means a position, established by an employer, which has a specific goal and end date.

Public corporation means a public corporation created under RCW 35.21.730. A public corporation may be admitted as an "employer" under the definition in RCW 41.40.010(4).

Report means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

Reportable compensation means compensation earnable as that term is defined in RCW 41.40.010(8).

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

- The retirement systems listed under RCW 41.50.030;
- The retirement systems of the cities of Seattle, Spokane and Tacoma; or
- Any higher education plan authorized under RCW 28B.10.400.

System acronyms used in this chapter are defined as follows:

- "PERS" means the public employees' retirement system.
- "TRS" means the teachers' retirement system.
- "SERS" means the school employees' retirement system.

Union means a labor guild, labor association, and/or labor organization.

Union employer means a union or a union lodge or other division of a union which has verified that it meets the definition of a Plan 1 employer in RCW 41.40.010.

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

Example: An employer has used the twelve consecutive month period from July 1 to June 30 to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the July 1 through June 30 period to define a year for the position. **Example:** If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

[Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW. 01-21-090, § 415-108-010, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-010, filed 4/17/98, effective 5/18/98; 95-16-053, § 415-108-010, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-010, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.50.050(5) and 41.40.010(4)(a). 93-11-077, § 415-108-010, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-010, filed 2/15/78. Formerly WAC 184-01-025 and 184-01-035.]

WAC 415-108-0101 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0102 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0103 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0104 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0105 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0106 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0107 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0108 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0109 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0110 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-0111 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-326 Retirement benefit options. RCW 41.40.188 (Plan 1), RCW 41.40.660 (Plan 2), and RCW 41.40.845 (Plan 3) enable the department to provide retiring members with four retirement benefit options for receipt of the defined benefit portion of their retirement benefits. 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: Benefit option without survivor features (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, 41.40.670, 41.40.820, or 41.40.825. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) **Benefit options with a survivor feature.**

(a) 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, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) **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.

(c) **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.

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

(i) **Option Four** is available 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 subsection applies to members retiring on or after January 1, 1996, who select a benefit option with a survivor feature (Option Two, Three, or Four).

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

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

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

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

Plan One:

Lucinda retires from PERS Plan 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.

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all employee contributions are exhausted, all benefits cease. Any remaining balance will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(6) Any retiree who retired before January 1, 1996, and who elected to receive a benefit option with a survivor feature 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.

(8) **Postretirement benefit options.**

(a) **Postretirement marriage option.** Members who select the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birth date of the new spouse; and

(iv) A member may exercise this option one time only.

(b) **Removal of a nonspouse survivor option.** Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.

[Statutory Authority: RCW 41.50.050(5), 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, 41.40.845, 01-10-045, § 415-108-326, filed 4/26/01, effective 6/1/01. 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 415-108-467 Reinstatement or payment instead of reinstatement. (1) Payments to an employee are not earned for services rendered if an employer makes them

for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.40.010(8) specifically designates these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law following a hearing.

[Statutory Authority: RCW 41.50.050(5), 41.40.020, 41.35.010(6), 41.40.010(8), 01-08-057, § 415-108-467, filed 4/2/01, effective 5/3/01. Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-467, filed 4/17/98, effective 5/18/98.]

WAC 415-108-710 How will returning to work affect my PERS monthly benefit? (1) You may work for an employer after retirement and continue to receive your retirement allowance if:

(a) You are employed in an ineligible position no sooner than one calendar month after your retirement accrual date;

(b) You are an active member of a higher education retirement plan and are employed no sooner than one calendar month after your retirement benefit accrues;

(c) You are employed as a bona fide independent contractor as defined by WAC 415-02-110;

(d) You are employed as an elected or appointed official directly by the governor under RCW 41.40.150(4) no sooner than one month after your retirement benefit accrues and do not reenter membership;

(e) Your only employment is as an elected official of a city or town and you end your PERS membership under RCW 41.40.023 (3)(b); or

(f) You are employed in an eligible position:

(i) No sooner than one calendar month after your retirement benefit accrues; and

(ii) The time you work does not exceed the "work limit" defined in subsection (2) of this section.

(2) What is the work limit for eligible positions?

(a) Plan 1 retiree working for an employer as defined in RCW 41.40.010 (4)(a): Fifteen hundred hours in a calendar year; or

(b) Plan 2 or 3 retiree working in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030: Eight hundred sixty-seven hours in a calendar year.

(c) The Plan 1 limits will be applied to retirees from both a Plan 1 and a Plan 2 or 3 in another pension plan.

(d) The TRS Plan 1 rules will be applied to retirees from both TRS Plan 1 and PERS Plan 1.

(3) What happens if I work more than the work limit?

(a) The department will suspend your retirement allowance effective the day after the day in which you exceed the

work limit. All hours worked for all covered employers in eligible positions are considered in determining the work limit.

(b) You have the option to return to membership in PERS if you are otherwise eligible. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

(4) How will the suspension of benefits affect my retirement allowance?

(a) The department will:

(i) Prorate your retirement allowance for the month during which you exceeded the work limit; and

(ii) Suspend all future retirement allowances while you are working until the next calendar year except that it will:

(iii) Adjust for any overpayments made to you for the month(s) in which you exceeded the work limit, as required by RCW 41.50.130.

(b) If you separate from service, your retirement allowance will resume effective the first day of the month following the date of separation.

(5) Can I return to PERS membership?

(a) If you are a PERS retiree, you may choose to return to membership if you are employed by a PERS employer and meet the eligibility criteria. If you return to membership the department will stop your retirement allowance effective from the first of the month during which you return to employment. Membership will be prospective under RCW 41.40.023(12).

(b) If you reenter membership and later choose to retire again, the department will recalculate your retirement allowance under the applicable statutes and regulations.

(c) If you are a retiree from another retirement system that the department administers, and are eligible to enter PERS membership, you may choose to return to membership. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

Example 1:

Kirk is a PERS Plan 2 retiree. He separates from service on August 15th. His accrual date (retirement) is effective September 1st. Kirk returns to work in a PERS Plan 2 eligible position on January 2nd of the following year. On June 1st he realizes that on or about July 8th, he is going to exceed his eight hundred sixty-seven hour limit for the year. On July 5th he notifies his employer in writing that he chooses to reenter PERS Plan 2 membership.

On July 12th, Kirk works his eight hundred sixty-eighth hour. He is no longer eligible for his PERS Plan 2 retirement benefit as of July 12th. The retirement benefit is stopped for the remainder of July. On August 1st, Kirk is returned to membership and resumes making retirement contributions.

Example 2:

Kristal is a PERS Plan 1 retiree. She separated from service on June 20th. Her accrual date (retirement) is effective July 1st. She begins working in a PERS eligible position the following January. By October 1st, Kristal has exceeded the fifteen hundred hour work limit, and her benefit is suspended.

Kristal separates from service on November 15th and her benefit is reinstated December 1st. Kristal qualifies to begin another fifteen hundred hour work period on January 1st.

Example 3:

Millie is a PERS Plan 2 retiree. She separated from service on June 20th. Her accrual date (retirement) is effective July 1st. She begins working in a PERS eligible position on February 1st of the following year. By September 1st, Millie has worked eight hundred sixty-seven hours and continues to work. Millie's benefit is suspended from September 2nd until January 1st if she continues to work.

(6) **How soon can I return to work as a retiree?** If you return to work sooner than one full calendar month after your accrual date under RCW 41.40.037, your retirement allowance will be reduced by 5.5% for every eight hours worked each month, until you separate for one full calendar month. See RCW 41.40.037.

Example 4:

John's last day of work is September 15th. His accrual date is October 1st. If John wants to return to work after he retires, he will need to wait until at least November 1st to avoid receiving the daily percentage reduction in his retirement allowance.

Example 5:

Tony's last day of work is September 15th. His accrual date is October 1st. Tony returns to work for five work days between October 10th and October 17th. His October retirement allowance will be reduced by five and one-half percent for every eight hours worked in October (RCW 41.40.037); this will be reflected in Tony's November benefit. Tony does not return to work. On December 1st, Tony will qualify to return to work under the work limits described in subsection (2) of this section.

Example 6:

Ruth's last day of work is September 15th. Her accrual date is October 1st. She returns to work on October 10th and continues working. Ruth's retirement benefit will be reduced by 5.5% for each eight hours she works. Under RCW 41.40.037, Ruth's benefit reduction will accrue up to one hundred sixty hours per month. If she stops working, Ruth's full retirement benefit will resume after she remains separated for one full calendar month. Any benefit reduction over one hundred percent will be applied to Ruth's allowance in subsequent months.

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

(a) "Accrual date" - RCW 41.40.193, 41.40.680, 41.40.801.

(b) "Eligible position" - RCW 41.40.037(2).

(c) "Employer" - RCW 41.40.010(4).

(d) "Ineligible position" - RCW 41.40.010.

(e) "Law enforcement officer" - RCW 41.26.030.

(f) "Membership" - RCW 41.40.023.

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

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-108-710, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-710, filed 7/25/95, effective 8/25/95.]

WAC 415-108-800 When does a member of the public employees' retirement system (PERS) enter retirement status? A member of PERS enters retirement status when he or she:

(1) Has separated from service as defined in RCW 41.40.010(41);

(2) Has no written agreement to return to employment prior to entering "retiree status"; and

(3) Has applied for retirement, the accrual date has been determined under RCW 41.40.193, 41.40.680, or 41.40.801, and the benefit begins to accrue.

Example: Sally is eligible for retirement on July 1st. She submits an application on June 1st with a July 1st retirement date. Her last day of employment is June 30th and she does not have an agreement to return to work.

Sally's retirement date (accrual date) is July 1st and the benefit begins to accrue. The first retirement payment will be paid at the end of July. Sally entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-108-800, filed 12/28/01, effective 1/1/02.]

Chapter 415-110 WAC

SCHOOL EMPLOYEES' RETIREMENT SYSTEM

WAC

415-110-326	Retirement benefit options.
415-110-467	Reinstatement or payment instead of reinstatement.
415-110-710	How will returning to work affect my SERS monthly benefit?
415-110-800	When does a member of the school employees' retirement system (SERS) enter retirement status?

WAC 415-110-326 Retirement benefit options. RCW 41.35.220 enables the department to provide retiring members with four retirement benefit options. The retiring member must choose an option when applying for service or disability retirement:

(1) **Option One: Benefit option without survivor features (standard allowance).** The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.35.420, 41.35.440, 41.35.680, or 41.35.690. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) Benefit options with a survivor feature.

(a) 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, all benefits cease. Any remaining balance will be paid to:

(i) Such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) 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.

(c) 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.

(d) Option Four (joint and two-thirds allowance).

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) 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 subsection applies to retiring members who select a benefit option with a survivor feature (Option Two, Three, or Four).

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

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

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

(c) Pop-up recalculation examples.

Plan two:

Agnes retires from SERS Plan 2 in 2006 (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 2011 (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 COLAs:

Year	Option One (Standard Allow.)	Survivor Option (2, 3, 4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (2006)	2,000.00	1,750.00	(ineligible)	0.00
1 (2007)		1,750.00	.02	35.00
2 (2008)		1,785.00	.03	53.55
3 (2009)		1,838.55	.025	45.96
4 (2010)		1,884.51	.03	56.54
5 (2011)	2,000.00	1,941.05	-	-
			Total COLAs	191.05
Original Option One Benefit Amount \$2000		+ Total COLAs + \$191.05	= New Benefit Amount = \$2,191.05*	

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

(d) If the survivor dies and the retiree's benefit increases under this subsection, and thereafter the retiree also dies before all employee contributions are exhausted, all benefits cease. Any remaining balance will be paid to:

(i) Such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

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

(6) Postretirement benefit options.

(a) **Postretirement marriage option.** Members who select the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently

select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birthdate of the new spouse; and

(iv) A member may exercise this option one time only.

(b) **Removal of a nonspouse survivor option.** Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.

[Statutory Authority: RCW 41.50.050(5), 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, 41.40.845, 01-10-045, § 415-110-326, filed 4/26/01, effective 6/1/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-326, filed 12/12/00, effective 1/12/01.]

WAC 415-110-467 Reinstatement or payment instead of reinstatement. (1) Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.35.010(6) specifically designates these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law following a hearing.

[Statutory Authority: RCW 41.50.050(5), 41.40.020, 41.35.010(6), 41.40.010(8), 01-08-057, § 415-110-467, filed 4/2/01, effective 5/3/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-467, filed 12/12/00, effective 1/12/01.]

WAC 415-110-710 How will returning to work affect my SERS monthly benefit? (1) **You may work for an employer after retirement and continue to receive your retirement allowance if:**

(a) You are employed in an ineligible position no sooner than one calendar month after your retirement accrual date;

(b) You are an active member of a higher education retirement plan and are employed no sooner than one calendar month after your retirement benefit accrues;

(c) You are employed as a bona fide independent contractor as defined by WAC 415-02-110;

(d) You are employed as an elected or appointed official directly by the governor under RCW 41.40.150(4) no sooner than one calendar month after your retirement benefit accrues and do not reenter membership;

(e) Your only employment is as an elected official of a city or town and you end your SERS membership under RCW 41.35.030; or

(f) You are employed in an eligible position:

(i) No sooner than one calendar month after your retirement benefit accrues; and

(ii) The time you work does not exceed the "work limit" defined in subsection (2) of this section.

(2) **What is the work limit for eligible positions?**

(a) Plan 2 or 3 retiree working in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030: Eight hundred sixty-seven hours in a calendar year.

(b) Retirees from both a Plan 1 in another pension plan and SERS Plan 2 or 3: The Plan 1 limits of the other plan will be applied.

(3) **What happens if I work more than the work limit?**

(a) The department will suspend your retirement allowance effective the day after the day in which you exceed the work limit. All hours worked for all covered employers in eligible positions are considered in determining the work limit.

(b) You have the option to return to membership in SERS if you are otherwise eligible. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

(4) **How will the suspension of benefits affect my retirement allowance?**

(a) The department will:

(i) Prorate your retirement allowance for the month during which you exceeded the work limit; and

(ii) Suspend all future retirement allowances while working, until the next calendar year except that it will:

(iii) Adjust for any overpayments made to you for the month(s) in which you exceeded the work limit, as required by RCW 41.50.130.

(b) If you separate from service, your retirement allowance will resume effective the first day of the month following the date of separation.

(5) **Can I return to SERS membership?**

(a) If you are a SERS retiree, you may choose to return to membership if you are employed by a SERS employer and meet the eligibility criteria. If you return to membership the department will stop your monthly retirement allowance effective from the first of the month during which you return to employment. Membership will be prospective under RCW 41.35.060(3).

(b) If you reenter membership and later choose to retire again, the department will recalculate your retirement allowance under the applicable statutes and regulations.

(c) If you are a retiree from another retirement system that the department administers, and are eligible to enter SERS membership, you may choose to return to membership. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership.

Example 1:

Phil is a SERS Plan 2 retiree. He separates from service on August 15th. His accrual date (retirement) is effective September 1st. Phil returns to work in a SERS Plan 2 eligible position on January 2nd of the following year. On June 1st he realizes that on or about July 8th, he is going to exceed his eight hundred sixty-seven hour limit for the year. On July 5th he notifies his employer in writing that he chooses to reenter SERS Plan 2 membership.

On July 12th, Phil works his eight hundred sixty-eighth hour. He is no longer eligible for his SERS Plan 2 retirement allowance as of July 12th. The retirement benefit is stopped for the remainder of July. On August 1st, Phil is returned to membership and resumes making retirement contributions.

Example 2:

Tami is a SERS Plan 2 retiree. She separated from service on June 20th. Her accrual date (retirement) is effective July 1st. She begins working in a SERS eligible position on February 1st of the following year. By September 1st, Tami has worked eight hundred sixty-seven hours. Tami's benefit is suspended from September 2nd until January 1st if she continues to work.

(6) **How soon can I return to work as a retiree?** If you return to work sooner than one full calendar month after your accrual date, your retirement allowance will be reduced by 5.5% for every eight hours worked each month, until you separate for one full calendar month. See RCW 41.35.060.

Example 3:

Steve's last day of work is September 15th. His accrual date is October 1st. If Steve wants to return to work after he retires, he will need to wait until at least November 1st to avoid receiving the daily percentage reduction in his retirement allowance.

Example 4:

Tim's last day of work is September 15th. His accrual date is October 1st. Tim returns to work for five eight-hour work days between October 10th and October 17th. His October retirement allowance will be reduced by five and one-half percent for every eight hours worked in October (RCW 41.35.060). Tim does not return to work. On December 1st, he will qualify for his full retirement benefit. Tim will also qualify to return to work under the work limits described in subsection (2) of this section.

Example 5:

Paige's last day of work is September 15th. Her accrual date is October 1st. She returns to work on October 10th and continues working. Paige's retirement benefit will be reduced by 5.5% for each eight hours she works. Paige's benefit reduction will accrue up to one hundred sixty hours per month. If she stops working, her full retirement allowance will resume after she remains separated for one full calendar month. Any benefit reduction over one hundred percent will be applied to Paige's allowance in subsequent months.

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

- (a) "Accrual date" - RCW 41.35.450, 41.35.640.
- (b) "Eligible position" - RCW 41.35.060(2).
- (c) "Employer" - RCW 41.35.010(4).
- (d) "Ineligible position" - RCW 41.35.010(23).
- (e) "Law enforcement officer" - RCW 41.26.030.
- (f) "Member" - RCW 41.35.010(5).

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-110-710, filed 12/28/01, effective 1/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-710, filed 12/12/00, effective 1/12/01.]

WAC 415-110-800 When does a member of the school employees' retirement system (SERS) enter retirement status? A member of the SERS enters retirement status when he or she:

- (1) Has separated from service as defined in RCW 41.35.010(36);
- (2) Has no written agreement to return to public employment prior to entering "retiree status"; and
- (3) Has applied for retirement, the accrual date has been determined under RCW 41.35.450 or 41.35.640, and the benefit begins to accrue.

Example: Doug is eligible for retirement on July 1st. He submits an application on June 1st with a July 1st retirement date. His last day of employment is June 30th and he does not have an agreement to return to work. Doug's retirement date (accrual date) is July 1st, and the benefit begins to accrue. The first retirement payment will be paid at the end of July. Doug entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-110-800, filed 12/28/01, effective 1/1/02.]

Chapter 415-111 WAC

PLAN 3—DEFINED CONTRIBUTION PLANS

WAC

415-111-220

How do I choose a defined contribution rate?

WAC 415-111-220 How do I choose a defined contribution rate? (1) **Contribution rates:** If you are a member of the Teachers' Retirement System Plan 3, the School Employees' Retirement System Plan 3, or the Public Employees' Retirement System Plan 3, you are required to contribute from your compensation according to one of the following rate structures:

Option A	Contribution Rate
All ages	5.0% fixed
Option B	
Up to age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
Option C	
Up to age 35	6.0%
Age 35 to 44	7.5%
Age 45 and above	8.5%
Option D	
All ages	7.0%
Option E	
All ages	10.0%
Option F	
All ages	15.0%

(2) **How do I make the choice?** Under WAC 415-111-110, it is your responsibility to complete the correct form for choosing a contribution rate and submitting the form in a timely manner to your employer as directed on the form.

(3) **Where do I get the form to make my choice?** Your employer must provide the appropriate form to choose a contribution rate if you are enrolling in Plan 3 or transferring from Plan 2 to Plan 3.

(4) **When do I have to choose?** You must irrevocably choose a contribution rate within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must choose a contribution rate at the same time you transfer. The ninety-day period does not apply to a member transferring from Plan 2 to Plan 3.

(5) When do contributions begin?

(a) Once you choose a contribution rate, contributions will begin the first day of the pay cycle in which you make the choice.

(b) If the employer advises the department that you should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date it is discovered that you should have been reported. The department will decide which date to use.

(6) **What if I work for more than one employer?** If you are a Plan 3 member working in eligible positions for more than one employer, you may select a different contribution rate with each employer.

(7) **What happens if I do not make a choice?** Under RCW 41.34.040, you will be irrevocably assigned to Option A if:

(a) You are a new employee or changing your employer, and do not choose a contribution rate within the ninety-day election period described in subsection (4) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not choose a contribution rate at the time of transfer. Contributions required under subsection (a) or (b) will begin the first day of the pay cycle in which you are assigned to Option A.

(8) **Can I change my contribution rate?** Once you elect a contribution rate or are defaulted into Option A, you cannot change your contribution rate unless you change employers. Each time you change employers, you will be allowed the ninety-day period described in subsection (4) of this section to choose a new contribution rate.

[Statutory Authority: RCW 41.34.040, 41.50.050(5), 01-15-038, § 415-111-220, filed 7/13/01, effective 7/26/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-111-220, filed 12/12/00, effective 1/12/01.]

Chapter 415-112 WAC

TEACHERS' RETIREMENT SYSTEM

WAC

415-112-0161	School year—Definition.
415-112-515	When does a member of the teachers' retirement system (TRS) enter retirement status?
415-112-525	How soon can I return to work as a retiree?
415-112-540	Repealed.
415-112-541	How will returning to work affect my TRS Plan 1 monthly pension?
415-112-542	How will returning to work affect my TRS Plan 2 or Plan 3 monthly retirement allowance?
415-112-545	Repealed.
415-112-727	Retirement benefit options.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-112-540	How will returning to work affect my TRS Plan 1 monthly pension? [Statutory Authority: RCW 41.50.050, 00-11-053, § 415-112-540, filed 5/12/00, effective 6/12/00; 97-01-015, § 415-112-540, filed 12/6/96, effective 1/6/97. Statutory Authority: RCW 41.50.050 and 41.32.570, 91-21-084, § 415-112-540, filed 10/18/91, effective 11/18/91. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-540, filed 2/15/78. Formerly WAC 462-28-040.] Repealed by 02-02-060, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801.
415-112-545	How can I qualify for an additional three hundred fifteen hours of service without having my TRS Plan 1 monthly pension reduced? [Statutory Authority: RCW 41.50.050, 00-11-053, § 415-112-545, filed 5/12/00, effective 6/12/00; 97-01-015, § 415-112-545, filed 12/6/96, effective 1/6/97.] Repealed by 02-02-060, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801.

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

(2) "School year" for Plan 2 and 3 members means the twelve-month period from September 1 of one year to August 31 of the following year.

[Statutory Authority: RCW 41.50.050(5), 41.32.010, 41.32.498, 01-23-053, § 415-112-0161, filed 11/20/01, effective 12/21/01. Statutory Authority: RCW 41.50.050, 95-16-053, § 415-112-0161, filed 7/25/95, effective 8/25/95.]

WAC 415-112-515 When does a member of the teachers' retirement system (TRS) enter retirement status? A member of TRS enters retirement status when he or she:

(1) Has separated from service or employment as defined in RCW 41.32.010(48);

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

(3) Has applied for retirement, the accrual date has been determined under WAC 415-112-520, RCW 41.32.795, or 41.32.855, and the benefit begins to accrue.

Example: Judy is eligible for retirement on July 1st. She submits an application on June 1st with a July 1st retirement date. Her last day of employment is June 30th and she does not have an agreement to return to work. Judy's retirement date (accrual date) is July 1st and the benefit begins to accrue. The first retirement payment will be paid at the end of July. Judy entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801, 02-02-060, § 415-112-515, filed 12/28/01, effective 1/1/02. 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 415-112-525 How soon can I return to work as a retiree? (1) If you return to work sooner than one full calendar month after your accrual date, your retirement allowance will be reduced by 5.5% for every seven hours worked during the month until you separate from all employment for one full calendar month. See RCW 41.32.570 (TRS Plan 1), 41.32.802 (TRS Plan 2), or 41.32.862 (TRS Plan 3).

Example 1:

Dave's last day of work is September 15th. He has no agreement to return to work. His accrual date is October 1st. If Dave wants to return to work after he retires, he will need to wait until at least November 1st to avoid receiving the daily percentage reduction in his retirement allowance.

Example 2:

Brian's last day of work is September 15th. He has no agreement to return to work. His accrual date is October 1st. Brian subsequently is asked to work for five seven-hour work days between October 10th and October 17th. On November 1st, Brian's retirement allowance will be reduced by five and one-half percent for every seven hours worked during Octo-

ber. (RCW 41.32.570.) On December 1st, he will qualify for his full retirement benefit. Brian will also qualify to return to work under the work limits described in WAC 415-112-540(2).

Example 3:

Joe's last day of work is September 15th. He has no agreement to return to work. His accrual date is October 1st. Joe then returns to work on October 10th and continues working. Joe's retirement benefit will be reduced by 5.5% for each seven hours he works. Joe's benefit reduction will accrue up to one hundred forty hours per month. If he stops working, his full retirement benefit will resume after he remains separated for one full calendar month. Any benefit reduction over one hundred percent will be applied to Joe's allowance in subsequent months.

(2) If you have a written agreement to return to work before your accrual date, and in fact return to work, you have not entered retirement status. See WAC 415-112-515. In this case, you are not a retiree, and the 5.5% reduction in subsection (1) of this section does not apply.

Example 4:

Teri's last day of work is September 15th. Her accrual date would ordinarily be on October 1st. However, on September 18th, Teri signed an agreement to work for one day in October. Teri signed the agreement prior to her accrual date. Under WAC 415-112-515 she is not a retiree, and not eligible for her retirement benefits. In addition, the 5.5% reduction does not apply. Teri's accrual date will now be November 1st, as long as she did not have any other agreements to work.

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

(a) "Accrual date" - WAC 415-112-520; RCW 41.32.795, 41.32.855.

(b) "Eligible position" - RCW 41.40.010, 41.32.010 (37)(a), 41.35.010(22).

(c) "Employer" - RCW 41.32.010(11).

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801, 02-02-060, § 415-112-525, filed 12/28/01, effective 1/1/02.]

WAC 415-112-540 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-541 How will returning to work affect my TRS Plan 1 monthly pension? This section implements RCW 41.32.570, which limits employment for TRS Plan 1 retirees with public educational institutions to fifteen hundred hours regardless of the nature of service.

(1) You may return to any type of service with a public education institution for up to fifteen hundred hours per school year as defined in WAC 415-112-0161 without affecting your TRS Plan 1 monthly pension under RCW 41.32.570, provided you have been retired from service for one full calendar month (see WAC 415-112-520 and 415-112-525 for more information).

(a) Your employer must notify the department when you return to work. Your employer must report hours and compensation.

(b) If you are a TRS Plan 1 retiree and you work more than fifteen hundred hours during a fiscal year, the department will suspend your monthly pension. The pension is suspended until the first of the next fiscal year or termination of your employment, whichever comes first.

(c) The TRS Plan 1 limits will be applied to retirees from both TRS Plan 1 and a Plan 2 or 3 in another pension plan.

(d) The TRS Plan 1 limits will be applied to retirees from both TRS Plan 1 and PERS Plan 1.

(e) If you are a TRS Plan 1 retiree working for a public education institution as a bona fide independent contractor as determined under WAC 415-02-110, you are not considered an employee of the institution and are not subject to the work limitations.

(2) If the department suspends your benefit because of your reemployment, the department will reinstate the original amount of your pension, less deductions to recover any overpayment, effective the day following your termination of employment, or at the beginning of the next fiscal year, whichever comes first.

(3) You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section.

(4) You may choose to return to membership if you are employed by a public education institution and are otherwise eligible. Membership will be prospective from the month in which you opt into membership.

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

Public educational institution: WAC 415-112-0157.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-112-541, filed 12/28/01, effective 1/1/02.]

WAC 415-112-542 How will returning to work affect my TRS Plan 2 or Plan 3 monthly retirement allowance? This section implements RCW 41.32.802 and 41.32.862, which limit employment for TRS Plan 2 or Plan 3 retirees employed in an eligible position to eight hundred sixty-seven hours per calendar year.

(1) You may return to any eligible position for up to eight hundred sixty-seven hours per calendar year without affecting your monthly retirement allowance.

(a) Your employer must notify the department when you return to work and report hours and compensation.

(b) Your monthly retirement benefit is suspended effective the day after the day in which you exceed the work limit, unless you are also a member of any Plan 1, in which case the Plan 1 limits will apply.

(c) Your monthly retirement benefit is reinstated at the beginning of the next calendar year or the first day of the month following your termination from employment whichever comes first.

(d) You may choose to return to membership if you are employed by a public school and are otherwise eligible.

Membership will be prospective from the month in which you opt into membership.

(e) If you are a TRS Plan 2 or Plan 3 retiree working as a bona fide independent contractor as determined under WAC 415-02-110, you are not considered an employee and are not subject to the work limitations.

(f) If you are working as an on-call substitute teacher you are working in an ineligible position and not subject to the work limitations of RCW 41.32.802 and 41.32.862.

(2) You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section.

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

(a) Eligible position: RCW 41.32.570 (2)(b).

(b) Substitute teacher: RCW 41.32.010(36).

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-112-542, filed 12/28/01, effective 1/1/02.]

WAC 415-112-545 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-727 Retirement benefit options. RCW 41.32.530 (Plan 1), RCW 41.32.785 (Plan 2) and RCW 41.32.851 (Plan 3) enable the department to provide retiring members with four retirement benefit options for receipt of the defined benefit portion of their retirement benefits. 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: Benefit options without survivor feature (standard allowance).

(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 fund.

(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), RCW 41.32.790 (Plan 2 - Disability), RCW 41.32.875 (Plan 3 - Service), or RCW 41.32.880 (Plan 3 - Disability). When the retiree dies, all benefits cease. Any remaining balance of the member's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person nor persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(2) Benefit options with a survivor feature.

(a) 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, all benefits cease. Any remaining balance will be paid to:

(i) Such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person nor persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) 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.

(c) 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.

(d) Option Four (joint and two-thirds allowance).

(i) Option Four is available 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 subsection 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;

(ii) Minus any reduction in the maximum allowance resulting from a withdrawal of contributions;

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

(c) Plan 2 and Plan 3 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 her husband 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

Year	Option One (Standard Allowance)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount		+ Total COLA's	= New Benefit Amount	
\$2000		+ \$191.05	= \$2,191.05*	

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

(e) If the survivor dies and the retiree's benefit increases under this subsection, and thereafter the retiree also dies before all accumulated contributions are exhausted, all benefits cease. Any remaining balance of the member's accumulated contributions will be paid to:

(i) Such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(ii) If there is no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or

(iii) The member's estate; or

(iv) If there is neither such designated person nor persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(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.

(8) Postretirement benefit options.

(a) **Postretirement marriage option.** Members who select the maximum option (Plan 1 only) or the standard allowance (Option One) at the time of retirement and marry after retirement may subsequently select a survivor option with their new spouse as survivor beneficiary, provided that:

(i) The retiree's monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made either:

(A) During a one year window, on or after the date of the first anniversary and before the second anniversary of the postretirement marriage; or

(B) Before June 1, 2002, if the postretirement marriage occurred before June 1, 2001;

(iii) The retiree provides a marriage certificate as proof of the postretirement marriage and provides proof of the birthdate of the new spouse; and

(iv) A member may exercise this option one time only.

(b) **Removal of a nonspouse survivor option.** Members who selected a nonspouse as survivor beneficiary at the time of retirement may remove that survivor designation and have the benefit adjusted to a standard allowance. A member may exercise this option one time only.

(c) Selection (a) or (b) of this subsection will become effective the first of the month following the department's receipt of the required paperwork.

[Statutory Authority: RCW 41.50.050(5), 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, 41.40.845, 01-10-045, § 415-112-727, filed 4/26/01, effective 6/1/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-727, filed 12/12/00, effective 1/12/01. 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.]

Chapter 415-501 WAC

DEFERRED COMPENSATION PLAN

WAC

415-501-010	Deferred compensation plan established.
415-501-110	Definitions.
415-501-120	Repealed.
415-501-130	Repealed.
415-501-140	Repealed.
415-501-150	Repealed.
415-501-160	Repealed.
415-501-170	Repealed.
415-501-180	Repealed.
415-501-190	Repealed.
415-501-200	Repealed.
415-501-210	Repealed.
415-501-300	Repealed.
415-501-380	Department may require court order.
415-501-415	Transfers into plan from eligible retirement plans.
415-501-416	Transfers from plan into other eligible retirement plans.
415-501-417	Using deferred compensation funds to purchase service credit.
415-501-420	Annual deferral limits.
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415-501-485	Distribution to participant.
415-501-486	Distribution in the event of participant's death.
415-501-487	Distribution in the event of beneficiary's death.
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415-501-491	Distribution to a beneficiary, if distribution to the participant has previously begun.
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415-501-493	Distribution to an organization, estate, or trust as beneficiary.
415-501-494	Distribution to minor beneficiaries.
415-501-495	Domestic relations orders.
415-501-500	Repealed.
415-501-510	Unforeseeable emergency.

415-501-530 Termination of plan.
415-501-600 Employer contributions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-501-120 Beneficiary. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-120, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-020, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-130 Compensation. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-130, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-020, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-140 Deferred compensation. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-140, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-040, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-150 Department. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-150, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-050, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-160 Eligible employee. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-160, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-060, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-170 Employee retirement benefits board. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-170, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-070, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-180 Employer. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-180, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-080, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-190 Participant. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-190, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-090, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-200 Participation agreement. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104,

amended and recodified as § 415-501-200, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-100, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-210 Separation from service. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-210, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-110, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-300 Department to adopt rules and regulations. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-300, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-020, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-490 Elections regarding distribution. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-490, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-090, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.780(1) and 41.50.050. 97-05-009, § 415-512-090, filed 2/7/97, effective 3/10/97. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-090, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-500 Distribution of deferrals. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-500, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-110, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-110, filed 7/29/96, effective 7/29/96.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

WAC 415-501-010 Deferred compensation plan established. In accordance with the provisions of RCW 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, and as provided in Section 457 of the Internal Revenue Code, the state of Washington hereby establishes the deferred compensation plan for employees of the state of Washington and approved political subdivisions of the state of Washington, hereinafter referred to as the "plan." Nothing contained in this plan shall be deemed to constitute an employment agreement between the participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-010, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-010, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-501-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-110 Definitions. (1) **Accumulated deferrals.** Compensation deferred under the plan, adjusted by income received, increases or decreases in investment value, fees, and any prior distributions made.

(2) **Beneficiary.** A beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

(3) **Compensation.** All payments made to a public employee by the employer as remuneration for services rendered.

(4) **Deferred compensation.** The amount of the participant's compensation which the participant and the employer shall mutually agree (prior to the date on which such compensation is earned) will be deferred.

(5) **Department.** The department of retirement systems created by RCW 41.50.020.

(6) **Eligible employee.** Any person who is employed by and receives any type of compensation from the employer for whom services are provided, and who is a full-time, permanent part-time working half-time, or more, or career seasonal employee of the employer, whether or not covered by civil service; an elected or appointed official of the executive branch of the government, including any full-time member of a board, commission, or committee; a justice of the supreme court, or a judge of the court of appeals or of a superior court; or a member of the state legislature.

(7) **Eligible rollover distribution.** A distribution to a participant of any or all funds from an eligible retirement plan unless it is:

(a) One in a series of substantially equal annuity payments;

(b) One in a series of substantially equal installment payments payable over ten years or more;

(c) Required to meet minimum distribution requirements of the plan; or

(d) Distributed for hardship or unforeseeable emergency from a 457 plan.

(8) **Employee retirement benefits board.** The board created by RCW 41.50.086.

(9) **Employer.**

(a) The state of Washington; and

(b) Approved political subdivisions of the state of Washington.

(10) **Normal retirement age.** The range of ages between:

(a) The earliest age at which an eligible participant has the right to receive retirement benefits without actuarial adjustment under any employer-authorized plan; and

(b) Age seventy and one-half.

(11) **Participant.** An eligible employee who has submitted a participation agreement that is approved by DRS.

(12) **Participation agreement.** The agreement executed by an eligible employee pursuant to WAC 415-501-410, in which the eligible employee chooses to become a plan participant.

(13) **Severance of employment.** Termination of employment with an employer.

regulations. 02-01-121, § 415-501-110, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-110, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-130 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-140 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-160 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-170 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-180 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-190 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-210 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-300 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-380 Department may require court order. The department or the employer, if in doubt concerning the correctness of their action in making a distribution of accumulated deferrals, may suspend distribution until satisfied as to the correctness of the distribution or the person to receive the distribution or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the amounts to be paid and the persons to receive them. The department and the employer shall comply with the final orders of the court in any such suit; and the participant, for the participant and the participant's beneficiary or beneficiaries, consents to be bound thereby. Whenever distribution of accumulated deferrals is suspended pursuant to this section, the time for a participant or beneficiary making any choice under WAC 415-501-485 or 415-501-491 through 415-501-494 shall not begin until amount(s) and person(s) entitled are determined either by a written agreement of all parties concerned or by a court judgment that has become final.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-380, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-380, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-050, filed 7/29/96, effective 7/29/96.]

WAC 415-501-415 Transfers into plan from eligible retirement plans. (1) **Ability to transfer in.** A participant may transfer pretax contributions into the department's deferred compensation plan:

(a) Through a direct transfer of an eligible rollover distribution from an individual retirement account (IRA) or from a former employer's retirement plan; or

(b) Through a direct transfer from another 457 plan maintained by a participating political subdivision while the participant remains employed by the political subdivision.

(2) Distributions from the plan attributable to amounts transferred into the plan from non-457 plans may be subject to an additional 10% tax on early distributions. The department will keep a separate accounting of funds rolled into the plan from non-457 eligible retirement plans for this purpose.

(3) **Rollover application.** To transfer money into a deferred compensation account, a participant must complete the appropriate form. Forms are available through the department or on its website (<http://www.wa.gov/drs/dcp/>).

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-415, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-415, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-015, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-015, filed 7/29/96, effective 7/29/96.]

WAC 415-501-416 Transfers from plan into other eligible retirement plans. (1) **Ability to transfer out.** Subject to the rules of the receiving plan, a participant may transfer funds from the department's deferred compensation plan:

(a) Through a rollover of an eligible rollover distribution into an individual retirement account (IRA) or another employer-sponsored retirement plan after separation from service;

(b) Through a direct transfer into another IRC section 457 plan after the participant severs employment;

(c) Through a direct transfer into another 457 plan maintained by a participating political subdivision made while the participant remains employed by the political subdivision; or

(d) To purchase eligible service credit under WAC 415-501-417.

(2) **Ability of surviving spouse to transfer out.** As a beneficiary, the surviving spouse of a participant may transfer eligible rollover distributions from the participant's account into his or her own eligible retirement plan.

(3) Funds that are transferred into a non-457 plan will be governed by the rules of the receiving plan.

(4) **Rollover application.** To transfer money from a deferred compensation account, a participant or the surviving spouse of a participant must complete the appropriate form. Forms are available through the department or on its website (<http://www.wa.gov/drs/dcp/>).

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-416, filed 12/19/01, effective 1/1/02.]

WAC 415-501-417 Using deferred compensation funds to purchase service credit. (1) **What is allowed.** Subject to the requirements of the receiving retirement plan, a participant may make a direct transfer of funds from his or her deferred compensation account to purchase, restore, or reinstate eligible service credit in any government retirement plan.

(2) **Who is eligible.** Any plan participant may transfer funds, whether or not employed at the time of the transfer.

(3) **How to request a transfer.**

(a) A participant may request a transfer by submitting a completed form to the department.

(b) Forms are available through DRS or on its website (<http://www.wa.gov/drs/dcp/>).

(4) **Tax consequences.** Participants are advised to consult with a tax professional regarding the tax consequences of this transaction.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-417, filed 12/19/01, effective 1/1/02.]

WAC 415-501-420 Annual deferral limits. (1) Except as provided in WAC 415-501-430 (catch-up provisions), the maximum that a participant may defer under the plan for any taxable year shall not exceed the lesser of:

(a) One hundred percent of the participant's includible compensation; or

(b) The annual deferral amount in the following table:

For taxable year beginning in calendar year:	Annual deferral amount:
2001	\$8,500
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000
Beginning January 1, 2007	\$15,000 plus cost-of-living adjustments, if any, established by the IRS under 26 USC 457

(2) "Includible compensation" for purposes of this section means includible compensation as defined in IRC Section 457 (e)(5), and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-420, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-420, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-020, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-020, filed 7/29/96, effective 7/29/96.]

WAC 415-501-430 "Catch-up" provisions. Two "catch-up" options allow a participant to defer more than the annual deferral limit set forth in WAC 415-501-420. A participant may not use both catch-up provisions during the same taxable year.

(1) **Age fifty and over:** A participant may defer a higher amount during any plan year in which the participant is age fifty or older. The maximum a participant may defer each year shall be the sum of:

(a) The annual deferral amount in WAC 415-501-420 for the current taxable year; and

(b) The lesser of:

(i) Compensation available for deferral; or

(ii) The amount in the following table:

For taxable year beginning in calendar year:	Annual deferral amount:
2002	\$1,000
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006	\$5,000
Beginning January 1, 2007	\$5,000 plus cost-of-living adjustments, if any, established by the IRS under 26 USC 414

(2) **Three years before normal retirement age:** A participant may defer a higher amount during a period of three consecutive years immediately preceding any taxable year the participant reaches normal retirement age as defined in WAC 415-501-110(10). The maximum a participant may defer during each of the three years shall be the lesser of:

(a) Twice the annual deferral amount under WAC 415-501-420(1); or

(b) The sum of:

(i) The annual deferral amount in WAC 415-501-420(1); plus

(ii) The portion of the participant's annual deferral amount for any prior taxable year that the participant has not previously used under WAC 415-501-420 or this subsection.

(3) For purposes of subsection (2)(b)(ii) of this section, a prior taxable year shall be taken into account only if:

(a) It begins after December 31, 1978;

(b) The participant was eligible to participate in the plan during any portion of the taxable year, or eligible to participate in an eligible 457 plan sponsored by another entity; and

(c) Compensation deferred under the plan during the taxable year (if any) was subject to a deferral limit under WAC 415-501-420.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-430, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-430, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-030, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-030, filed 7/29/96, effective 7/29/96.]

[2002 WAC Supp—page 2154]

WAC 415-501-470 Suspension and reinstatement of deferrals. Suspension. A participant may at any time, through the methods established by the department, direct that his or her deferrals cease. The direction to cease deferrals must be provided to the department or its designee no later than the last day of the month prior to the month during which the deferrals are to cease; however, accumulated deferrals shall be paid only as provided in this chapter.

Reinstatement. A participant may reinstate deferrals at any time, except after having ceased deferrals as part of an unforeseeable emergency distribution request. A participant who has directed the cessation of deferrals as part of an unforeseeable emergency distribution request cannot resume deferrals sooner than six months after his or her deferrals ceased. Deferrals will begin the month immediately following the month that the resumption of deferrals is requested.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-470, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-470, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-070, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-070, filed 7/29/96, effective 7/29/96.]

WAC 415-501-485 Distribution to participant. Distribution from the plan is governed by IRC Sections 401 (a)(9) and 457(d), and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are set forth in the *DCP Distribution Booklet*. The booklet will be mailed to the participant upon notification from the employer of severance from service.

(1) **Date of distribution.** A participant may choose the date on which to begin distribution from his or her deferred compensation account, subject to the requirements in (a) through (c) of this subsection. The department must receive the election form at least thirty days prior to the date distribution is to begin.

(a) **Earliest date.** Distribution to a participant may not begin prior to the participant's severance from employment with the following three exceptions:

(i) A distribution for an unforeseeable emergency under WAC 415-501-510;

(ii) A voluntary in-service distribution under subsection (4) of this section; or

(iii) A distribution from non-457 funds that were rolled into the deferred compensation account.

(b) **Latest date.** Distribution to a participant must begin on or before April 1st of the calendar year following the latter of:

(i) The calendar year in which the participant reaches age seventy and one-half; or

(ii) The calendar year in which the participant retires.

(c) If a participant does not make a timely choice of distribution date, the department will begin distribution in accordance with the minimum distribution requirements in IRC Section 401 (a)(9).

(2) **Method of distribution.** The participant may choose a distribution method (amount and frequency) from the payment options outlined in the *DCP Distribution Book-*

let. Payment options include a lump sum payment, periodic payments, or an annuity purchase.

(a) Periodic payments must be at least fifty dollars per month (if paid monthly) or six hundred dollars per year.

(b) Beginning at age seventy and one-half, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a)(9).

(3) If the participant is rehired and reenrolls in the department's deferred compensation plan, the department will stop distribution to the participant and/or void any choices of distribution date and method made prior to reenrollment.

(4) **Voluntary in-service distribution.** An active participant may choose to receive an in-service distribution of the total amount payable to the participant under the plan if the following requirements are met:

(a) The total amount payable to the participant does not exceed five thousand dollars;

(b) The participant has not previously received an in-service distribution; and

(c) The participant's deferrals have been suspended during the preceding two-year period ending on the date of the in-service distribution.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-485, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]

WAC 415-501-486 Distribution in the event of participant's death. If the participant dies before the entire deferred compensation account has been distributed, accumulated deferrals shall be paid to the beneficiary or beneficiaries designated by the participant pursuant to WAC 415-501-480. If no beneficiary is designated or if the designated beneficiary does not survive the participant by a period of thirty days, then accumulated deferrals shall be paid to the participant's surviving spouse, if any. If the participant has no surviving spouse, accumulated deferrals shall be paid to the participant's estate. Provisions regarding distribution to various classes of beneficiaries are set forth in WAC 415-501-491 through 415-501-494.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-486, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-486, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-086, filed 7/29/96, effective 7/29/96.]

WAC 415-501-487 Distribution in the event of beneficiary's death. If a beneficiary becomes entitled to receive accumulated contributions under WAC 415-501-486 but dies before the participant's account is fully distributed, accumulated deferrals shall become payable to the beneficiary's estate in the second month following the notification of the beneficiary's death, unless benefits are being paid under an annuity purchased by the participant. If benefits were being

paid under an annuity, distribution shall be governed by the terms of the annuity contract.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-487, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-487, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-087, filed 7/29/96, effective 7/29/96.]

WAC 415-501-490 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-491 Distribution to a beneficiary, if distribution to the participant has previously begun. If a participant dies after distribution has begun but before the entire account has been exhausted, the participant's beneficiary(ies) must receive distribution at least as rapidly as was being paid to the participant. The options for distribution are set forth in the department's *DCP Distribution Booklet*. The booklet will be mailed to beneficiaries upon the notification of the death of a participant.

(1) **Date of distribution.** A beneficiary must choose a distribution date that is not less than ninety days from the date the department receives notification of the participant's death.

(2) **Method of distribution.** Subject to the requirements of (a) through (d) of this subsection, the beneficiary may choose a distribution method (amount and frequency) from the payment options outlined in the *DCP Distribution Booklet*. Payment options include a lump sum payment or periodic payments.

(a) The beneficiary must choose an amount and frequency that allows for distribution of the entire DCP account during the beneficiary's projected life expectancy.

(b) Distribution must continue in an amount that is at least equivalent to the amount previously received by the participant.

(c) Periodic payments must be at least fifty dollars per month (if paid monthly) or six hundred dollars per year.

(d) Life expectancies will be computed by the Department of the Treasury and set forth in IRS Regulation 1.72-9.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-491, filed 12/19/01, effective 1/1/02.]

WAC 415-501-492 Distribution to a beneficiary, if distribution to the participant has not begun. If a participant dies before distribution has begun, the participant's beneficiaries will receive payment of the account according to the provisions of this section. The options for distribution are set forth in the *DCP Distribution Booklet*. The booklet will be mailed to beneficiaries upon the notification of death of a participant.

(1) **Date of distribution.** Subject to the requirements of this subsection, a beneficiary may choose the date on which to begin distribution from the participant's DCP account. The department must receive the election form at least thirty days prior to the date distribution is to begin.

(a) Distribution to a beneficiary must begin on or before April 1st of the calendar year following the latter of:

(i) The calendar year in which the participant would have reached age seventy and one-half; or

(ii) The calendar year in which the participant dies.

(b) The choice of distribution date may be further limited as set forth in subsection (2)(c) of this section. If a beneficiary does not make a timely choice of distribution date, the department will begin distribution in accordance with the minimum distribution requirements in IRC 401 (a)(9).

(2) **Method of distribution.** Subject to the requirements in subsection (1) of this section, beneficiaries may choose the following methods to receive distribution.

(a) **Spouse as beneficiary.** A spouse-beneficiary may choose to receive distribution over his or her projected life expectancy. Distributions must begin not later than:

(i) December 31st of the year following the year of the participant's death; or

(ii) December 31st of the year following the year the participant would have reached age seventy and one-half.

(b) **Nonspouse as beneficiary.** A nonspouse-beneficiary may choose to receive distribution over his or her lifetime, if the distributions begin not later than December 31st of the year following the year of the participant's death.

(c) **Five-year rule.** If a beneficiary does not begin distribution within the requirements of (a) or (b) of this subsection, distribution of the **entire** account must be completed within five years of the participant's death.

(d) Regardless of the method of distribution chosen, periodic distributions made by the department must be at least fifty dollars per month (if paid monthly) or six hundred dollars per year.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-492, filed 12/19/01, effective 1/1/02.]

WAC 415-501-493 Distribution to an organization, estate, or trust as beneficiary. If the participant's beneficiary is an organization, estate, or trust, the department will make the distribution as a lump sum in the second month following the notification of the participant's death.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-493, filed 12/19/01, effective 1/1/02.]

WAC 415-501-494 Distribution to minor beneficiaries. (1) The department will distribute deferred compensation funds on behalf of a minor beneficiary only if it receives proof that the minor has either a court-appointed guardian or a custodian designated in compliance with RCW 11.114.030.

(2) If the department does not receive the proof in subsection (1) of this section, or if the guardian or custodian is unable or unwilling to serve, the department will request a court of competent jurisdiction to establish a guardianship under chapters 11.88 and 11.92 RCW. The department will make this request no sooner than one hundred eighty days after notification of the participant's death, regardless of the amount at issue.

(3) After a guardianship or custodianship has been established, either by prior designation or by court order, the

department will transfer the deferred compensation funds to the named guardian or custodian.

(4) If a participant has more than one minor beneficiary, a separate custodianship must be established for each minor. Each minor's interest must be determined in accordance with the governing instrument and applicable law. Only one person may be the custodian for each minor.

(5) Written confirmation from the guardian or custodian that the funds have been delivered discharges the department from further liability for the deferred compensation funds transferred to the guardian or custodian on behalf of the minor.

(6) The custodian may choose a deferred compensation distribution date and method on behalf of the minor, consistent with the requirements of this chapter.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-494, filed 12/19/01, effective 1/1/02.]

WAC 415-501-495 Domestic relations orders. (1) The department will honor certain domestic relations orders (DRO) entered by a court of competent jurisdiction.

(2) The department will honor a DRO only if it:

(a) Establishes a right of a spouse or former spouse to a portion of a participant's deferred compensation account pursuant to a division of property;

(b) Clearly states either the dollar amount or a percentage of the account on a specific date to be transferred to the account of the spouse or former spouse from the participant's account; and

(c) Provides the name, address, date of birth, and Social Security number of the participant and the spouse or former spouse.

(3) To implement a DRO, the department will establish a separate account for the spouse or former spouse in the amount specified in subsection (2)(b) of this section. The amount will initially be invested in the savings pool. Thereafter, the spouse or former spouse may provide investment instructions under WAC 415-501-450.

(4) The participant's spouse or former spouse may choose a method of distribution, including a direct rollover.

(5) If a DRO filed with the department prior to January 1, 2002, provides that distribution to the former spouse is not available until the participant separates from service, the department will comply with the express terms of the order unless it is subsequently amended.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-495, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-495, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-095, filed 9/30/98, effective 10/31/98.]

WAC 415-501-500 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-501-510 Unforeseeable emergency. (1) **Distribution request.** Notwithstanding any other provisions in plan chapter 415-501 WAC, in the event of an unforeseeable emergency, a participant may request the department to

distribute all or a portion of accumulated deferrals. If the request is approved by the department, distribution will be made within sixty days following such an approval. The amount paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

(a) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,

(b) Loss of the participant's property due to casualty, or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, distribution shall not be made to the extent that such hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

A divorce does not constitute an "unforeseeable emergency" or "severe financial hardship."

(2) **Applications for review.** All applications for review of decisions on requests for distribution of accumulated deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

(3) **Mandatory suspension.** Unforeseeable emergency requests received by the department, whether approved or denied, will cause a mandatory suspension of the participant as established in WAC 415-501-470.

[Statutory Authority: RCW 41.50.050(5), 41.50.770 and 41.50.780. 02-02-059, § 415-501-510, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-510, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-524-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-524-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-530 Termination of plan. The employer or the department may at any time terminate this plan. Upon such termination, accumulated deferrals will be paid pursuant to this chapter. The participants' deferrals will cease.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-530, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-530, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-532-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-600 Employer contributions. The employer may, pursuant to WAC 415-501-450 or 415-501-470, add additional deferred compensation for services to be

rendered by the employee to the employer during any calendar month, provided:

(1) The employee has elected to have such additional compensation deferred, invested, and distributed, pursuant to this plan, prior to the calendar month in which the compensation is earned; and

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by this chapter.

[Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-600, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-600, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-556-010, filed 7/29/96, effective 7/29/96.]

Chapter 415-600 WAC

DEPENDENT CARE ASSISTANCE SALARY REDUCTION PROGRAM OVERVIEW

WAC

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WAC 415-600-010 Dependent care assistance salary reduction program established. Chapter 415-600 WAC covers the Washington state department of retirement systems (DRS) dependent care assistance salary reduction program (DCAP). The authority for DCAP is provided by RCW 41.04.600 through 41.04.645, and sections 125 and 129 of the Internal Revenue Code.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-010, filed 10/22/01, effective 11/22/01.]

WAC 415-600-020 What is DCAP? The dependent care assistance salary reduction program (DCAP) allows you to set aside a "before tax" portion of your gross earnings to use for eligible dependent care expenses. DCAP reduces the amount of federal withholding and Social Security taxes

(OASDI and Medicare or FICA) taken from each paycheck. Salary reduced under the program continues to be included as regular compensation for the purpose of computing state retirement benefits. The amount that may be reduced from your salary and excluded from your income is subject to annual fixed dollar and earned income limitations. When you incur eligible dependent care expenses you will be reimbursed from the amount set aside, consistent with these rules. If any portion of the amount set aside is not used by the end of the plan year, the unused amount will be forfeited.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-020, filed 10/22/01, effective 11/22/01.]

WAC 415-600-030 DCAP is a separate program. The provisions in chapter 415-600 WAC apply only to the dependent care assistance salary reduction program and not to any other program that the department of retirement systems administers.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-030, filed 10/22/01, effective 11/22/01.]

WAC 415-600-040 Interpretation of DCAP. The dependent care assistance salary reduction program is intended to qualify as a dependent care assistance salary reduction program under sections 125 and 129 of the Internal Revenue Code (IRC) and is to be interpreted in a manner consistent with the requirements of those sections. In case of a discrepancy between the sections in this chapter and the IRC, the IRC takes precedence.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-040, filed 10/22/01, effective 11/22/01.]

WAC 415-600-110 Definitions used in DCAP. (1) **Dependent care account** means a bookkeeping account containing the salary reduction amounts attributable to a participant, less reimbursement for the participant's dependent care expenses.

(2) **Dependent care expenses** means amounts paid for services which, if paid by the employee, would be considered employment related expenses under Internal Revenue Code Section 21 (b)(2) and WAC 415-600-310.

(3) **Eligible employee** means state of Washington employees, officers, and elected officials.

(4) **Employer** means the state of Washington.

(5) **Incurred expenses** means expenses for services that have already been provided.

(6) **Internal Revenue Code (IRC)** means Title 26 of the United States Code (U.S.C.). Reference to a specific provision of the code includes such provision, any associated regulations, and any comparable provision of future legislation that amends, supplements, or supersedes such provision. Copies of the applicable IRC sections are available in law libraries and from the department of retirement systems (DRS). You can also obtain them by searching United States government references on the Internet.

(7) **Participant** means an eligible employee who has submitted a DCAP salary reduction agreement that is approved by DRS.

(8) **Program** means this dependent care assistance salary reduction program (DCAP).

(9) **Plan year** means January 1 through December 31.

(10) **Qualifying person** means:

(a) A dependent of the participant who is twelve years old or younger, for whom the participant is entitled to a deduction under IRC Section 151(c); or

(b) A dependent or spouse of the participant who is mentally or physically incapable of self-care; or

(c) A child of a divorced or separated participant, who is twelve years old or younger, if the participant has custody of the child, even if the participant has released an exemption under IRC Section 152 (e)(2).

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-110, filed 10/22/01, effective 11/22/01.]

WAC 415-600-210 How do I enroll in DCAP? (1) You enroll in the dependent care salary reduction assistance program (DCAP) by submitting a completed salary reduction agreement (SRA) form to the department of retirement systems (DRS).

(2) SRA forms are available through DRS or its website at <http://www.wa.gov/drs/forms/>.

(3) You may enroll in DCAP:

(a) During the open-enrollment period;

(b) Within sixty days of becoming an eligible employee; or

(c) At any time you have a qualifying change in status as set forth in WAC 415-600-240.

(4) The open enrollment period is the month of November for the following plan year.

(5) The enrollment process is complete on the date DRS approves your completed SRA.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-210, filed 10/22/01, effective 11/22/01.]

WAC 415-600-220 What is a salary reduction agreement? (1) The salary reduction agreement (SRA) is a contract between you and your employer in which you agree to place a specified amount of future wages into a dependent care account.

(2) The agreement must contain:

(a) Your Social Security number;

(b) The names and birth dates of the dependents you will cover with DCAP; and

(c) Medical, family and other information DRS needs to administer DCAP.

Except as provided in WAC 415-600-230, an SRA agreement cannot be changed.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-220, filed 10/22/01, effective 11/22/01.]

WAC 415-600-230 May I change the terms of my SRA during the plan year? The salary reduction agreement (SRA) cannot be changed during the plan year unless you have a qualifying change in status as defined in WAC 415-600-240. If you have experienced a qualifying change in status and need to change or revoke your SRA, you must fill out a new SRA form and submit it to DRS. Such changes require

approval by DRS. An explanation of the requested change may be required.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-230, filed 10/22/01, effective 11/22/01.]

WAC 415-600-240 What is a qualifying change in status? The following are changes in status for purposes of DCAP:

- (1) Marriage;
- (2) Divorce or legal separation;
- (3) Death of a spouse or dependent;
- (4) Addition of a dependent to the eligible employee's household, such as the birth or adoption of a child;
- (5) Termination of spouse's employment;
- (6) Employment of an unemployed spouse;
- (7) A change in the work hours of the eligible employee or spouse that significantly alters the need for dependent care;
- (8) A change in dependent care provider;
- (9) A change in dependent care provider cost (does not apply to relatives); or
- (10) No longer use dependent care services.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-240, filed 10/22/01, effective 11/22/01.]

WAC 415-600-250 How much may I set aside in my dependent care account each plan year? (1) The maximum amount that you may set aside during a plan year is:

- (a) Two thousand five hundred dollars, if you are married and filing separately; or
- (b) Five thousand dollars, otherwise. However, the total set aside by you and your spouse may not exceed five thousand dollars.
- (2) If you are not married, the amount set aside may not exceed your earned income.
- (3) If you are married, the amount set aside may not exceed the lesser of your earned income or your spouse's earned income.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-250, filed 10/22/01, effective 11/22/01.]

WAC 415-600-260 What is "earned income" for purposes of DCAP? (1) Except as set forth in subsection (2) of this section, earned income for DCAP purposes includes wages, salaries, tips and other employee compensation, plus the amount of the taxpayer's net earnings from self-employment for the taxable year.

(2) If your spouse is either a full-time student or physically or mentally incapable of self-care, your spouse's earned income is deemed to be:

- (a) Two hundred dollars per month, if you have one qualifying person for whom care is provided; or
- (b) Four hundred dollars per month, if you have two or more qualifying persons for whom care is provided.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-260, filed 10/22/01, effective 11/22/01.]

WAC 415-600-270 May DRS limit the maximum salary reduction for highly compensated employees? (1) DRS may decrease the salary reduction amount of certain participants to the extent necessary to ensure that the program does not discriminate in favor of "highly compensated employees." "Highly compensated employees" are determined by the nondiscrimination test in Internal Revenue Code sections 125 and 129 and any other applicable provisions of law.

(2) The amounts set aside by highly compensated employees who are subject to the particular nondiscrimination requirement shall be decreased pro rata.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-270, filed 10/22/01, effective 11/22/01.]

WAC 415-600-280 How will DRS process my salary reduction? The salary reduction will be taken in equal amounts for each pay period during that portion of the plan year in which you participate.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-280, filed 10/22/01, effective 11/22/01.]

WAC 415-600-290 When does my participation in DCAP terminate? (1) Your participation in DCAP terminates on:

- (a) December 31 of the plan year, unless you reenroll during the open-enrollment period;
- (b) The date you refuse a request for updated information, as set forth in subsection (2) of this section;
- (c) The date the program is terminated by state or federal action; or
- (d) The date you revoke your salary reduction agreement under WAC 415-600-230.

(2) You shall be deemed to have refused a request for updated information thirty days after a letter requesting such information is mailed to you by certified mail, return receipt requested. The letter must notify you of the consequences of a failure to provide such information.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-290, filed 10/22/01, effective 11/22/01.]

WAC 415-600-310 Do my expenses qualify for DCAP reimbursement? (1) You may be reimbursed for dependent care expenses for the well-being and protection of a qualifying person, provided that the expenses are incurred to enable you and your spouse to be gainfully employed.

(a) Only expenses incurred on days you work may be reimbursed.

(b) If you are married, only expenses incurred on days you and your spouse both work may be reimbursed, provided that:

- (i) If your spouse is a full-time student, expenses incurred on days you work and your spouse attends school may be reimbursed.
- (ii) If your spouse is physically or mentally incapable of self-care, expenses incurred on days you work may be reimbursed.

(2) You may be reimbursed only for expenses incurred during the plan year for which you are enrolled. If you enroll

after January 1 of the plan year, you may be reimbursed only for expenses incurred from the date DRS approves your salary reduction agreement.

(3) Only the cost of care may be reimbursed. The following expenses may be reimbursed, subject to the limitations stated in subsection (4) of this section.

(a) Expenses for care of a qualifying person in the participant's home, including feeding, administration of medicine, general supervision, and incidental household services; and

(b) Expenses for care of the following qualifying persons outside the participant's home:

(i) A dependent of the participant, age twelve or younger, with respect to whom the participant is entitled to a federal tax deduction.

(ii) Any other qualifying person who regularly spends eight hours or more per day in the participant's home.

(4) The following limitations apply to the reimbursement of expenses:

(a) Expenses for food, clothing, and entertainment are reimbursable ONLY IF these expenses cannot be separated from the cost of care.

(b) Expenses for care in a dependent care center (as defined in Internal Revenue Code (IRC) Section 21(b)) are reimbursable ONLY IF the facility complies with all federal, state, and local laws and regulations.

(c) Expenses for schooling are reimbursable ONLY IF:

(i) The schooling is at a prekindergarten level; and

(ii) The expenses cannot reasonably be separated from the cost of care.

(d) Payments to a person for whom you or your spouse may claim a dependency exemption for federal income tax purposes are not reimbursable.

(e) Payments to a nondependent child, as defined in IRC Section 151 (c)(3), are not reimbursable unless the child will be age nineteen or older by December 31 of the plan year.

(f) Summer camp expenses, when the child stays overnight, are not reimbursable.

(g) Amounts paid by an employer of your spouse or by an educational institution where your spouse is enrolled as a student are not reimbursable.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-310, filed 10/22/01, effective 11/22/01.]

WAC 415-600-410 How do I request reimbursement for DCAP expenses? (1) You must use the DRS reimbursement claim forms to submit claims for dependent care expenses.

(2) DRS will mail a supply of reimbursement claim forms to you upon confirmation of your enrollment. You can obtain additional forms by phone or on the DRS website, at <http://www.wa.gov/drs/forms/>.

(3) You may submit reimbursement claim forms as often as you wish.

(4) The reimbursement claim form must be completed, signed, and accompanied by bills, invoices, receipts, or a statement signed by the provider. The department cannot accept canceled checks or credit card statements as verification. All documentation must show the amounts of dependent care expenses and periods of service for which you seek reimbursement.

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(5) DRS must receive claims for expenses incurred during a given plan year on or before March 31 of the following year.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-410, filed 10/22/01, effective 11/22/01.]

WAC 415-600-420 How does DRS process DCAP reimbursement claims? (1) DRS reviews DCAP claims each week during the plan year.

(2) If funds are available in your dependent care account at the time the claim is reviewed, DRS will reimburse your claim.

(3) If funds are not available at the time your claim is reviewed, DRS will reimburse your claim when money becomes available in your dependent care account. You do not need to resubmit your claim.

(4) You will not be reimbursed for claims that exceed the amount that you set aside for the plan year. You may not resubmit these claims in subsequent plan years.

(5) Unpaid expenses are never your employer's responsibility.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-420, filed 10/22/01, effective 11/22/01.]

WAC 415-600-430 How will I know how much money is available in my dependent care account? (1) DRS will send you a quarterly statement showing your account activities and balance for the quarter.

(2) Shortly after March 31 following the close of a plan year, DRS will send you a written statement showing the reductions from salary and amounts reimbursed through the end of the plan year.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-430, filed 10/22/01, effective 11/22/01.]

WAC 415-600-440 What happens to the balance of my DCAP account at the end of the plan year? If funds remain in your dependent care account after all timely claims for the plan year have been reimbursed, you will forfeit these funds. Unused funds cannot be carried forward to your dependent care account for the subsequent plan year.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-440, filed 10/22/01, effective 11/22/01.]

WAC 415-600-450 What happens to the money in my dependent care account if I terminate employment? You may be reimbursed for dependent care expenses incurred during the remainder of the plan year to the extent you have money in your dependent care account. In the event of death, your personal representative may submit claims on your behalf.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-450, filed 10/22/01, effective 11/22/01.]

WAC 415-600-510 DCAP administration. (1) **Administered by department:** The department of retirement systems (DRS) shall administer DCAP.

(2) **Delegation of authority:** DRS may delegate functions to be performed under this program to any designee with legal authority to perform such functions.

(3) **Reliance upon documents:** DRS and the employer may rely upon any document believed by them to be valid.

(4) **Reliance on information:** In administering the program, DRS may rely conclusively on all tables, valuations, certificates, opinions, and reports which are provided by its accountants, counsel, and other professionals.

(5) **Binding nature of decisions:** The DCAP program administrator is authorized to decide any matters concerning your rights under DCAP. Such decision shall be binding. If you disagree with the decision, you may write to the DRS director for consideration.

(6) **Program amendments:** DRS may amend DCAP at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement.

(7) **Communication:** DRS will provide reasonable notification of the availability and terms of the program to eligible employees.

(8) **Program document:** The DCAP program document consists of chapter 415-600 WAC and RCW 41.04.600 through 41.04.645.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-510, filed 10/22/01, effective 11/22/01.]

WAC 415-600-520 What are the limits on my rights under DCAP? (1) You have no claim to any asset of your employer, except as expressly provided by DCAP.

(2) The establishment of any administrative practice shall not vest you with any right not expressly provided by DCAP.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-520, filed 10/22/01, effective 11/22/01.]

WAC 415-600-610 Can my rights be assigned or attached? Your right to receive any reimbursement cannot be assigned or attached.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-610, filed 10/22/01, effective 11/22/01.]

WAC 415-600-620 Who is responsible for determining my tax liability? You are solely responsible for determining your tax liability under DCAP.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-620, filed 10/22/01, effective 11/22/01.]

WAC 415-600-630 What if I receive more reimbursement than I should? If you receive money from DCAP that is not eligible for reimbursement of dependent care expenses as defined in WAC 415-600-110(2), you must indemnify the employer as follows. You shall pay the employer the amount of federal income tax and Social Security tax that the employer would otherwise have withheld and paid on the money as regular compensation.

[Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-630, filed 10/22/01, effective 11/22/01.]

Chapter 415-610 WAC DEPENDENT CARE ASSISTANCE SALARY REDUCTION PLAN

WAC

415-610-010 through 415-610-030 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-610-010	Plan established. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-610-015	Separate plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-015, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-610-020	Interpretation. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-610-030	General description of plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-610-010 through 415-610-030 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-620 WAC DEFINITIONS

WAC

415-620-010 through 415-620-055 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-620-010	Department. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-620-015	Dependent care account. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-015, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-620-020	Dependent care expenses. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-620-025	Eligible employee. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-025, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
415-620-030	Employer. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

- 415-620-035 Internal Revenue Code. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-035, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-040 Participant. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-040, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-045 Plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-045, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-050 Plan year. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-050, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-055 Qualifying person(s). [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-055, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-620-010 through 415-620-055 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-630 WAC PARTICIPATION

WAC

415-630-010 through 415-630-030 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-630-010 Participation in plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-630-020 Salary reduction agreement. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-630-025 May I change or revoke the terms of my salary reduction agreement (SRA) during the plan year? [Statutory Authority: RCW 41.50.050(5), 41.04.600-41.04.645, U.S.C. 125, 26 C.F.R. Part 1 (Tax Treatment of Cafeteria Plans). 01-11-053, § 415-630-025, filed 5/10/01, effective 5/15/01.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-630-030 What constitutes a qualifying change in status? [Statutory Authority: RCW 41.50.050(5), 41.04.600-41.04.645, U.S.C. 125, 26 C.F.R. Part 1 (Tax Treatment of Cafeteria Plans). 01-11-053, § 415-630-030, filed 5/10/01, effective 5/15/01. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-630-010 through 415-630-030 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-640 WAC BENEFITS

WAC

415-640-010 through 415-640-030 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-640-010 Plan benefits. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-640-020 Maximum benefits. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-640-030 Reduction of benefits. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-640-010 through 415-640-030 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-650 WAC REIMBURSEMENT OF DEPENDENT CARE EXPENSES

WAC

415-650-010 through 415-650-050 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-650-010 Submittal of claims. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-020 Payment of claims. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-030 Report to participant. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-040 Deadline for submitting claims. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-040, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-050 Forfeiture of unexpended funds. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-050, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-650-010 through 415-650-050 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-660 WAC SOURCE OF REIMBURSEMENT

WAC
415-660-010 through 415-660-020 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-660-010 Salary reduction account. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-660-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-660-020 Rights of participants. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-660-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-660-010 through 415-660-020 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-670 WAC TERMINATION OF PARTICIPATION

WAC
415-670-010 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-670-010 Termination of participation. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-670-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-670-010 Repealed. See Disposition Table at beginning of this chapter.

Chapter 415-680 WAC ADMINISTRATION

WAC
415-680-010 through 415-680-070 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-680-010 Administered by department. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-680-020 Delegation of authority. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-680-030 Proper proof. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-680-040 Genuineness of documents. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-040, filed 7/29/96, effective 7/29/96.] Repealed by 01-

415-680-050

415-680-060

415-680-070

21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

Reliance on information. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-050, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

Condition of participation. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-060, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

Decision binding. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-070, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-680-010 through 415-680-070 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 415-690 WAC TERMINATION OR AMENDMENT OF PLAN

WAC
415-690-010 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-690-010 Termination or amendment of plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-690-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-690-010 Repealed. See Disposition Table at beginning of this chapter.

Chapter 415-695 WAC MISCELLANEOUS

WAC
415-695-010 through 415-695-040 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-695-010 Communication to employees. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-010, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-695-020 Nonassignability of rights. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-020, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-695-030 No guarantee of tax consequences. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-030, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

415-695-040 Indemnification of employer by participants. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-040, filed 7/29/96, effective 7/29/96.] Repealed by 01-21-091, filed 10/22/01, effective

11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

WAC 415-695-010 through 415-695-040 Repealed.
See Disposition Table at beginning of this chapter.

Title 417 WAC REDISTRICTING COMMISSION

Chapters

417-01	Administrative procedures.
417-02	Public records.
417-06	Third party submissions.

Chapter 417-01 WAC ADMINISTRATIVE PROCEDURES

WAC

417-01-105	Description of organization.
417-01-110	Commission responsibilities and duties.
417-01-115	Authority.
417-01-125	Offices.
417-01-127	Communications, inquiries and requests.
417-01-130	Officers.
417-01-135	Staff.
417-01-145	Political activities.
417-01-150	Meetings.
417-01-155	Conduct of commission business.

WAC 417-01-105 Description of organization. The Washington state redistricting commission is a five member commission appointed each year ending in one to accomplish legislative and congressional redistricting in accordance with article 2, section 43 of the state constitution and chapter 44.05 RCW. The membership consists of four voting members appointed by the leaders of the two largest political caucuses in the senate and house of representatives. The commission chair is selected by the voting members.

[Statutory Authority: RCW 44.05.080(1). 01-13-123, § 417-01-105, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-01-105, filed 9/19/91, effective 10/20/91.]

WAC 417-01-110 Commission responsibilities and duties. Pursuant to article 2, section 43 of the state constitution and chapter 44.05 RCW, the commission's duties are:

(1) To accomplish state legislative and congressional redistricting;

(2) To act as the legislature's recipient of the final redistricting data and maps from the United States Bureau of the Census;

(3) To disclose and preserve public records as specified in chapters 42.17 and 40.14 RCW;

(4) To hold open public meetings pursuant to the Open Public Meetings Act, RCW 42.30;

(5) To prepare and disclose its minutes pursuant to RCW 42.32.030;

(6) To prepare and adopt agency rules pursuant to the Administrative Procedure Act, chapter 34.05 RCW;

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(7) To prepare and publish a report with a redistricting plan as provided in RCW 44.05.080(7);

(8) To distribute census data to counties for local redistricting as required by chapter 29.70 RCW.

[Statutory Authority: RCW 44.05.080(1). 01-13-123, § 417-01-110, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-01-110, filed 9/19/91, effective 10/20/91.]

WAC 417-01-115 Authority. These rules are adopted pursuant to the requirements of RCW 44.05.080(1) and the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 44.05.080(1). 01-13-123, § 417-01-115, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-01-115, filed 9/19/91, effective 10/20/91.]

WAC 417-01-125 Offices. (1) The commission office is located at 505 East Union Avenue, Suite 350, Olympia, Washington. The mailing address is: Washington State Redistricting Commission, P.O. Box 40948, Olympia, WA, 98504-0948. Telephone number: (360) 586-9000. Facsimile number: (360) 586-8995. Internet address: www.redistricting.wa.gov. Electronic mail address: contact@redistricting.wa.gov. Office hours for the commission shall be from 8 a.m. to 5 p.m. on all normal business days. Office hours for inspection and copying of public records shall be as provided in chapter two hereof.

(2) The commission address and contact information shall remain in effect for the duration of the 2001-2002 commission. Inquiries after that date shall be directed to the secretary of state.

[Statutory Authority: RCW 44.05.080(1). 01-13-123, § 417-01-125, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-01-125, filed 9/19/91, effective 10/20/91.]

WAC 417-01-127 Communications, inquiries and requests. Communications, inquiries and requests to the commission and staff concerning commission rules, meetings, or other matters may be made in person, by letter, by telephone, by telefax or by electronic means to the offices listed in WAC 417-01-125(1). Requests for public records must be made in writing.

[Statutory Authority: RCW 44.05.080(1). 01-13-123, § 417-01-127, filed 6/20/01, effective 7/9/01.]

WAC 417-01-130 Officers. (1) There shall be an executive director of the commission who shall be responsible to the commission for the overall administration of the commission and its business, and who shall have such other duties and responsibilities as the commission may from time to time decide.

(2) The executive director shall report to the chair.

[Statutory Authority: RCW 44.05.080(1). 01-13-123, § 417-01-130, filed 6/20/01, effective 7/9/01; 91-20-006, § 417-01-130, filed 9/19/91, effective 10/20/91.]

WAC 417-01-135 Staff. The executive director, with the approval of the chair, shall appoint such assistants and employees as may be appropriate and necessary to the functions of the commission, and shall supervise the assistants and employees.