Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM

WAC

415-104-005 Purpose.
415-104-011 Definitions.
415-104-015 Scope.
415-104-025 Public records.
415-104-035 Jurisdiction of director.
415-104-045 Appeal of a local disability board decision.
415-104-050 Review of disability board action—Appeal of director's decision.
415-104-060 Records reviewed on appeals filed under RCW 41.26.200.
415-104-070 Parties to a de novo hearing.
415-104-080 The department can require an examination.
415-104-090 Notice of appeal to the superior court.

GENERAL ADMINISTRATION

415-104-100 Certification of record.
415-104-108 Actuarial factors and schedules.
415-104-111 How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement?
415-104-112 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.

CESSATION OF DISABILITY

415-104-115 Purpose and scope.
415-104-125 DRS review of disability board order.
415-104-135 Notice for hearing.
415-104-145 Department examination.
415-104-155 Burden of proof.
415-104-165 Payment of benefits pending final determination.
415-104-175 Comparison of disability retirement allowance and service retirement allowance.

BENEFIT OPTIONS

415-104-202 Survivor benefit options—LEOFF Plan 1.
415-104-211 Married LEOFF Plan 2 member's benefit selection—Spousal consent required.
415-104-215 What are my retirement benefit options—LEOFF Plan 2?

MEMBERSHIP

415-104-224 Purpose and scope of eligibility rules.
415-104-225 Am I a LEOFF member?
415-104-235 Can I terminate my status as a LEOFF member?
415-104-245 Am I required to meet minimum medical and health standards in order to establish or reestablish Plan 1 membership?

BASIC SALARY

415-104-298 Purpose and scope of basic salary rules.
415-104-299 Basic salary table.
415-104-301 What is basic salary?

LEOFF PLAN 1

415-104-305 Definitions.
415-104-311 How is basic salary for LEOFF Plan I determined?
415-104-3200 Basic monthly rate is LEOFF Plan I basic salary.
415-104-3201 Deferred payments.
415-104-3202 Retroactive basic salary increases attached to a position are LEOFF Plan 1 basic salary.
415-104-3203 Paid leave is LEOFF Plan I basic salary.
415-104-3204 Shift differential is LEOFF Plan I basic salary.
415-104-3205 Additional duty pay is LEOFF Plan I basic salary.
415-104-330 What are special salary or wages?
415-104-3301 Educational premium payments are not LEOFF Plan I basic salary.
415-104-3302 Performance bonuses are not LEOFF Plan I basic salary.
415-104-3303 Cafeteria plans are not LEOFF Plan I basic salary.
415-104-3304 Leave cash outs or other severance pay are not LEOFF Plan I basic salary.
415-104-3305 Overtime is not LEOFF Plan I basic salary.
415-104-3306 Deferred wages that are not attached to a position are not LEOFF Plan I basic salary.
415-104-340 Disability payments are not LEOFF Plan I basic salary.
415-104-3401 Employer taxes and contributions are not LEOFF Plan I basic salary.
415-104-3402 Fringe benefits are not LEOFF Plan 1 basic salary.
415-104-3403 Illegal payments are not LEOFF Plan I basic salary.
415-104-3404 Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan I basic salary.
415-104-3405 Standby pay is not LEOFF Plan I basic salary.
415-104-3406 Retirement or termination bonuses are not LEOFF Plan I basic salary.
415-104-350 Payments in lieu.

LEOFF PLAN 2

415-104-360 How is basic salary for LEOFF Plan II determined?
415-104-363 Deferred wages.
415-104-365 Retroactive basic salary increases are LEOFF Plan II basic salary.
415-104-367 Cafeteria plans.
415-104-370 Overtime is LEOFF Plan II basic salary.
415-104-373 Paid leave is LEOFF Plan II basic salary.
415-104-374 LEOFF Plan 2 part-time leave of absence.
415-104-375 Salary or wages not attached to a position are LEOFF Plan II basic salary.
415-104-377 Performance bonuses are LEOFF Plan II basic salary.
415-104-379 Shift differential is LEOFF Plan II basic salary.
415-104-380 Disability payments.
415-104-383 Employer taxes and contributions are not LEOFF Plan II basic salary.
415-104-385 Fringe benefits are not LEOFF Plan 2 basic salary.
415-104-387 Illegal payments are not LEOFF Plan II basic salary.
415-104-390 Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan II basic salary.
415-104-393 Standby pay is not LEOFF Plan II basic salary.
415-104-395 Termination or retirement bonuses are not LEOFF Plan II basic salary.
415-104-397 Statutorily excluded payments are not LEOFF Plan II basic salary.
415-104-401 Cash outs of accrued leave or other forms of severance pay are not LEOFF Plan II basic salary.
415-104-405 Payments in lieu.
415-104-450 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?
415-104-455 Are my spouse and dependent children eligible to have their health care insurance premiums paid for?
415-104-475 How does a firefighter who provides emergency medical services transfer PERS service credit to LEOFF Plan 2?
415-104-480 LEOFF Plan 2 duty disability benefits.
415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance?
415-104-485 LEOFF nonduty disability benefits.

MINIMUM MEDICAL AND HEALTH STANDARDS

415-104-500 Purpose.
415-104-510 Minimum standards for membership—Physical examination.
415-104-520 Abdomen and gastrointestinal system.
415-104-530 Blood and blood-forming tissue diseases.
415-104-540 Dental.
415-104-550 Ears.
415-104-555 Hearing.
415-104-560 Table 1—Table of acceptable audiometric hearing level.
415-104-570 Endocrine and metabolic disorders.
415-104-580 Upper extremities.
415-104-584 Lower extremities.
415-104-588 Miscellaneous extremities.

415-104-590 Eyes.
415-104-595 Vision.
415-104-600 Genitalia.
415-104-605 Urinary system.
415-104-610 Head.
415-104-615 Neck.
415-104-620 Heart.
415-104-624 Vascular system.
415-104-628 Heart and vascular system—Miscellaneous.
415-104-630 Height.
415-104-634 Weight.
415-104-638 Body build.
415-104-640 Lungs and chest wall—General.
415-104-644 Lungs and chest—Tuberculous lesions.
415-104-648 Lungs and chest—Nontuberculous lesions.
415-104-650 Table 2—Table of weight.
415-104-660 Mouth.
415-104-663 Nose and sinuses.
415-104-666 Pharynx, trachea, esophagus, and larynx.
415-104-668 Miscellaneous mouth, throat, and nose diseases.
415-104-670 Neurological disorders.
415-104-680 Psychoses.
415-104-684 Psychoneuroses.
415-104-688 Personality disorders.
415-104-690 Skin and cellular tissues.
415-104-700 Spine and sacroiliac joints.
415-104-705 Scapulae, clavicles, and ribs.
415-104-710 Systemic diseases.
415-104-715 Miscellaneous conditions and defects.
415-104-720 Tumors.
415-104-725 Malignant diseases and tumors.
415-104-730 Venereal diseases.
415-104-740 Mental examination.
415-104-745 Mental examination—Requirement.
415-104-750 Mental examination—Procedure.
415-104-755 Mental examination—Retention by employing department.

ELECTED OFFICIALS

415-104-782 Option to preserve LEOFF I retirement rights.
415-104-783 Verification of eligibility for preservation of LEOFF Plan I membership.
415-104-784 Member contributions for LEOFF Plan I elected officials.
415-104-785 Employer contributions for LEOFF Plan I elected officials.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-104-010 Definitions. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-010, filed 2/15/78. Formerly WAC 297-15-010.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-0111 Commissioned—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0111, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0112 Director of public safety—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0112, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0113 Elective employer—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0113, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0114 Full time—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0114, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0115 Fully compensated—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0115, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0117 LEOFF employer—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0117, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0118 LEOFF Plan I elected official—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0118, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0120 Public safety officer—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0120, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0121 Plan I and Plan II—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0121, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0122 LEOFF—Definition. [Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-0122, filed 7/25/95, effective 8/25/95.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-0125 Uniformed firefighter position—Definition. [Statutory Authority: RCW 41.50.050. WSR 96-04-003, § 415-104-0125, filed 1/24/96, effective 2/24/96.] Repealed by WSR 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.

415-104-020 Public records. [Statutory Authority: RCW 41.50.050 (6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-020, filed 2/15/78.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-030 Deductions from pension payments for insurance purposes. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-030, filed 2/15/78. Formerly WAC 297-60-010.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-105 Election of LEOFF member to LEOFF retirement board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-105, filed 2/15/78. Formerly WAC 297-10-010.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-110 Administration. [Statutory Authority: RCW 41.50.050 (6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-110, filed 2/15/78.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-120 Function. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-120, filed 2/15/78.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050 (5) and 41.50.090.

415-104-140 Location. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-140, filed 2/15/78. Formerly WAC 297-25-100.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-150 Meetings. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-150, filed 2/15/78. Formerly WAC 297-25-020.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-160 Office of the chairman. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-160, filed 2/15/78. Formerly WAC 297-25-030.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-170 Business hours. [Statutory Authority: RCW 41.50.050 (6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-170, filed 2/15/78. Formerly WAC 297-25-030.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-180 Correspondence. [Statutory Authority: RCW 41.50.050 (6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-180, filed 2/15/78. Formerly WAC 297-25-040.]

Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-190 Identification. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-190, filed 2/15/78. Formerly WAC 297-25-050.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-200 Decision and order of the local disability board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-200, filed 2/15/78. Formerly WAC 297-30-010.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

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

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

415-104-210 Processing applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-210, filed 2/15/78. Formerly WAC 297-30-020.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-220 Recording. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-220, filed 2/15/78. Formerly WAC 297-30-030.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-230 Legal examination of application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-230, filed 2/15/78. Formerly WAC 297-30-040.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-240 Recommendation and conclusion. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-240, filed 2/15/78. Formerly WAC 297-30-050.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-250 LEOFF retirement board decision on application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-250, filed 2/15/78. Formerly WAC 297-30-060.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-260 Notification of member. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-260, filed 2/15/78. Formerly WAC 297-30-070.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-270 Miscellaneous applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-270, filed 2/15/78. Formerly WAC 297-30-080.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-300 Disability retirement applications—Appeals. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-300, filed 2/15/78. Formerly WAC 297-35-010.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-310 Grievances. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-310, filed 2/15/78. Formerly WAC 297-35-020.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-320 Rules on appeals. [Statutory Authority: RCW 41.50.050 (6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-320, filed 2/15/78. Formerly WAC 297-35-030.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-400 Notice of appeal to the superior court. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-400, filed 2/15/78. Formerly WAC 297-45-010.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-410 Certification of record. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-410, filed 2/15/78. Formerly WAC 297-45-020.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-800 Continued LEOFF membership for members in state elective positions. [Statutory Authority: RCW 41.50.050(6). WSR 81-07-017 (Order 81-2), § 415-104-800, filed 3/10/81.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-810 Contributions and service credit for members in state elective positions. [Statutory Authority: RCW 41.50.-050(6). WSR 81-07-017 (Order 81-2), § 415-104-810, filed 3/10/81.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050 (5) and 41.50.090.

415-104-820 Members in state elective positions—Entitlement to benefits. [Statutory Authority: RCW 41.50.050(6). WSR 81-07-017 (Order 81-2), § 415-104-820, filed 3/10/81.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

415-104-830 Operation if in conflict with state law. [Statutory Authority: RCW 41.50.050(6). WSR 81-07-017 (Order 81-2), § 415-104-830, filed 3/10/81.] Repealed by WSR 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

WAC 415-104-005 Purpose. These rules are adopted to implement administration of chapter 41.26 RCW by the director of the department of retirement systems pursuant to RCW 41.26.051.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 87-07-016 (Order 87-4), § 415-104-005, filed 3/11/87.]

WAC 415-104-011 Definitions. All definitions in RCW 41.26.030 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

(1) **Commissioned** means that an employee is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington.

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

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a director of public safety.

(3) **Elective employer** means the employer of the LEOFF Plan 1 elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

(4) **Full-time employee** means an employee who is normally expected to earn basic salary from an employer for a minimum of one hundred sixty hours in a calendar month.

(5) **Fully compensated employee** means an employee who is normally expected to earn a basic monthly salary no

less than one hundred sixty times the state minimum hourly wage. Nominal sums including, but not limited to, stipends or ancillary benefits such as insurance or leave accrual, provided to volunteer firefighters are not compensation for the purpose of determining whether a firefighter is fully compensated.

(6) **LEOFF** means the law enforcement officers' and firefighters' retirement system established by chapter 41.26 RCW.

(7) **LEOFF employer** means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or firefighter.

(8) **LEOFF Plan 1 elected official** means a LEOFF Plan 1 member who is a civil service employee on leave of absence because he or she has been elected or appointed to an elective public office and who chooses to preserve retirement rights as an active LEOFF member under the procedure described in this chapter.

(9) **Plan 1 and Plan 2.**

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

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

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

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a public safety officer.

(11) **Uniformed firefighter position** means a position which may only be filled by uniformed personnel as that term is defined in RCW 41.56.030 (7)(e) as in effect on July 1, 1995. A position only qualifies as a uniformed firefighter position if the employer has identified it as such for all purposes. An employer may designate a position as uniformed regardless of whether the employer is covered by public employees' collective bargaining under chapter 41.56 RCW.

[Statutory Authority: RCW 41.50.050(5). WSR 16-08-007, § 415-104-011, filed 3/24/16, effective 4/24/16. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. WSR 02-18-046, § 415-104-011, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-011, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050(5) and 41.04.120. WSR 93-11-078, § 415-104-011, filed 5/18/93, effective 6/18/93.]

WAC 415-104-015 Scope. These rules shall govern the unique aspects of the administration of chapter 41.26 RCW, Law enforcement officers' and firefighters' retirement system (LEOFF).

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 87-07-016 (Order 87-4), § 415-104-015, filed 3/11/87.]

WAC 415-104-025 Public records. See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 87-07-016 (Order 87-4), § 415-104-025, filed 3/11/87.]

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

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

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

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

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

(1) Denies disability leave;

(2) Denies disability retirement; or

(3) Cancels a previously granted disability retirement.

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

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

WAC 415-104-050 Review of disability board action—Appeal of director's decision. Under RCW 41.26.-120(3) and 41.26.125(3), DRS must review a disability board's order to grant a disability retirement allowance. DRS must:

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

(2) Remand (send back) the case for further proceeding; or

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

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

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

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

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

(2) Remand (send back) the case for further proceeding; or

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

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

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

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

WAC 415-104-080 The department can require an examination. The department has discretion to require an applicant for disability retirement to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW 41.26.221. The cost of such examination is the responsibility of the department.

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

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

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

GENERAL ADMINISTRATION

WAC 415-104-100 Certification of record. The director or his/her designated representative shall promptly file with the clerk of the court a certified copy of the complete record of the hearing before the director which shall, upon being so filed, become the record in such case. Appeal shall lie from the judgment of the superior court to the court of appeals or the supreme court as in other cases.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 87-07-016 (Order 87-4), § 415-104-100, filed 3/11/87. Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-100, filed 2/15/78. Formerly WAC 297-20-010.]

WAC 415-104-108 Actuarial factors and schedules. See chapter 415-02 WAC starting with WAC 415-02-300 for information on how the department uses actuarial factors and schedules to calculate optional retirement allowances of members of the Washington state law enforcement officers' and firefighters' retirement system.

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-104-108, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. WSR 02-18-048, § 415-104-108, filed 8/28/02, effective 9/1/02. Statutory Authority: RCW 41.50.050. WSR 96-03-100, § 415-104-108, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050 and 41.26.060. WSR 91-19-063, § 415-104-108, filed 9/16/91, effective 10/17/91; WSR 91-02-019, § 415-104-108, filed 12/21/90, effective 1/21/91.]

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

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

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

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

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

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

(ii) Actuarially reduce your retirement allowance:

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

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

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

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

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

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

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

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

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

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

(a) You may decline membership in the PERS, PSERS, SERS, or TRS retirement system. Under this option, you will continue to receive your monthly LEOFF Plan 2 retirement allowance; or

(b) You may choose to become a member of the PERS, PSERS, SERS, or TRS retirement system. Under this option, your LEOFF Plan 2 retirement allowance will be suspended while you earn a retirement benefit in the other system. When you terminate employment in the PERS, PSERS, SERS, or TRS eligible position, you will resume receiving your LEOFF Plan 2 retirement allowance, along with a retroactive payment of your LEOFF Plan 2 retirement allowance for the time you were employed.

(i) Your **ongoing LEOFF Plan 2 retirement allowance** will include any cost of living adjustments (COLAs) that you would have received if your LEOFF allowance had not been suspended during the period of non-LEOFF employment.

(ii) Your **retroactive payment** will equal the sum of your suspended LEOFF Plan 2 retirement allowances, including COLAs, during the period of non-LEOFF employment. You may choose to receive your retroactive payment in either of the following forms:

(A) A lump sum; or

(B) An increase in your ongoing LEOFF Plan 2 retirement allowance on an actuarial basis. The amount of the increase is calculated by taking the lump sum amount and multiplying it by an actuarial factor that is determined by your age at the time your retirement allowance is resumed. See WAC 415-02-340 for more information on how the department uses actuarial factors to determine the equivalent value of a lump sum amount when compared with monthly payments.

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-104-111, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5) and 41.26.500. WSR 08-23-071, § 415-104-111, filed 11/18/08, effective 12/19/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. WSR 08-02-048, § 415-104-111, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and 41.26.500. WSR 06-03-096, § 415-104-111, filed 1/17/06, effective 2/17/06; WSR 05-12-043, § 415-104-111, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 41.26.-470, 2001 c 261. WSR 02-14-072, § 415-104-111, filed 6/28/02, effective 7/29/02. Statutory Authority: RCW 41.50.050. WSR 94-09-040, § 415-104-111, filed 4/19/94, effective 5/20/94.]

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

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

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

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

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

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

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

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

(d) Benefit overpayments and underpayments;

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

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

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

CESSATION OF DISABILITY

WAC 415-104-115 Purpose and scope. The purpose of WAC 415-104-125 through 415-104-175 is to implement the provisions of RCW 41.26.135 to be followed by the department of retirement systems. These rules apply only to disability retirees over age fifty who seek a determination that their disability has ceased.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 87-07-016 (Order 87-4), § 415-104-115, filed 3/11/87.]

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

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

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

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

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

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

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

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

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

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

WAC 415-104-145 Department examination. The director or his representative, in his/her discretion, may require a disability retiree to undergo a mental and/or physi-

cal examination prior to the hearing to be held pursuant to RCW 41.26.221. The cost of such examination is the responsibility of the department.

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

WAC 415-104-155 Burden of proof. The retiree has the burden of proof in the proceedings before the disability board and the director.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. WSR 87-07-016 (Order 87-4), § 415-104-155, filed 3/11/87.]

WAC 415-104-165 Payment of benefits pending final determination. The department will continue to pay monthly benefits when a disability board determines that a retiree's disability has ceased until there is a final determination from which no appeal is taken. The department will pay either the retiree's monthly service retirement allowance or monthly disability retirement allowance, whichever is less. Any retroactive adjustment required as the result of the final determination will be made after the appeal period has passed.

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

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

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

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

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

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

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

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

BENEFIT OPTIONS

WAC 415-104-202 Survivor benefit options—LEOFF Plan 1. (1) **To whom does this section apply?** This section applies to you if you are a retiree of LEOFF Plan 1.

(2) **What are flexible survivor benefit options?** RCW 41.26.164 allows a retiree to provide a survivor option for a spouse who is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161. The survivor option will provide a lifetime benefit for the spouse after the retiree's death.

(3) **How will my monthly retirement benefit be affected by selecting a flexible survivor option?** Your monthly retirement benefit will be actuarially reduced beginning the first month following the month in which the department receives the completed form.

(4) **What are the flexible survivor option choices?**

(a) **Joint and whole benefit option.** The department will pay you a reduced monthly retirement benefit throughout your lifetime. After your death, the department will pay your surviving spouse a monthly benefit equal to the gross monthly retirement benefit you were receiving.

(b) **Joint and one-half benefit option.** The department will pay you a reduced monthly retirement benefit throughout your lifetime. After your death, the department will pay your surviving spouse a monthly benefit equal to one-half of the gross monthly retirement benefit you were receiving.

(c) **Joint and two-thirds benefit option.** The department will pay you a reduced monthly retirement benefit throughout your lifetime. After your death, the department will pay your surviving spouse a monthly benefit equal to two-thirds (66.667%) of the gross monthly retirement benefit you were receiving.

(5) **Do I qualify to add a flexible survivor option?** You may select a flexible survivor option if:

(a) Your current spouse is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161;

(b) Some portion of your monthly retirement benefit is payable to you, after any reduction pursuant to a property division obligation under RCW 41.50.670; and

(c) You meet the deadline and application requirements in subsection (6) of this section.

(6) **How do I add a flexible survivor option?** You may select a flexible survivor option and name your current spouse as your survivor beneficiary, provided that:

(a) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of the marriage, or as otherwise authorized by law;

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

(c) You provide proof, satisfactory to the department, of your current spouse's birth date; and

(d) You file the properly completed forms with the department in a timely manner.

(7) **May I remove the flexible survivor option in the future?** Your choice of a flexible survivor option is irrevocable with the following exceptions:

(a) Your spouse dies before you; or

(b) You and your spouse divorce.

See subsection (8) of this section.

(8) **What happens if my spouse dies before me, or if we divorce?** If your spouse dies before you, or if you divorce, your monthly retirement benefit will increase, effective the first day of the following month. Your increased monthly benefit will be the amount you would have received had you not chosen a flexible survivor option plus any cost-of-living adjustments (COLA) you received prior to your spouse's death.

(9) **What happens to my eligible surviving children's share if I select a flexible survivor option?** There is ***no*** impact to the benefit provided under RCW 41.26.160 or 41.26.161 to surviving children if you select a flexible survivor option.

(10) **Actuarial information.** See chapter 415-02 WAC starting with WAC 415-02-300 for information on how the department uses actuarial factors and schedules to calculate retirement benefits.

Terms used in this section:

(a) Child or children - RCW 41.26.030(7).

(b) Eligible surviving child - RCW 41.26.160 and 41.26.161.

(c) Eligible surviving spouse - RCW 41.26.161 and 41.26.162.

(d) Surviving spouse - RCW 41.26.030(6).

[Statutory Authority: RCW 41.50.050(5). WSR 17-02-033, § 415-104-202, filed 12/28/16, effective 1/28/17; WSR 13-18-034, § 415-104-202, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5), 41.26.164. WSR 05-22-110, § 415-104-202, filed 11/2/05, effective 12/3/05. Statutory Authority: RCW 41.50.050(5), 41.26.162, 41.26.164, chapter 41.45 RCW. WSR 03-12-014, § 415-104-202, filed 5/27/03, effective 7/1/03.]

WAC 415-104-211 Married LEOFF Plan 2 member's benefit selection—Spousal consent required. (1) A LEOFF Plan 2 member, if married, must provide the spouse's written consent to the option selected under WAC 415-104-215. If a married LEOFF Plan 2 member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.26.460(2).

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

(3) "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application filed with the department constitutes spousal consent.

[Statutory Authority: RCW 41.50.050(5) and 41.26.460. WSR 03-12-014, § 415-104-211, filed 5/27/03, effective 7/1/03. Statutory Authority: RCW 41.50.050. WSR 99-16-075, § 415-104-211, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. WSR 96-01-047, § 415-104-211, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. WSR 91-03-014, § 415-104-211, filed 1/7/91, effective 2/7/91.]

WAC 415-104-215 What are my retirement benefit options—LEOFF Plan 2? If you retire for service under RCW 41.26.430 or nonduty disability under RCW 41.26.470, or if you choose to receive a monthly allowance for duty disability under RCW 41.26.470, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

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

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

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

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

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

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

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.26.460(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

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

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

(a) **Members who retire on or after January 1, 1996.** Your increased monthly allowance will be:

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

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

Example:

Agnes retires in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes's monthly allowance is reduced from $2,000 (standard allowance) to $1,750. Beatrice dies in January 2001. Agnes's monthly allowance will increase to $2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

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

Original Option One Monthly Allowance	+ Total COLAs	= New Monthly Allowance
$2000	+ $191.05	= $2,191.05*

* In the future, Agnes's COLA will be based on her increased monthly allowance.

(b) **Members who retired before January 1, 1996.** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.26.460(3).

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) For more information, see RCW 41.26.460.

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-104-215, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5), 41.26.460. WSR 05-23-062, § 415-104-215, filed 11/14/05, effective 12/15/05; WSR 03-12-014, § 415-104-215, filed 5/27/03, effective 7/1/03. 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. WSR 01-10-045, § 415-104-215, filed 4/26/01, effective 6/1/01. Statutory Authority: RCW 41.50.050. WSR 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. WSR 96-01-047, § 415-104-215, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. WSR 91-03-014, § 415-104-215, filed 1/7/91, effective 2/7/91.]

MEMBERSHIP

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

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

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

(1) **Law enforcement officers.**

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

(i) City police officer;

(ii) Town marshal or deputy marshal;

(iii) County sheriff;

(iv) Deputy sheriff, if you passed a civil service exam for deputy sheriff and you possess all of the powers, and may

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

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

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

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

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

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

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

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

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

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

(2) **Firefighters.**

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

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

(ii) You are a firefighter if you qualify as supervisory firefighter personnel.

(A) To qualify as "supervisory firefighter personnel" you must:

(I) Supervise firefighters or other supervisory firefighter personnel;

(II) Be in a position located within a firefighting department or organization whose primary or sole purpose is fire protection activities; and

(III) Direct fire protection activities.

(B) This includes first line supervisors of firefighters, who typically direct from the scene of a fire, up to and including positions that are administrative in nature when the primary duty is to provide executive leadership for fire protection activities, such as setting strategic priorities for the organization.

Example A: A City Administrator supervises various city departments including a fire department. The City Administrator supervises the Fire Chief, who is a firefighter, as well as other department heads. The City Administrator would not be considered supervisory firefighter personnel because, while the duties of the position include oversight of the fire department, it is not the primary duty of the position. Furthermore, the position is not located within a firefighting department or organization whose primary or sole purpose is fire protection activities.

Example B: A Fire Chief of a large fire department does not respond to fires, but instead works in an office setting providing direction and leadership, such as setting strategic priorities and approving hiring and firing, for the Fire Department. The Fire Chief supervises three battalion chiefs, a Human Resources Director, and a Chief Financial Officer. The Fire Chief is supervisory firefighter personnel because the position supervises firefighters, is located within an organization whose sole purpose is fire protection activities, and the primary purpose of the position is to provide executive leadership to fire protection activities.

Example C: An Administrator of an organization whose primary purpose is fire protection activities does not respond to fires, but instead works in an office setting providing direction and leadership, such as setting strategic priorities and approving hiring and firing, for the organization. The Administrator supervises two Battalion Chiefs, a Human Resources Director, and a Chief Financial Officer. The Administrator is supervisory firefighter personnel because the position supervises firefighters, is located within an organization whose primary purpose is fire protection activities, and the primary purpose of the position is to provide executive leadership to fire protection activities.

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

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

(v) You do not qualify for membership as a firefighter if you are a volunteer firefighter or resident volunteer firefighter.

(b) You are a firefighter if you are employed on a full-time, fully compensated basis by an employer as an emergency medical technician (EMT). To be an "emergency medical technician" you must:

(i) Be certified by the department of health to perform emergency medical services at the level of care of an EMT; and

(ii) Complete the requirements of your employer, if any, to perform the job duties of an EMT.

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

(a) "Commissioned" - WAC 415-104-011.

(b) "Director of public safety" - WAC 415-104-011.

(c) "Employer" - RCW 41.26.030.

(d) "Firefighter" - RCW 41.26.030.

(e) "Full time" - WAC 415-104-011.

(f) "Fully compensated" - WAC 415-104-011.

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

(h) "Member" - RCW 41.26.030.

(i) "Public safety officer" - WAC 415-104-011.

(j) "Uniformed firefighter position" - WAC 415-104-011.

[Statutory Authority: RCW 41.50.050(5). WSR 16-08-007, § 415-104-225, filed 3/24/16, effective 4/24/16. Statutory Authority: RCW 41.50.050(5) and 41.26.030. WSR 09-05-011, § 415-104-225, filed 2/6/09, effective 3/9/09. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. WSR 02-18-046, § 415-104-225, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. WSR 96-01-045, § 415-104-225, filed 12/14/95, effective 1/14/96; WSR 95-16-053, § 415-104-225, filed 7/25/95, effective 8/25/95.]

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

(a) Die;

(b) Separate from service; or

(c) Cease to be employed full time as a law enforcement officer or firefighter.

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

(a) "Firefighter" - RCW 41.26.030 and WAC 415-104-225(2).

(b) "Full-time employee" - WAC 415-104-011.

(c) "Law enforcement officer" - RCW 41.26.030 and WAC 415-104-225(1).

(d) "Member" - RCW 41.26.030.

(e) "Service" - RCW 41.26.030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. WSR 02-18-046, § 415-104-235, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-235, filed 7/25/95, effective 8/25/95.]

WAC 415-104-245 Am I required to meet minimum medical and health standards in order to establish or reestablish Plan 1 membership? (1) **You may be required to meet minimum medical and health standards in order to establish or reestablish Plan 1 membership.**

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

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

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

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

(3) **If you are required to meet the minimum medical and health standards, your employer will enroll you in Plan 1 provisionally, depending on the results of your physical examination.**

(a) If you are required to meet the minimum medical and health standards, your employer will begin reporting you in LEOFF Plan 1 from the first day of your employment. Your enrollment in Plan 1, however, is provisional depending upon the results of your medical examination.

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

(4) **If you are denied Plan 1 membership because you did not meet minimum medical and health standards, you will enter membership in Plan 2.**

(a) The department will review your examination report and if you meet the minimum medical and health standards you will be reported in membership in Plan 1.

(b) If you do not meet the standards, your employer must stop reporting you to the department in Plan 1 and report you in Plan 2. The department will transfer your membership from Plan 1 to Plan 2 retroactively to the beginning of your term of employment.

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

(a) "Employer" - RCW 41.26.030.

(b) "Firefighter" - RCW 41.26.030.

(c) "Full time" - WAC 415-104-011.

(d) "Fully compensated" - WAC 415-104-011.

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

(f) "Member" - RCW 41.26.030.

(g) "Minimum medical and health standards" - WAC 415-104-500 through 415-104-755.

(h) "Plan 1 and Plan 2" - WAC 415-104-011.

[Statutory Authority: RCW 41.50.050(5), 41.26.035, 41.26.045 - [41.26.]047. WSR 04-02-003, § 415-104-245, filed 12/24/03, effective 1/1/04. Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-104-245, filed 7/25/95, effective 8/25/95.]

BASIC SALARY

WAC 415-104-298 Purpose and scope of basic salary rules. WAC 415-104-299 through 415-104-405 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as basic salary in LEOFF Plan I and LEOFF Plan II. The department has applied and will apply these rules to determine the proper characterization of payments occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-298, filed 12/6/96, effective 1/6/97.]

WAC 415-104-299 Basic salary table. The following table will help you determine whether certain types of payments are basic salary under LEOFF Plan 1 or 2. Be sure to read the referenced rule to ensure that you have correctly identified the payment in question. The department determines basic salary based upon the nature of the payment, not the name applied to it. See WAC 415-104-311 (Plan 1) and WAC 415-104-360 (Plan 2).

Type of Payment	LEOFF 1 Basic Salary?	LEOFF 2 Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-3205	Yes - WAC 415-104-360

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

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. WSR 03-06-042, § 415-104-299, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050. WSR 99-16-075, § 415-104-299, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-299, filed 12/6/96, effective 1/6/97.]

WAC 415-104-301 What is basic salary? (1) **Basic salary is the compensation used to determine LEOFF contributions and LEOFF retirement allowances.** A payment from an employer to a member does not qualify as basic salary unless it meets the statutory definition of basic salary in RCW 41.26.030(13) which is explained in greater detail in WAC 415-104-311 through 415-104-405.

(2) **The definition of basic salary is different for Plan I and Plan II.** WAC 415-104-311 through 415-104-350 define basic salary for Plan I. WAC 415-104-360 through 415-104-405 define basic salary for Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-301, filed 12/6/96, effective 1/6/97.]

LEOFF PLAN 1

WAC 415-104-305 Definitions. As used in WAC 415-104-299 through 415-104-405:

(1) "Salary or wages" means payments for services rendered by a law enforcement officer or firefighter to an employer. Payments which are not for services rendered to an employer are not a salary or wage and do not qualify as basic salary.

(2) "Longevity pay" means a payment in addition to the basic monthly rate of pay that is:

(a) Based solely upon the length of employment with the employer; and

(b) Paid to all law enforcement officers or firefighters who have served for the same length of time with the employer.

(3) "Position" means the employment held at any particular time. The employment held is defined by the duties required of the employee as a condition of employment.

Example: An employer employs two police officers, one who has a high school diploma and one who has a college degree. Although both officers have the same duties, the employer designates the first officer as an "officer 1" and the second officer as an "officer 2." The distinction between the two levels is conditioned upon different levels of education. The second officer is paid at a higher rate. For purposes of determining basic salary, both officers occupy the same position

because both have the same duties. The difference in their two rates of pay is an education premium which does not qualify as basic salary, see WAC 415-104-3302.

(4) "Attached to a position" means a payment conditioned on specific duties required of the person holding the position.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-305, filed 12/6/96, effective 1/6/97.]

WAC 415-104-311 How is basic salary for LEOFF Plan I determined? (1) **A payment is LEOFF Plan I basic salary if it is part of the basic monthly rate of salary or wages attached to the position or longevity pay.** Special salary or wages are not part of the basic monthly rate and do not qualify as basic salary.

(2) **Basic salary is earned when the service is rendered, rather than when payment is made.**

Example: If a member works during July but does not receive payment for the work until August, the basic salary was earned during July and must be reported to the department as July earnings.

(3) **Salary characterizations are based upon the nature of the payment.** A payment is basic salary if it meets the criteria of subsection (1) of this section. The name given to the payment is not controlling in determining whether the payment is basic salary. The department determines whether a payment is basic salary by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of basic salary.

Example: A payment based upon educational attainment is not basic salary for LEOFF Plan I. Describing the payment as a "longevity" payment does not change the fact that the payment is for educational attainment. The payment will not be counted as basic salary despite being identified by the employer as a longevity payment.

(c) See the following sections for a discussion and examples of the following types of payments:

(i) "Salary or wages" - WAC 415-104-3200 through 415-104-3205;

(ii) "Special salary and wages" - WAC 415-104-330 through 415-104-3305;

(iii) "Payments excluded from basic salary because they are not a salary or wage" - WAC 415-104-340 through 415-104-3406.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-311, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3200 Basic monthly rate is LEOFF Plan I basic salary. The basic monthly rate of compensation paid by an employer to a member for services rendered is basic salary in Plan I. "Basic monthly rate" means the rate of salary or wages attached to a position excluding overtime or special salary or wages.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3200, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3201 Deferred payments. (1) **Deferred payments attached to a position are basic salary.** If an employee defers a portion of his or her basic monthly rate of pay it is still basic salary. Deferred payments may include, but are not limited to: Member contributions to LEOFF; salaries or wages deferred pursuant to sections 401(k), 403(b), 414(h), 457, or other similar sections of the United States Internal Revenue Code.

(2) **Deferred wages that are not attached to a position are special salary or wages excluded from LEOFF Plan I basic salary.**

(a) Employer matching payments are not basic salary. If a member acquires an additional payment that is conditioned upon taking some action in addition to providing services, the payment is based upon the additional action. It is not a salary or wage earned for services rendered. The payment is not basic salary.

Example: An employer offers to make a contribution to a deferred compensation plan only if the member elects to defer a portion of his or her salary. Because the member does not have an absolute right to receive the additional contribution for performing the duties required of his or her position, the payment is special salary or wages and is not basic salary.

(b) Additional deferred compensation offered to an individual is not basic salary. If an employer pays deferred compensation to a member in addition to the member's basic rate of pay, the payment is special salary or wages and does not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3201, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3202 Retroactive basic salary increases attached to a position are LEOFF Plan I basic salary. If a payment is part of the basic monthly rate of salary or wages attached to a position or is a longevity payment, it is basic salary even if the payment is retroactive. Payments upon reinstatement or in lieu of reinstatement are not considered retroactive basic salary increases. For treatment of those payments see WAC 415-104-3203(3).

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3202, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3203 Paid leave is LEOFF Plan I basic salary. Payments from an employer for authorized paid absences from work are basic salary.

(1) **Leave payments earned for services rendered:** Most LEOFF members earn a certain number of leave hours per month, such as sick leave. The leave hours are earned by rendering service during the month the leave was accumulated. The payment a member receives when he or she uses an earned leave day is a deferred salary or wage for services previously rendered. It is basic salary.

Example: Assume a member accrues eight hours sick leave per month. The accrued leave in the member's sick leave balance is earned for personal services rendered during a payroll period. When the member is absent from work and uses the sick leave, the sick leave payment is basic salary.

Leave payments earned for services rendered are basic salary only to the extent that they are equivalent to the basic salary a member would have earned had the member been working. The portion of any leave payment that exceeds that amount is not basic salary.

(2) **Leave payments not earned for services rendered:** If an employer authorizes a period of paid leave but does not require the use of leave previously earned for services rendered, the payment is not a salary or wage for services rendered. However, RCW 41.26.197 authorizes service credit for all periods of paid leave. Because the periods are creditable, the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working. The portion of a leave payment that exceeds that amount is not basic salary.

Example: An officer is placed on administrative leave with pay pending an investigation. Although the officer is not rendering services, the period is creditable as an authorized paid leave period under RCW 41.26.197.

(3) **Payments upon reinstatement or in lieu of reinstatement are paid leave and therefore qualify as basic salary.** The payment will count as basic salary for the payroll periods when the person would have earned the payment had he or she been working.

(a) In order for a payment in lieu of reinstatement to qualify as paid leave the person's termination date must occur after the payroll period(s) when the payment would have been earned.

(b) Payments under WAC 391-45-410 are basic salary for the period(s) covered by the reinstatement.

(c) Payments upon reinstatement or in lieu of reinstatement are basic salary only to the extent that they equal the basic salary a member would have earned had the member been working.

(4) **Union leave.** Periods of authorized leave to serve as an elected official of a labor organization which meet the requirements of RCW 41.26.197 qualify for service credit. The salary payments provided by the employer subject to reimbursement from the union qualify as basic salary for LEOFF Plan I to the extent that the payments do not exceed the basic salary for the highest paid job class covered by the collective bargaining agreement negotiated between the labor organization and the employer. The portion of any payment identified as paid leave in excess of that amount is not basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3203, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3204 Shift differential is LEOFF Plan I basic salary. Additional payments to a member for working swing shift or night shift are attached to the duties of the position, e.g., working a nonstandard shift. Those payments are basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3204, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3205 Additional duty pay is LEOFF Plan I basic salary. Salary or wages that a member receives for additional duty assignments are a part of the basic salary attached to the member's position. Those payments are basic salary for LEOFF Plan I.

Example: A police officer is assigned to the bomb squad and receives an additional monthly payment for the hazardous duty assignment. The additional payment is for duties required by the employer as part of the member's position. It is attached to the position and is basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3205, filed 12/6/96, effective 1/6/97.]

WAC 415-104-330 What are special salary or wages? (1) Special salary or wages for services rendered are payments that do not qualify as basic salary because the payment is based upon the attributes of the individual instead of being attached to the position. A payment is not attached to a position if it is not tied to specific duties required of all persons holding the position. Payments that are not attached to a position include but are not limited to the payments described in WAC 415-104-3302 and 415-104-3303.

(2) Longevity pay is not attached to a position because it is based upon the attributes of an individual. It is, however, specifically included as part of basic salary under RCW 41.26.030.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-330, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3301 Educational premium payments are not LEOFF Plan I basic salary. (1) If an employer provides additional salary based upon the member's level of education that payment is based upon the attributes of the individual and is not attached to the position. It is a special salary or wage and is not basic salary.

Example: An employer employs two different law enforcement officers in the position of sergeant. Although their duties are the same, one sergeant receives 3% more in salary than the other because she has a bachelor's degree which the other lacks. The additional 3% is not attached to the position because it is not attached to any additional duties. It is not basic salary for LEOFF Plan I.

(2) Payments conditioned upon acquiring and maintaining a designated certification such as emergency medical technician are a form of educational premium pay. The payment is based upon the attributes of the individual and is not attached to the position. It is a special salary or wage and is not basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3301, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3302 Performance bonuses are not LEOFF Plan I basic salary. Payments to a member for meeting or exceeding performance goals set by the employer are not attached to a position and are not basic salary.

Example: An employer offers an annual bonus to members who do not have an accident for a year. The bonus is not part of the basic monthly rate of salary and is not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3302, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3303 Cafeteria plans are not LEOFF Plan I basic salary. Compensation paid under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code which give the member an absolute right to receive cash in lieu of the fringe benefits offered is a special salary or wage. Such compensation is not basic salary. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not basic salary. See WAC 415-104-3402.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3303, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3304 Leave cash outs or other severance pay are not LEOFF Plan I basic salary. (1) A cash out for unused accrued leave is a deferred salary or wage for services previously rendered. A payment in lieu of an accrual of leave qualifies as a leave cash out. The payment is not basic salary in LEOFF Plan I because it is a special salary or wage in addition to the basic monthly rate of salary or wages.

(2) Any other form of severance payment based upon termination is special salary or wages and is not included as basic salary in LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3304, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3305 Overtime is not LEOFF Plan I basic salary. Overtime, which is additional pay earned for working time in excess of regularly scheduled shift(s), is specifically excluded from basic salary for LEOFF Plan I by RCW 41.26.030 (13)(a). Overtime includes, but is not limited to:

(1) **Additional pay for working on a holiday.** If a member receives an extra payment because he or she worked on a scheduled holiday, the payment is overtime. The employer may make the additional payment when the holiday occurs or in a lump sum at some other time. In either case, the payment is not basic salary for LEOFF Plan I;

Example: A firefighter works on Christmas day. In compensation for working a holiday, she is given the option of taking some other day off with pay or of receiving an extra day's pay in addition to her basic monthly rate of pay. If she opts for the extra day of pay, this payment is overtime and is not LEOFF Plan I basic salary. If she opts to take a day off, this is paid leave and qualifies as LEOFF Plan I basic salary.

(2) **Callback pay,** which is a special rate of pay some employers offer for being called back to work after the end of the member's regular shift;

(3) **Court pay,** which is an additional payment for appearing in court or performing other duties outside of a member's regularly scheduled shift.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3305, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3306 Deferred wages that are not attached to a position are not LEOFF Plan I basic salary. See WAC 415-104-3201.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3306, filed 12/6/96, effective 1/6/97.]

WAC 415-104-340 Disability payments are not LEOFF Plan I basic salary. (1) Payments from an employer during periods of disability leave for a duty disability (RCW 41.26.120) or a nonduty disability (RCW 41.26.125) are not a payment from the employer for services rendered. The payment is not basic salary for LEOFF Plan I.

(2) Any payment from a third party such as an insurance company for a period of excused absence from work because of an injury or other disability is not a payment from an employer for services rendered. The payment is not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-340, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3401 Employer taxes and contributions are not LEOFF Plan I basic salary. (1) Any employer payment of the employer or member portion of taxes imposed by the Federal Insurance Contribution Act (FICA) is not a salary or wage to a member and does not qualify as basic salary for LEOFF Plan I.

(2) Employer contributions to LEOFF are not a salary or wage and are not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3401, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3402 Fringe benefits are not LEOFF Plan 1 basic salary. Fringe benefits provided by an employer are not a salary or wage, and therefore do not qualify as basic salary for LEOFF Plan 1. Fringe benefits include but are not limited to:

(1) Employer retirement contributions;

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

(3) Any payments by the employer into a private fund to provide health or welfare benefits for members and/or their dependents.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. WSR 03-06-042, § 415-104-3402, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3402, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3403 Illegal payments are not LEOFF Plan I basic salary. If an employer makes a payment without legal authority, that payment does not qualify as basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3403, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3404 Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan I basic salary. (1) **Reimbursements.** If an employer reimburses a member for expenses incurred in providing services for the employer, the purpose of the payment is to pay the member back for out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and is not basic salary for LEOFF Plan I.

(2) **Allowances.** An allowance paid in lieu of a specific reimbursement for expenses a member is expected to incur in providing services for the employer is characterized the same as a specific reimbursement. The purpose of the payment is to reimburse the member for anticipated out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and does not qualify as basic salary for LEOFF Plan I.

Example: An employer provides an annual stipend for the purchase of a uniform or other clothing required for the performance of a member's duties. The payment is a reimbursement for expenses incurred or expected to be incurred and is not basic salary for LEOFF Plan I.

(3) **Payments based on additional certification or qualifications.** If a member receives payments based upon personal expenses incurred in maintaining a certification or qualification, the payment is reimbursement, not compensation. It is not a salary or wage and is not LEOFF Plan I basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3404, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3405 Standby pay is not LEOFF Plan I basic salary. Payments to a member for time not actually worked when the member must be available to work if the need arises, are not a salary or wage for services rendered. Any such payment does not qualify as basic salary for LEOFF Plan I.

Example: Some employers provide payments to a member at less than the member's regular hourly rate in exchange for the member being available to come into work after his or her shift if called, although the member may not be called. Such payments, often referred to as "standby pay," are not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3405, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3406 Retirement or termination bonuses are not LEOFF Plan I basic salary. (1) **Payments based on notification of intent to retire.** An additional payment based fully or partially on notification of a member's intent to terminate or retire is in consideration for the notification. The payment is not a salary or wage for services rendered and is not basic salary for LEOFF Plan I.

(2) **Payments based on retirement eligibility.** Payments based fully or partially on retirement eligibility are specific to the member and are not attached to the position. These payments are not LEOFF Plan I basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3406, filed 12/6/96, effective 1/6/97.]

WAC 415-104-350 Payments in lieu. A payment or any other transfer in lieu of an item that does not qualify as basic salary is not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-350, filed 12/6/96, effective 1/6/97.]

LEOFF PLAN 2

WAC 415-104-360 How is basic salary for LEOFF Plan II determined? (1) **What payments are included in LEOFF Plan II basic salary?** Other than the specific exclusions listed in WAC 415-104-397 and 415-104-401, a payment that is a salary or wage earned during a calendar month for personal services rendered by a member to an employer qualifies as LEOFF Plan II basic salary.

(a) Certain payments that are not for personal services rendered also qualify if there is a specific statutory provision identifying those payments as LEOFF Plan II basic salary. See WAC 415-104-373.

(b) Specific types of payments that qualify as LEOFF Plan II basic salary include, but are not limited to, the payments described in WAC 415-104-363(1) and 415-104-365 through 415-104-379.

(c) Other payments not specifically listed qualify as basic salary for LEOFF Plan II only if those payments are a salary or wage for services rendered.

(2) **Basic salary is earned when the service is rendered, rather than when payment is made.**

(3) **Salary characterizations are based upon the nature of the payment.** Whether a payment is basic salary depends upon whether the payment is earned as a salary or wage for services rendered. The name given to the payment is not controlling. The department determines whether a payment is basic salary by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-360, filed 12/6/96, effective 1/6/97.]

WAC 415-104-363 Deferred wages. (1) **If earned for services rendered, deferred wages are basic salary.** If a member earns salary or wages for services rendered during a payroll period but defers receipt of payment, those earnings

are basic salary for LEOFF Plan II. Deferred wages include, but are not limited to:

(a) Member contributions to LEOFF;

(b) Salaries or wages deferred pursuant to sections 401(k), 403(b), 414(h), 457, or other similar sections of the United States Internal Revenue Code.

(2) **Deferred wages that a member does not have an absolute right to in exchange for rendering service to an employer are not basic salary.** If an employer offers additional payment that is conditioned on taking some action in addition to providing services, the payment is based upon the additional action and is not earned for services rendered. The payment does not qualify as basic salary for LEOFF Plan II.

Example: An employer offers to make a contribution to a deferred compensation plan on a member's behalf only if the member elects to defer a portion of his or her salary. Because the member does not have an absolute right to receive the contribution based solely on rendering service, the payment is not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-363, filed 12/6/96, effective 1/6/97.]

WAC 415-104-365 Retroactive basic salary increases are LEOFF Plan II basic salary. A retroactive salary increase received for a pay period that a member worked is a salary or wage for services rendered and is basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-365, filed 12/6/96, effective 1/6/97.]

WAC 415-104-367 Cafeteria plans. Compensation received in any form under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code is basic salary for LEOFF Plan II if the member has an absolute right to receive cash or deferred payments in lieu of the fringe benefits offered. In such an instance, the fringe benefits are being provided in lieu of cash and are considered basic salary, just as the cash would be. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not basic salary for LEOFF Plan II. See WAC 415-104-385.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-367, filed 12/6/96, effective 1/6/97.]

WAC 415-104-370 Overtime is LEOFF Plan II basic salary. Overtime, additional pay earned for working time in excess of regularly scheduled shift(s), is a salary or wage for services rendered. Overtime payments are basic salary for LEOFF Plan II. Overtime includes, but is not limited to:

(1) **Additional pay for working on a holiday.** If a member receives an extra payment because he or she worked on a scheduled holiday, the payment is overtime. The employer may make the additional payment when the holiday occurs or in a lump sum at some other time. In either case, the payment is basic salary for LEOFF Plan II;

Example: A firefighter works on Christmas day. As compensation for working a holiday, she is given the option of taking some other day off with pay or of receiving an extra day's pay. If she opts for the extra day of pay, this payment is overtime and is LEOFF Plan II basic salary. If she opts to take a day off, this is paid leave and qualifies as LEOFF Plan II basic salary.

(2) **Callback pay,** which is a special rate of pay some employers provide members for being called back to work after the end of the member's regular shift;

(3) **Court pay,** which is an additional payment for appearing in court or performing other duties outside of a member's regularly scheduled shift.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-370, filed 12/6/96, effective 1/6/97.]

WAC 415-104-373 Paid leave is LEOFF Plan II basic salary. Payments received from an employer for authorized paid absences from work are basic salary for LEOFF Plan II. These payments may or may not be for services rendered. Paid leave is basic salary only to the extent that it is the equivalent of the basic salary a member would have earned had the member been working. The portion of any payment identified as paid leave that exceeds that amount is not basic salary.

(1) **Leave payments earned for services rendered.** Most LEOFF members earn a certain number of leave hours per month, such as sick leave. The leave hours are earned by rendering service during the month the leave was accumulated. The payment a member receives when he or she uses an earned leave day is a deferred salary or wage for services previously rendered. It is basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working.

Example: Assume a member accrues eight hours sick leave per month. The accrued leave in the member's sick leave balance is earned for personal services rendered during a payroll period. When the member is absent from work and uses the sick leave, the sick leave payment is basic salary.

(2) **Leave payments not earned for services rendered.** If an employer authorizes a period of paid leave but does not require the use of leave previously earned for services rendered, the payment is not a salary or wage for services rendered. However, RCW 41.26.520 authorizes service credit for all periods of paid leave. Because the periods are creditable, the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working.

(3) **Payments upon reinstatement or in lieu of reinstatement are paid leave and therefore qualify as basic salary.** The payment will count as basic salary for the payroll periods when the person would have earned the payment had he or she been working. In order for a payment in lieu of reinstatement to qualify as paid leave, the person's termination date must occur after the payroll period when the payment would have been earned. Because the periods are creditable,

the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working.

(4) **Union leave.** Periods of authorized leave to serve as an elected official of a labor organization which meet the requirements of RCW 41.26.520 qualify for service credit. The salary payments provided by the employer subject to reimbursement from the union qualify as basic salary for LEOFF Plan II to the extent that they do not exceed the highest paid job class covered by the collective bargaining agreement negotiated between the labor organization and the employer. The portion of any payment identified as paid leave in excess of that amount is not basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-373, filed 12/6/96, effective 1/6/97.]

WAC 415-104-374 LEOFF Plan 2 part-time leave of absence. (1) **What are the LEOFF Plan 2 part-time leave rules for law enforcement officers?**

(a) You must be a current LEOFF Plan 2 ***law enforcement*** member;

(b) Your employer must authorize you to work part time and go on an unpaid part-time leave of absence;

(c) While in part-time work/part-time leave status, you cannot do any other work for pay for your employer; and

(d) When you return to full-time employment, the employment must be with the same employer who granted you the part-time leave.

(2) **May I purchase service credit for periods of part-time leave?** See WAC 415-02-175 for information about purchasing service credit for an unpaid authorized leave of absence.

[Statutory Authority: RCW 41.50.050(5). WSR 04-20-005, § 415-104-374, filed 9/23/04, effective 10/24/04. Statutory Authority: RCW 41.50.050(5) and 41.26.520. WSR 02-18-047, § 415-104-374, filed 8/28/02, effective 9/1/02.]

WAC 415-104-375 Salary or wages not attached to a position are LEOFF Plan II basic salary. A salary or wage for services rendered to an employer is basic salary for LEOFF Plan II regardless of whether the services are attached to a position.

Example: If an employee receives additional salary based upon his or her education, that additional salary is basic salary for LEOFF Plan II even if his or her position does not require that level of education. The payment of a higher salary based upon educational attainment is part of the total compensation for the services provided by the employee.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-375, filed 12/6/96, effective 1/6/97.]

WAC 415-104-377 Performance bonuses are LEOFF Plan II basic salary. Payments you earn for meeting or exceeding performance goals set by your employer are a salary or wage for services rendered and qualify as basic salary for LEOFF Plan II. In order to qualify as basic salary, a performance bonus must be documented in an employer policy or specific agreement between the employer and member prior to earning the bonus.

Example: An employer offers an annual bonus to a member if he or she meets a certain performance goal, i.e., stays accident free for a year. If the member meets the goal and is paid the bonus, the bonus would be considered basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-377, filed 12/6/96, effective 1/6/97.]

WAC 415-104-379 Shift differential is LEOFF Plan II basic salary. Additional payments to a member for working swing shift or night shift are a salary or wage for services rendered. Those payments are basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-379, filed 12/6/96, effective 1/6/97.]

WAC 415-104-380 Disability payments. (1) **Disability leave supplement.** Under certain circumstances, LEOFF II members are entitled to a disability leave supplement for periods of disability leave. See RCW 41.04.500 through 41.04.550.

(a) Employer contributions to the disability leave supplement under RCW 41.04.510(3) are not a salary or wage for services rendered and do not qualify as basic salary. Although the payments are paid leave, they are specifically excluded from basic salary by RCW 41.04.525.

(b) The member paid portion of the disability leave supplement is funded through use of the member's accumulated sick or vacation leave. This portion of the disability leave supplement is, therefore, basic salary, see WAC 415-104-373. The member will receive only partial service credit for the accumulated leave portion of the disability leave supplement.

(c) A member may apply to receive full service credit for some periods of duty disability under RCW 41.26.470(3).

(2) **Workers' compensation.** Payments made to a member under Title 51 RCW are neither a salary or wage for services rendered nor paid leave. The payments are not basic salary for LEOFF II. This is true whether the payments come from the workers' compensation trust fund or from an employers' self-insurance program authorized under Title 51 RCW.

(3) **Private insurance.** Some employers provide additional disability insurance as a supplement to workers' compensation. Any payment from a third party insurance company is neither paid leave nor payment for services rendered. It does not qualify as basic salary for LEOFF Plan II.

(4) **Disability leave banks.** If an employer maintains a disability leave bank which may be used to make salary replacement payments for members during periods of disability, such payments are paid leave and qualify as basic salary subject to the provisions of WAC 415-104-373.

[Statutory Authority: RCW 41.50.050(5). WSR 16-10-122, § 415-104-380, filed 5/4/16, effective 6/4/16. Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-380, filed 12/6/96, effective 1/6/97.]

WAC 415-104-383 Employer taxes and contributions are not LEOFF Plan II basic salary. (1) Any payment by a member's employer of the employer portion of taxes imposed

by the Federal Insurance Contribution Act is not a salary or wage and does not qualify as basic salary for LEOFF Plan II.

(2) Employer contributions to LEOFF Plan II are not a salary or wage paid to the member and do not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-383, filed 12/6/96, effective 1/6/97.]

WAC 415-104-385 Fringe benefits are not LEOFF Plan 2 basic salary. Fringe benefits provided by an employer are not a salary or wage and therefore do not qualify as basic salary for LEOFF Plan 2. Fringe benefits include, but are not limited to:

(1) Employer retirement contributions;

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

(3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-104-367.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. WSR 03-06-042, § 415-104-385, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-385, filed 12/6/96, effective 1/6/97.]

WAC 415-104-387 Illegal payments are not LEOFF Plan II basic salary. If an employer disburses a payment that the employer does not have legal authority to make, that payment does not qualify as basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-387, filed 12/6/96, effective 1/6/97.]

WAC 415-104-390 Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan II basic salary. (1) **Reimbursement.** If an employer reimburses a member for expenses incurred in providing services for the employer, the purpose of the payment is to pay the member back for out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and is not basic salary for LEOFF Plan II.

(2) **Allowance.** An allowance paid in lieu of a specific reimbursement for expenses a member is expected to incur in providing services for the employer is characterized the same as a specific reimbursement. The purpose of the payment is to reimburse the member for out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and does not qualify as basic salary for LEOFF Plan II.

Example: An employer provides an annual stipend for the purchase of a uniform or other clothing required for the performance of a members' duties. The payment is a reimbursement for expenses incurred or expected to be incurred and is not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-390, filed 12/6/96, effective 1/6/97.]

WAC 415-104-393 Standby pay is not LEOFF Plan II basic salary. Payments to a member for time not actually worked when the member must be available to work if the need arises, are not a salary or wage for services rendered. Any such payment does not qualify as basic salary for LEOFF Plan II.

Example: Some employers provide payments to a member at less than the member's regular hourly rate in exchange for the member being available to come into work after his or her shift if called, although the member may not be called. Such payments, often referred to as "standby pay," are not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-393, filed 12/6/96, effective 1/6/97.]

WAC 415-104-395 Termination or retirement bonuses are not LEOFF Plan II basic salary. An additional payment based on notification of a member's intent to terminate or retire is in consideration for the notification of intent to retire or terminate. The payment is not a salary or wage for services rendered and is not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-395, filed 12/6/96, effective 1/6/97.]

WAC 415-104-397 Statutorily excluded payments are not LEOFF Plan II basic salary. Payments authorized by a statute that excludes the payment from the calculation of a public retirement allowance do not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-397, filed 12/6/96, effective 1/6/97.]

WAC 415-104-401 Cash outs of accrued leave or other forms of severance pay are not LEOFF Plan II basic salary. (1) A cash out from an employer for unused accrued leave, is a deferred salary or wage for services previously rendered. However, the payment is not basic salary because it is specifically excluded from the definition of basic salary in RCW 41.26.030 (13)(b).

(2) **Other forms of severance pay are not basic salary.** Any form of severance payment received from an employer upon termination, is not included as basic salary in LEOFF Plan II because it is excluded from the statutory definition of basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-401, filed 12/6/96, effective 1/6/97.]

WAC 415-104-405 Payments in lieu. A payment or any other transfer in lieu of an item that does not qualify as basic salary, is not basic salary. The only exception is compensation paid pursuant to bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-104-3302.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-405, filed 12/6/96, effective 1/6/97.]

WAC 415-104-450 How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to Plan 2 members.

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

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

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

(b) Your estate.

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

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.26.510.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.26.510(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

Examples:

EXAMPLE ONE.

Facts

John, a member, completes a beneficiary designation form.

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

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

Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.26.-510.

EXAMPLE TWO.

Facts

John, a member, completes a beneficiary designation form.

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

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

Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

Facts

When she became a LEOFF Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

Result

Unless required to do otherwise by court order, the department will comply with RCW 41.26.510(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

Facts

John is a LEOFF 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.26.510(2). However, Mary died the following week before requesting a distribution from the department.

Result

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

[Statutory Authority: RCW 41.50.050(5). WSR 05-12-041, § 415-104-450, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050. WSR 00-10-017, § 415-104-450, filed 4/21/00, effective 5/22/00.]

WAC 415-104-455 Are my spouse and dependent children eligible to have their health care insurance premiums paid for? If you are a Plan 2 member and you die in the line of duty, your surviving spouse and/or dependent children may be eligible for PEBB health care insurance and to have their monthly premiums paid for.

(1) **Who can have their health care insurance premiums paid for?** To have PEBB health care insurance premiums paid for, your beneficiary must:

(a) Be a surviving spouse or surviving dependent child, as defined in RCW 41.26.030, of a Plan 2 member who dies in the line of duty, as determined by L&I;

(b) Receive a death benefit; and

(c) Be approved for PEBB health care insurance.

(2) **Who makes this determination?** L&I, DRS, and HCA each play a role in determining your spouse or children's eligibility to have their PEBB health care insurance premiums paid for. L&I will determine whether you died in the line of duty and will notify DRS of their determination. DRS will identify your eligible spouse and dependent children and will notify the PEBB program within HCA. The PEBB program will then determine eligibility for enrollment in PEBB health care insurance.

(3) **What do my spouse or dependent children need to do to receive these payments?** Once DRS is notified of your death in the line of duty, we will send your spouse or dependent children information about enrolling in PEBB health care insurance. If your spouse or dependent children want PEBB health care insurance, they must complete an enrollment application and send it to the PEBB program. DRS or the PEBB program may contact them for more information.

(4) **How will the monthly premiums be paid for?** Upon enrollment in PEBB health care insurance, DRS will make direct payment of your spouse or dependent children's monthly premiums to HCA. They do not need to send any money to DRS or HCA.

(5) **How long can my spouse or dependent children remain enrolled in PEBB health care insurance?** Your spouse or dependent children can remain enrolled in PEBB health care insurance so long as they are eligible under HCA rules (see chapters 182-08 and 182-12 WAC). As long as they are eligible for PEBB health care insurance, their monthly premiums will be paid for by DRS.

(6) **Definitions:**

(a) DRS - Department of retirement systems.

(b) HCA - Health care authority.

(c) L&I - Department of labor and industries.

(d) PEBB - Public employees benefits board.

[Statutory Authority: RCW 41.50.050(5) and 41.26.510. WSR 08-15-112, § 415-104-455, filed 7/18/08, effective 8/18/08.]

WAC 415-104-475 How does a firefighter who provides emergency medical services transfer PERS service credit to LEOFF Plan 2? (1) **Who may use this section?** You may use this section if you are:

(a) A member of PERS Plan 1 or Plan 2 eligible for membership in LEOFF Plan 2 as an EMT under RCW 41.26.-030;

(b) Currently a LEOFF Plan 2 member who chose LEOFF membership after separating from service as an EMT in a PERS Plan 1 or Plan 2 eligible position; or

(c) Currently a LEOFF Plan 2 member and were formerly employed providing emergency medical services in a PERS Plan 1 or Plan 2 eligible position which was relocated by your employer to a fire department.

(2) **How do I know if my job providing emergency medical services was "*relocated*" to a fire department?** To be considered "relocated":

(a) The duties of the position must have required providing emergency medical services and the position must have been covered under PERS Plan 1 or Plan 2;

(b) The employer must have been a city, town, county, or district that transferred the position to a fire department; and

(c) The fire department must have determined the transferred position was eligible for LEOFF Plan 2.

(3) **Who determines whether or not my job providing emergency medical services was "*relocated*" to a fire department?** DRS will determine whether or not your job was relocated based on the criteria described in subsection (2) of this section. To do so, DRS will contact your former employer where you provided emergency medical services in a PERS eligible position and verify:

(a) That your position was relocated to a fire department; and

(b) The number of months you worked in that position.

(4) **I formerly worked as an EMT for a PERS employer that relocated the job to a fire department. I was not working in the job at the time it was relocated. I am now in a LEOFF Plan 2 eligible position. Can I transfer my PERS Plan 1 or Plan 2 EMT service to LEOFF Plan 2?** Yes, whether or not you were working in the job at the time it was relocated, you can transfer your PERS Plan 1 or Plan 2 EMT service as long as you are employed as a firefighter in a LEOFF Plan 2 eligible position at the time you request the transfer.

(5) **What do I need to do if I have PERS Plan 1 or Plan 2 EMT service that can be transferred to LEOFF Plan 2?** If you have PERS Plan 1 or Plan 2 EMT service that you want to transfer to LEOFF Plan 2, then you must do the following:

(a) Contact the LEOFF unit at DRS. Once DRS verifies you meet the criteria to transfer as described in subsection (1) of this section, DRS will provide you an *EMT Transfer Packet* that includes an "EMT transfer cost estimate" and an "EMT Request for Transfer" form. You may also request a benefit comparison. You must complete, sign, and return the form to the LEOFF unit to choose to transfer the service credit.

(b) You must pay the difference in the member contribution rates between the PERS rate and the LEOFF rate, plus interest, for each month of EMT service that you transfer. This bill must be paid in full within five years of your election to transfer your EMT service.

(6) **Do I have to pay the bill in a lump sum?** No, you do not have to pay the bill in a lump sum, you may make installment payments. Interest on the unpaid balance will accrue monthly, at a rate of eight percent annually.

(7) **Is there a deadline for requesting to transfer?** Yes, you must submit a completed "EMT Request to Transfer" form to the department no later than June 30, 2013.

(8) **When will the EMT service be transferred into my LEOFF Plan 2 account?** The EMT service will be transferred after:

(a) The bill is paid in full and five years have passed after DRS receives your request to transfer; or

(b) You meet one of the conditions described in subsection (15) of this section.

(9) **What if I choose not to transfer my PERS EMT service into LEOFF Plan 2?** If you do not choose to transfer your PERS Plan 1 or Plan 2 EMT service, it will remain in PERS. You may either withdraw it or begin receiving a PERS retirement benefit when you are eligible. If you do not withdraw or retire from PERS, you will be a dual member of PERS and LEOFF Plan 2 under the provisions of chapter 41.54 RCW.

(10) **Can I retire before the transfer of my PERS EMT service is completed?** Yes, you may retire from LEOFF Plan 2 once you are eligible, but your retirement benefit will be calculated using only your LEOFF Plan 2 service.

Once the conditions described in subsection (8) of this section have been met, the PERS Plan 1 or Plan 2 EMT service will be transferred into your LEOFF Plan 2 account and your retirement benefit will be recalculated and increased to include the transferred service. The increase will be prospective only from the day following the five-year waiting period.

For example, if you requested the transfer on September 15, 2006, made the required payment, and you retired on August 1, 2007, your retirement benefit would be increased on September 16, 2011.

(11) **What if I request to transfer my PERS Plan 1 or Plan 2 EMT service but change my mind before the transfer is completed?** If you decide not to transfer your PERS Plan 1 or Plan 2 EMT service into LEOFF Plan 2, you must notify the LEOFF unit at DRS within five years from the date you requested the transfer. LEOFF staff will cancel your request and refund any money you have paid on the transfer bill.

(12) **Can I transfer non-EMT PERS service into LEOFF Plan 2?** No, you may not transfer non-EMT PERS service into LEOFF Plan 2. Only the PERS Plan 1 or Plan 2 service credit you earned working as an EMT can be transferred into LEOFF Plan 2.

(13) **Can I transfer my PERS Plan 1 or Plan 2 EMT service into LEOFF Plan 2 and withdraw my non-EMT PERS service?** Yes, you may transfer your PERS Plan 1 or Plan 2 EMT service into LEOFF Plan 2 and withdraw your non-EMT PERS service. You can withdraw your non-EMT PERS service as soon as the PERS EMT service is fully transferred to LEOFF Plan 2. To be fully transferred, the conditions described in subsection (8) of this section must be met.

(14) **Can I transfer my PERS EMT service into LEOFF Plan 1?** No, you may not transfer your PERS EMT service into LEOFF Plan 1. If you reentered LEOFF Plan 1 membership after your position was relocated to a fire department, you may choose to remain in PERS or return to LEOFF Plan 1 membership, but you may not transfer the PERS EMT service into LEOFF Plan 1.

(15) **What happens if I die or retire for disability before the PERS EMT service is transferred into my LEOFF Plan 2 account?** If you elect to transfer your PERS Plan 1 or Plan 2 EMT service to LEOFF Plan 2 but die or retire for disability before the transfer is complete, then one of the following will occur:

(a) If your EMT bill **is** paid in full but the five-year waiting period has not expired, and you are approved for disability or you die, then DRS will transfer your applicable service credit, accumulated contributions, and interest to your LEOFF Plan 2 account immediately. The transferred service credit, accumulated contributions, and interest will be used to calculate your benefit or, in the case of your death, the benefit your spouse or minor children will receive.

(b) If your EMT bill **is not** paid in full and you **retire for disability,** DRS will transfer your applicable service credit, accumulated contributions, and interest into your LEOFF Plan 2 account and use them to calculate your benefit. You will then have the following options:

(i) Pay the bill in full;

(ii) Choose to have your monthly benefit actuarially reduced to reflect the unpaid amount of the bill; or

(iii) Continue to make payments against the remaining amount of the bill. You must pay the bill in full no later than five years from your original election date.

(c) If the EMT bill **is not** paid in full and you **die,** DRS will transfer your applicable service credit, accumulated contributions, and interest into your LEOFF Plan 2 account and use them to calculate the benefit for your spouse or minor children. Your spouse or minor children will have the following options:

(i) Pay the bill in full;

(ii) Choose to have their monthly benefit actuarially reduced to reflect the unpaid amount of the bill; or

(iii) Continue to make payments against the remaining amount of the bill. Your spouse or minor children must pay the bill in full no later than five years from **your** original election date.

Note: If the EMT bill is not paid in full within the five-year period, the monthly benefit will be actuarially reduced to reflect the unpaid amount of the bill.

(16) **Terms used:**

(a) DRS - Department of retirement systems.

(b) EMT - Emergency medical technician or paramedic who provides emergency medical services.

(c) LEOFF - Law enforcement officers' and firefighters' retirement system.

(d) PERS - Public employees' retirement system.

[Statutory Authority: RCW 41.50.050(5) and 41.26.547. WSR 09-05-011, § 415-104-475, filed 2/6/09, effective 3/9/09; WSR 04-04-039, § 415-104-475, filed 1/29/04, effective 3/1/04.]

WAC 415-104-480 LEOFF Plan 2 duty disability benefits. This section applies to you if you are a LEOFF Plan 2 member who incurs a disability in the line of duty per RCW 41.26.470 (6) and (7) and this section.

(1) **Who is entitled to duty disability benefits?** Any member of LEOFF Plan 2 who the department determines has:

(a) Incurred a physical or mental disability in the line of duty;

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

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

(2) **How is "line of duty" defined?** Line of duty means any action or activity occurring in conjunction with your employment or your status as a law enforcement officer or

firefighter and required or authorized by law, rule, regulations, or condition of employment or service.

(3) **When are the duty disability provisions effective?** The duty disability provisions under RCW 41.26.470 (6) and (7) are effective June 10, 2004.

(4) **How do I apply for duty disability benefits?** The department must receive:

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

(i) Part 1: Disability retirement application. You must complete and sign the application. If you are married, your spouse must sign consenting to the retirement payment option you choose. Your signature(s) must be notarized.

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

(iii) Part 3: Medical report. You must complete Section 1. The remainder must be completed and signed by a person licensed according to Washington state law to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, clinical psychology, podiatry, dentistry, or optometry;

(b) Additional information requested by the department; and

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

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

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

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

(c) Your job description;

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

(e) Any other relevant evidence.

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

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

(b) Your application does not provide adequate proof that your disability was incurred in the line of duty;

(c) The disability occurred as a result of intentional misconduct including but not limited to:

(i) An action you took intentionally to bring about your own disability;

(ii) Gross negligence on your part; or

(iii) Your voluntary intoxication. As used in this section, "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of:

(A) Alcohol into the body as evidenced by:

(I) A blood alcohol level of .20 per centum or greater; or

(II) A blood alcohol level of at least .10 per centum but less than .20 per centum unless the department receives convincing evidence that the officer or firefighter was not acting in an intoxicated manner immediately prior to the injury; or

(B) Drugs or other substances in the body.

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

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

(9) **What are the duty disability retirement benefits?** As a duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent; or

(b) A monthly allowance equal to:

(i) Ten percent of your final average salary (FAS), which is nontaxable; and

(ii) Two percent of your FAS for each year of service beyond five years.

Your monthly allowance will not be adjusted for early retirement. However, if you choose a benefit option with a survivor feature as described in WAC 415-104-215, your monthly allowance will be actuarially reduced to offset the cost. See WAC 415-02-380 for more information on how your monthly allowance is affected by choosing a survivor feature.

Example: Tom incurs a duty disability at age 42 after twenty years of service. His final average salary is $5,000 per month. Tom's wife is also age 42. He chooses Benefit Option Two so that, after his death, his wife will receive a monthly allowance equal to the gross monthly allowance he was receiving. For illustration purposes in this example only, we will use 0.87 as the corresponding Option Two joint and survivor factor (actuarial factors change periodically) for zero age difference between Tom and his wife.

Tom will receive a minimum allowance of $435 (nontaxable) plus an additional $1,305 (taxable), for a total monthly allowance of $1,740. The department will use the following formula to determine Tom's monthly allowance:

$5,000 x 10% x 0.87	=	$435 (nontaxable); PLUS
15 x 2% x $5,000 x 0.87	=	$1,305 (taxable)
TOTAL	=	$1,740

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

The department does not:

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

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

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

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

(11) **If I previously withdrew my contributions, may I apply for duty disability benefits?** If you separated from employment due to a disability and withdrew your contributions, you may apply for duty disability benefits according to the provisions of subsection (4) of this section.

(12) **If I previously withdrew my contributions and am approved for duty disability benefits, what will I receive as a benefit?** If the LEOFF plan administrator determines you are entitled to duty disability benefits, the department will amend Internal Revenue Service reporting to designate your previous withdrawal as nontaxable. In addition, you may choose either of the following:

(a) If you previously withdrew 100% of your contributions, you may choose to receive an additional lump sum payment equal to 50% of the contributions you withdrew. The payment will be nontaxable; or

(b) If you previously withdrew 100% or 150% of your contributions, you may choose to receive a monthly allowance according to subsection (9) of this section. You must repay the amount you withdrew, either in a lump sum payment or by having your monthly allowance permanently actuarially reduced to offset the amount of your previous withdrawal.

Example: John was injured on the job and separated from his LEOFF position in March 2002. At the time he separated, he was 43 years old, had 10 years of service, and his final average salary was $5,000.00 per month. At that time, John chose to withdraw $75,000, which equaled 150 percent of his retirement contributions.

John subsequently applied under the provisions of RCW 41.26.470 (6) and (7) and was deemed eligible for duty disability benefits.

The department calculated John's benefit according to the methods in subsection (9) of this section. For illustration purposes in this example only, we will use .0049904 as the corresponding annuity factor for age 43 (actuarial factors change periodically). John determined it was to his advantage to take a monthly allowance.

If John **repays the entire amount he withdrew in a lump sum,** his monthly allowance will be calculated according to the formula in subsection (9)(b) of this section:

$5,000 x 10%	=	$500 (nontaxable); PLUS
5 x 2% x $5,000	=	$500 (taxable)
TOTAL	=	$1,000

If John **repays the withdrawn amount through a permanent actuarial reduction,** his monthly allowance will be reduced as follows:

Monthly amount from above	=	$1,000; LESS
$75,000 x .0049904	=	−$374.28
Monthly allowance	=	$625.72[1]

[1] If John chooses a benefit option with a survivor feature, as described in WAC 415-104-215, his monthly allowance will be actuarially reduced to offset the cost. See also WAC 415-02-380.

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

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

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

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

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

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

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-104-480, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5) and 41.26.470 (6) and (7). WSR 06-18-007, § 415-104-480, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5) and 41.26.470. WSR 04-22-074, § 415-104-480, filed 11/1/04, effective 12/2/04.]

WAC 415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance? Under RCW 41.26.470, two types of disability retirement are available to members of LEOFF Plan 2 who become disabled in the line of duty: Duty disability retirement benefits as described in WAC 415-104-480 and catastrophic disability retirement benefits as described in this section. If you are not eligible for a catastrophic disability allowance under this section, you may still be eligible for duty disability benefits.

(1) **Am I eligible for a catastrophic disability allowance?** You are eligible for a catastrophic disability allowance if the department determines all of the following are true:

(a) You incurred a physical or mental disability in the line of duty, as defined in WAC 415-104-480;

(b) You separated from LEOFF-eligible employment due to your disability;

(c) Your disability is so severe that you are unable to do your previous LEOFF eligible work, and considering your education, transferable skills, and work experience, you cannot engage in any other kind of substantial gainful activity in the labor market;

(d) Your condition has lasted or is expected to last at least twelve months, or your condition is expected to result in death; and

(e) Your disability is not the result of your criminal conduct committed after April 21, 1997. See RCW 41.26.061.

(2) **If I am receiving a retirement allowance for service, can I qualify for a catastrophic disability allowance?** You are eligible for a catastrophic disability allowance in lieu of your service retirement allowance if the department determines you meet the eligibility requirements in subsection (1) of this section.

(3) **How do I request a catastrophic disability allowance?** To request a catastrophic disability allowance, please contact the department of retirement systems. You, your physician, and your employer will be required to provide information regarding your catastrophic disability.

(4) **What information will the department use to determine whether I am entitled to an allowance under this section?** The department will consider information submitted by you, your physician, and your employer, and information otherwise available to the department, including:

(a) Medical and vocational information;

(b) Information from and determinations made by the department of labor and industries, the Social Security Administration, or an employer;

(c) Your job description at the time you separated from LEOFF Plan 2 service;

(d) Financial records;

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

(f) Any other relevant information.

(5) **Who determines my eligibility?** The LEOFF plan administrator determines your eligibility for a catastrophic disability benefit. The plan administrator will rely substantially on determinations that have been made by the Social Security Administration unless there is information available that would produce a different determination.

(6) **What are my options if my request is denied?** If your request is denied, you have the following options:

(a) You may apply for duty disability benefits under WAC 415-104-480; and/or

(b) You may petition for review under chapter 415-04 WAC.

(7) **If my request is approved, when will my monthly allowance begin to be paid?** If your request is approved, you will begin to receive a catastrophic disability allowance in the month following the approval. Your first payment will include a retroactive payment of benefits that have accrued, but not yet been paid. The date your allowance for catastrophic disability accrues is determined as follows:

(a) If you separated from LEOFF Plan 2 employment due to a catastrophic disability, your allowance will accrue from the first of the month following your separation date.

(b) If you are receiving a duty disability allowance or a service retirement allowance, and you are subsequently approved for a catastrophic disability, your allowance will accrue from:

(i) The first of the month following the month in which a specific, one-time event, verified by medical records, occurred that clearly caused your duty disability to become a catastrophic disability; or

(ii) If the department determines there is not a one-time event that caused your disability to become catastrophic, the first of the month following the month in which the department receives your request for a catastrophic disability allowance.

Example: John has been receiving a duty-disability allowance under WAC 415-104-480 since June 1, 2005, when he separated service as a firefighter due to a back injury he incurred in the line of duty.

Example of (b)(i) of this subsection: A one-time event. On January 15, 2007, John accidentally twisted his back causing a catastrophic disability. Because John's catastrophic disability was clearly the result of a specific one-time event, his catastrophic disability allowance will accrue from February 1, 2007, the first of the month following the month in which the event occurred.

Example of (b)(ii) of this subsection: No specific event. John's back gradually worsened until his disability qualified as a catastrophic disability. On May 15, 2007, John applied for a catastrophic disability allowance. His allowance will accrue from June 1, 2007, the first of the month following the month the department received his application.

(8) **How much is a catastrophic disability allowance?** The base catastrophic disability allowance is equal to seventy percent of your final average salary (FAS).

(a) Your allowance combined with other disability benefits, such as Title 51 RCW benefits or Social Security disability benefits, may not exceed one hundred percent of your FAS. If necessary, your catastrophic disability allowance will be reduced so that your combined allowance does not exceed one hundred percent of your FAS. Any such adjustment will be applied prospectively. Your catastrophic disability allowance will not be reduced below your accrued retirement allowance as defined in subsection (13) of this section.

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, the allowance calculated in (a) of this subsection will be actuarially reduced to cover the cost of providing benefits over two lifetimes.

(c) If you have been retired for at least one year by July 1st of each year, you will receive a cost-of-living adjustment each July based on the percentage change, if any, in the consumer price index.

Example: Michael separates from service on June 1, 2005, and is approved for a catastrophic disability allowance. Since his FAS is $5,800, Michael's catastrophic disability allowance from the department is $4,060 per month ($5,800 x 70% = $4,060). Michael is also approved for a Social Security benefit in the amount of $1,800 per month. Michael's combined benefit equals $5,860 ($4,060 + $1,800). This is $60 over 100% of his FAS ($5,860 - $5,800), so Michael's catastrophic disability benefit will be reduced by that amount; his new monthly benefit from the department is $4,000 ($4,060 - $60). In January 2006, Michael received a 4.1% COLA for his Social Security benefit. The department will recalculate his benefit as follows:

January 2006 Social Security benefit, with COLA	$1,800 x 4.1% = $73.80 + $1,800	**= $1,873.80**
Total combined benefit	$4,060 + $1,873.80	**= $5,933.80**
Amount over 100% of FAS	$5,933.80 - $5,800	**= $133.80**

Since Michael's combined benefit is $133.80 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is $3,926.20 ($4,060 - $133.80). Michael's benefit cannot be reduced more than the amount of his accrued retirement allowance. To determine his accrued retirement allowance, the department multiplies Michael's FAS, $5,800, by his years of service credit, 30, by 2% ($5,800 x 30 x 2%). Michael's accrued retirement allowance is $3,480. Since his benefit does not fall below his retirement allowance, Michael will receive $3,926.20 from the department per month.

In July 2006, Michael received a 3% COLA for his catastrophic disability benefit. The department will recalculate his benefit as follows:

July 2006 catastrophic disability benefit, with COLA	$5,800 x 3% = $174 + $5,800 = $5,974 x 70%	**= $4,181.80**
Total combined benefits	$4,181.80 + $1,873.80	**= $6,055.60**
Amount over 100% of FAS	$6,055.60 - $5,974	**= $81.60**

Since Michael's combined benefit is $81.60 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is $4,100.20 ($4,181.80 - $81.60). This is compared to his accrued retirement allowance, $3,584.40 ($5,974 x 30 x 2%); since his benefit does not fall below his retirement allowance, Michael will receive $4,100.20 from the department per month.

(9) **Is my catastrophic disability allowance taxable?** You should consult with your tax advisor regarding all payments you receive from the department. The department does not:

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

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

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

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

(10) **If I withdrew my contributions prior to December 2, 2004, and am approved for a catastrophic disability allowance, what will I receive?** You may apply for a catastrophic disability allowance even if you withdrew your accumulated contributions prior to December 2, 2004. If you are approved for a catastrophic disability allowance, your monthly allowance will be calculated as follows:

(a) If you repay the entire amount you withdrew plus interest, in a lump sum payment, you will receive a monthly allowance calculated according to subsection (8) of this section.

(b) If you do not repay the entire amount you withdrew, your monthly allowance will be actuarially reduced to offset the amount of your previous withdrawal.

(11) **Can my catastrophic disability allowance be discontinued?** Your catastrophic disability allowance will be discontinued if:

(a) Medical/vocational examination, or other information commonly available or provided to the department by an employer, reveals that your disability no longer prevents you from performing substantial gainful activity; or

(b) Your earnings exceed the threshold for substantial gainful activity.

The department may require or offer to provide comprehensive medical/vocational examinations and/or submission of earnings information to evaluate your eligibility for continued benefits. You are required to contact the department if your medical/vocational or financial situation changes.

(12) **If my catastrophic disability allowance terminates, may I qualify for duty disability benefits?** If you are no longer eligible for a catastrophic disability allowance, but have a disability that prevents you from returning to a LEOFF-eligible position, the department will determine if you qualify for duty disability benefits under WAC 415-104-480.

(a) The department may request additional information from you, your physician, or others upon which to base the determination.

(b) If the department determines you are eligible, you will begin receiving a duty disability allowance under WAC 415-104-480 in lieu of your catastrophic disability allowance.

(13) **Definitions.** As used in this section:

(a) **Accrued retirement allowance** means a duty disability monthly allowance under WAC 415-104-480.

(b) **Earnings** are any income or wages received, which are reportable as wages or self-employment income on IRS form 1040.

(c) **Labor market** is the geographic area within reasonable commuting distance of where you were last gainfully employed or where you currently live, whichever provides the greatest opportunity for gainful employment.

(d) **Substantial gainful activity** means any activity that produces average earnings, as defined in (b) of this subsection, in excess of eight hundred sixty dollars a month in 2006, adjusted annually as determined by the department based on

federal Social Security disability standards. Wages count toward earnings when they are earned, not when you receive them. Self-employment income counts when you receive it, not when you earn it.

(e) **Transferable skills** are any combination of learned or demonstrated behavior, education, training, work traits, and skills that you can readily apply. They are skills that are interchangeable among different jobs and workplaces.

[Statutory Authority: RCW 41.50.050(5). WSR 16-06-069, § 415-104-482, filed 2/25/16, effective 3/27/16. Statutory Authority: RCW 41.50.050(5) and 41.26.470. WSR 09-17-035, § 415-104-482, filed 8/10/09, effective 9/10/09.]

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

(1) **Who is entitled to nonduty disability benefits?** Any member of LEOFF Plan 2 who the department determines has:

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

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

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

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

(3) **How do I apply for nonduty disability benefits?** The department must receive:

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

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

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

(iii) Part 3: Medical report. You must complete Section 1. The remainder must be completed and signed by a person licensed according to Washington state law to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, clinical psychology, podiatry, dentistry, or optometry;

(b) Additional information requested by the department; and

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

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

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

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

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

(c) Your job description;

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

(e) Any other relevant evidence.

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

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

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

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

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

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

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

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, your monthly allowance will be actuarially reduced to offset the cost. See WAC 415-104-380 for more information on how your monthly allowance is affected by choosing a survivor feature.

Example: Tom incurs a nonduty disability at age 42 after twenty years of service. His final average salary (FAS) is $5,000 per month. Tom's wife is also age 42. He chooses Benefit Option Two so that, after his death, his wife will receive a monthly allowance equal to the gross monthly allowance he was receiving. For illustration purposes in this example only, we will use 0.39 as the corresponding factor for retiring 11 years early, and 0.87 as the Option Two factor (actuarial factors change periodically). As a result, Tom's monthly allowance will be $678.60.

The department will use the following formula to determine Tom's monthly allowance: 20 (years of service) x 2% x $5,000 (FAS) x 0.39 (early retirement factor) x 0.87 (Option Two factor) = $678.60.

(10) **Are my nonduty disability benefits taxable?** The department reports disability benefits to the Internal Revenue

Service as required by federal law. Based on current federal law, your benefit may be taxable. You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

The department does not:

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

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

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-104-485, filed 8/28/13, effective 10/1/13; WSR 07-09-032, § 415-104-485, filed 4/10/07, effective 5/11/07.]

MINIMUM MEDICAL AND HEALTH STANDARDS

WAC 415-104-500 Purpose. The regulations contained in WAC 415-104-510 through 415-104-750 are adopted as the minimum medical and health standards which must be met or exceeded before a law enforcement officer or firefighter may become a member of the retirement system contained in chapter 41.26 RCW as now existing or hereafter amended. Such regulations are adopted pursuant to chapter 41.26 RCW (chapter 257, Laws of 1971 1st ex. sess.) and are to be applied consistent with the provisions of that act. The minimum medical and health standards are not hiring standards. They relate only to membership in the LEOFF system.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-500, filed 2/15/78. Formerly WAC 297-50-010.]

WAC 415-104-510 Minimum standards for membership—Physical examination. (1) **Requirements:**

(a) Medical examination administered by a licensed physician or surgeon as set forth under provisions of chapter 18.71 RCW. Physician or surgeon to be appointed by the appropriate city or county disability board. Causes for rejection will be consistent with recommendations outlined in these standards.

(b) A medical history will be supplied by each applicant to the examining physician. The medical history will include information on past and present diseases, injuries, and operations.

(c) The applicant must possess normal vision. He must demonstrate normal visual functions and visual acuity not less than 20/100 vision in each eye without correction and corrected to 20/20 in the better eye and 20/30 in the lesser eye. He must possess normal color vision.

(d) Applicant must possess normal hearing. Hearing acuity level to be determined by audiometric hearing test.

(e) Applicant must be at least eighteen years of age, and shall not have reached forty-five years of age at the time of appointment.

(f) Retention on a permanent basis by the employer of the results of the physical examination on all applicants employed under these standards is required.

(2) **Procedure:**

(a) Completion of the report of medical history by the applicant.

(b) The physical examination will be conducted by a licensed physician or surgeon after a review of the report of medical history completed by the applicant.

(c) The physician shall record his findings on the report of medical history and shall note thereon, for evaluation by the hiring authority, any past or present physical defects, diseases, injuries, operations, or conditions of an abnormal or unusual nature and whether applicant is or is not qualified. Reports of medical history shall be typewritten or printed, and the summary of defects and diagnosis shall refer to the applicable section of these standards as cause for rejection.

(d) Physical examination reports shall be placed in permanent files by the employer and must be available for examination at any reasonable time by representatives of the retirement system board.

[Statutory Authority: RCW 41.50.050(5), 41.50.090 and 41.26.051. WSR 84-03-047 (Order V), § 415-104-510, filed 1/18/84. Statutory Authority:

RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-510, filed 2/15/78. Formerly WAC 297-50-020.]

WAC 415-104-520 Abdomen and gastrointestinal system. The following conditions of the abdomen and gastrointestinal system are causes for rejection of membership:

(1) **Cholecystectomy,** sequelae of, such as postoperative stricture of common bile duct, reforming of stones in hepatic or common bile ducts, or incisional hernia, or postcholecystectomy syndrome when symptoms are so severe as to interfere with normal performance of duty;

(2) **Cholecystitis,** acute or chronic, with or without cholelithiasis if diagnosis is confirmed by usual laboratory procedures or authentic medical records;

(3) **Cirrhosis,** regardless of the absence of manifestations such as jaundice, ascites or known esophageal varices, abnormal liver function tests with or without history of chronic alcoholism;

(4) **Fistula,** in ano;

(5) **Gastritis,** chronic hypertrophic, severe;

(6) **Hemorrhoids:**

(a) External hemorrhoids producing marked symptoms;

(b) Internal hemorrhoids, if large or accompanied with hemorrhage or protruding intermittently or constantly;

(7) **Hepatitis,** within the preceding six months, or persistence of symptoms after a reasonable period of time with objective evidence of impairment of liver function;

(8) **Hernia:**

(a) Hernia other than small asymptomatic umbilical or hiatal;

(b) History of operation for hernia within the preceding sixty days;

(9) **Intestinal obstruction,** or authenticated history of more than one episode, if either occurred during the preceding five years, or if resulting conditions remain which produces significant symptoms or requires treatment;

(10) **Megacolon,** of more than minimal degree, diverticulitis, regional enteritis, and ulcerative colitis. Irritable colon of more than moderate degree;

(11) **Pancreas,** acute or chronic disease of, if proven by laboratory tests, or authenticated medical records;

(12) **Rectum,** stricture or prolapse of;

(13) **Resection, gastric or of bowel; or gastroenterostomy,** but minimal intestinal resection in infancy or childhood is acceptable if the individual has been asymptomatic since the resection and if surgical consultation (to include upper and lower gastrointestinal series) gives complete clearance. For example: Intussusception or pyloric stenosis;

(14) **Scars:**

(a) Scars, abdominal, regardless of cause, which show hernial bulging or which interfere with movements;

(b) Scar pain associated with disturbance of function of abdominal wall or contained visceral;

(15) **Sinuses,** of the abdominal wall;

(16) **Splenectomy,** except when accomplished for the following:

(a) Trauma;

(b) Causes unrelated to diseases of the spleen;

(c) Hereditary spherocytosis;

(d) Disease involving the spleen when followed by correction of the condition for a period of at least two years;

(17) **Tumors,** see WAC 415-104-720 and 415-104-725;

(18) **Ulcer:**

(a) Ulcer of the stomach or duodenum if diagnosis is confirmed by X-ray examination, or authenticated history thereof;

(b) Authentic history of surgical operation(s) for gastric or duodenal ulcer;

(19) **Other congenital or acquired abnormalities and defects** which preclude satisfactory performance of duties or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-520, filed 2/15/78. Formerly WAC 297-50-030.]

WAC 415-104-530 Blood and blood-forming tissue diseases. The following conditions of the blood and blood-forming tissue diseases are causes for rejection of membership:

(1) **Anemia:**

(a) Blood loss anemia—until both condition and basic cause are corrected;

(b) Deficiency anemia, not controlled by medication;

(c) Abnormal destruction of RBC's: Hemolytic anemia;

(d) Faulty RBC construction: Hereditary hemolytic anemia, thallassemia and sickle cell anemia;

(e) Myelophthisic anemia: Myelomatosis, leukemia, Hodgkin's disease;

(f) Primary refractory anemia: Aplastic anemia, DiGuglielmo's syndrome;

(2) **Hemorrhagic states:**

(a) Due to changes in coagulation system (hemophilia, etc.);

(b) Due to platelet deficiency;

(c) Due to vascular instability;

(3) **Leukopenia,** chronic or recurrent, associated with increased susceptibility to infection;

(4) **Myeloproliferative disease** (other than leukemia):

(a) Myelofibrosis;

(b) Megakaryocytic myelosis;

(c) Polycychemia vera;

(5) **Splenomegaly until the cause is remedied;**

(6) **Thromboembolic** disease except for acute, nonrecurrent conditions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-530, filed 2/15/78. Formerly WAC 297-50-040.]

WAC 415-104-540 Dental. The following dental conditions are causes for rejection of membership:

(1) **Diseases of the jaws or associated tissues,** which are not easily remediable and which will incapacitate the individual or prevent the satisfactory performance of duty;

(2) **Malocclusion,** severe, which interferes with the mastication of a normal diet;

(3) **Orthodontic appliances:** Individuals with orthodontic appliances attached to the teeth are administratively unacceptable so long as active treatment is required. Individuals with retainer orthodontic appliances who are not considered to require active treatment are administratively acceptable;

(4) **Oral tissues,** extensive loss of, in an amount that would prevent replacement of missing teeth with a satisfactory prosthetic appliance;

(5) Relationship between the mandible and maxilla of such a nature as to preclude future satisfactory prosthodontic replacement.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-540, filed 2/15/78. Formerly WAC 297-50-050.]

WAC 415-104-550 Ears. The following conditions of the ear are causes for rejection of membership:

(1) **Auditory canal:**

(a) Atresia or severe stenosis of the external auditory canal;

(b) Tumors of the external auditory canal except mild exostoses;

(c) Severe external otitis, acute or chronic;

(2) **Auricle:** Agenesis, severe; or severe traumatic deformity, unilateral or bilateral;

(3) **Mastoids:**

(a) Mastoiditis, acute or chronic;

(b) Residual or mastoid operation with marked external deformity which precludes or interferes with the wearing of a gas mask or helmet;

(c) Mastoid fistula;

(4) **Meniere's syndrome;**

(5) **Middle ear:**

(a) Acute or chronic suppurative otitis media. Individuals with a recent history of acute suppurative otitis media will not be accepted unless the condition is healed and a sufficient interval of time subsequent to treatment has elapsed to insure that the disease is in fact not chronic;

(b) Adhesive otitis media associated with hearing level by audiometric test of 20 db or more average for the speech frequencies (500, 1000, and 2000 cycles per second) in either ear regardless of the hearing level in the other ear;

(c) Acute or chronic serous otitis media;

(d) Presence of attic perforation in which presence of cholesteatoma is suspected;

(e) Repeated attacks of catarrhal otitis media; intact greyish, thickened drum(s);

(6) **Tympanic membrane:**

(a) Any perforation of the tympanic membrane;

(b) Severe scarring of the tympanic membrane associated with hearing level by audiometric test of 20 db or more average for the speech frequencies (500, 1000, and 2000 cycles per second) in either ear regardless of the hearing level in the other ear;

(7) **Other diseases and defects of the ear** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-550, filed 2/15/78. Formerly WAC 297-50-060.]

WAC 415-104-555 Hearing. The following hearing condition is cause for rejection of membership: Hearing acuity level by audiometric testing (regardless of conversational or whispered voice hearing acuity) greater than that described in WAC 415-104-560 (Table 1).

There is no objection to conducting the whispered voice test or the spoken voice test as a preliminary to conducting the audiometric hearing test.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-555, filed 2/15/78.]

WAC 415-104-560 Table 1—Table of acceptable audiometric hearing level.

	Acceptable Audiometric Hearing Level (Present American Standard) For Appointment							
	250	500	1000	2000	3000	4000	6000	8000
	256	512	1024	2048	2896	4096	6144	8192
a. Both ears . . .	(1) Average of six readings in these speech frequencies not greater than 20 decibels with no level greater than 25 decibels. (divide by six)				(2)	50	(2)	(1)
or								
b. Better ear	(1)	15	15	15	(2)	30	(2)	(1)
Worse ear	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

(1) No requirement
(2) Not yet standardized

"Better ear" is interpreted to mean the ear with better hearing at the frequency level being tested.

Medical history report to contain ASA readings; consult table below:

CONVERSION TABLE

ASA		ISO	
Hz	Db	Hz	Db
500	15	500	30
1000	15	1000	25
2000	15	2000	25
4000	30	4000	35

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-560, filed 2/15/78. Formerly WAC 297-50-070.]

WAC 415-104-570 Endocrine and metabolic disorders. The following endocrine and metabolic disorders or conditions are causes for rejection of membership:

(1) **Adrenal gland,** malfunction of, of any degree;

(2) **Cretinism;**

(3) **Diabetes** insipidus;

(4) **Diabetes** mellitus;

(5) **Gigantism or acromegaly;**

(6) **Glycosuria,** persistent, regardless of cause;

(7) **Goiter:**

(a) Simple goiter with definite pressure symptoms or so large in size as to interfere with the wearing of a uniform or firefighting equipment;

(b) Thyrotoxicosis;

(8) **Gout;**

(9) **Hyperinsulinism,** confirmed, symptomatic;

(10) **Hyperparathyroidism and hypoparathyroidism;**

(11) **Hypopituitarism,** severe;

(12) **Myxedema,** spontaneous or postoperative with clinical manifestations and not based solely on low basal metabolic rate;

(13) **Nutritional deficiency diseases,** (including spru, beriberi, pellagra, and scurvy) which are more than mild and not readily remediable or in which permanent pathological changes have been established;

(14) **Other endocrine or metabolic disorders** which obviously preclude satisfactory performance of duty which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-570, filed 2/15/78. Formerly WAC 297-50-080.]

WAC 415-104-580 Upper extremities. The following conditions of the upper extremities are causes for rejection of membership:

(1) **Limitation of motion:** An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;

(a) *Shoulder*:

(i) Forward elevation to 90°;

(ii) Abduction to 90°;

(b) *Elbow*:

(i) Flexion to 100°;

(ii) Extension to 15°;

(c) *Wrist*: A total range of 15° (extension plus flexion);

(d) *Hand*: Pronation to the first quarter of the normal arc;

(e) *Fingers*: Inability to clench fist, pick up a pin or needle, and grasp an object;

(2) **Hand and fingers:**

(a) Absence (or loss) of more than 1/3 of the distal phalanx of either thumb;

(b) Absence or loss of distal and middle phalanx of an index, middle, or ring finger of either hand irrespective of the absence (or loss) of little finger;

(c) Absence of more than the distal phalanx of any two of the following fingers: Index, middle, or ring finger, of either hand;

(d) Absence of hand or any portion thereof except for fingers as noted above;

(e) Hyperdactylia;

(f) Scars and deformities of the fingers and/or hand which impair circulation, are symptomatic, are so disfiguring as to make the individual objectionable in ordinary social relationships, or which impair normal function to such a degree as to interfere with the satisfactory performance of duty;

(3) **Wrist, forearm, elbow, arm, and shoulder:** Healed disease or injury of wrist, elbow, or shoulder with residual weakness or symptoms of such a degree as to preclude satisfactory performance of duty.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-580, filed 2/15/78. Formerly WAC 297-50-090.]

WAC 415-104-584 Lower extremities. See WAC 415-104-588. The following conditions of the lower extremities are causes for rejection of membership:

(1) **Limitation of motion:** An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;

(a) *Hip*:

(i) Flexion to 90°;

(ii) Extension to 10° (beyond 0);

(b) *Knee*:

(i) Full extension;

(b) Flexion to 90°;

(c) *Ankle*:

(i) Dorsiflexion to 10°;

(ii) Plantar flexion to 10°;

(2) **Foot and ankle:**

(a) Absence of one or more small toes of one or both feet, if function of the foot is poor or running or jumping is precluded, or absence of foot or any portion thereof except for toes as noted herein;

(b) Absence (or loss) of great toe(s) or loss of dorsal flexion thereof if function of the foot is impaired;

(c) Claw toes precluding the wearing of service boots;

(d) Clubfoot;

(e) Flatfoot, pronounced cases, with decided eversion of the foot and marked bulging of the inner border, due to inward rotation of the astragalus, regardless of the presence or absence of symptoms;

(f) Flatfoot, spastic;

(g) Hallux valgus, if severe and associated with marked exostosis or bunion;

(h) Hammer toe which interferes with the wearing of boots;

(i) Healed disease, injury, or deformity including hyperdactylia which precludes running, is accompanied by disabling pain, or which prohibits wearing of service boots;

(j) Ingrowing toe nails, if severe, and not remediable;

(k) Obliteration of the transverse arch associated with permanent flexion of the small toes;

(l) Pes cavus, with contracted plantar fascia, dorsiflexed toes, tenderness under the metatarsal heads, and callosity under the weight bearing areas;

(3) **Leg, knee, thigh, and hip:**

(a) Dislocated semilunar cartilage, loose or foreign bodies within the knee joint, or history of surgical correction of same if—

(i) Within the preceding six months;

(ii) Six months or more have elapsed since operation without recurrence, and there is instability of the knee ligaments in lateral or anteroposterior directions in comparison with the normal knee or abnormalities noted on X ray, there is significant atrophy or weakness of the thigh musculature in comparison with the normal side, there is not acceptable active motion in flexion and extension, or there are other symptoms of internal derangement;

(b) Authentic history or physical findings of an unstable or internally deranged joint causing disabling pain or seriously limiting functions. Individuals with verified episodes of buckling or locking of the knee who have not undergone satisfactory surgical correction or if, subsequent to surgery, there is evidence of more than mild instability of the knee ligaments in lateral and anteroposterior directions in comparison with the normal knee, weakness or atrophy of the thigh musculature in comparison with the normal side, or if the individual requires medical treatment of sufficient frequency to interfere with the performance of duty;

(4) **General:**

(a) Deformities of one or both lower extremities which have interfered with function to such a degree as to prevent the individual from following a physically active vocation in life or which would interfere with the satisfactory completion of prescribed training and performance of duty;

(b) Diseases or deformities of the hip, knee, or ankle joint which interfere with walking, running, or weight bearing;

(c) Pain in lower back or leg which is intractable and disabling to the degree of interfering with walking, running, and weight bearing;

(d) Shortening of a lower extremity resulting in any limp of noticeable degree.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-584, filed 2/15/78. Formerly WAC 297-50-090.]

WAC 415-104-588 Miscellaneous extremities. See also WAC 415-104-580 and 415-104-584. The following conditions of the miscellaneous extremities are causes for rejection of membership:

(1) **Arthritis:**

(a) Active or subacute arthritis, including Marie-Strumpell type;

(b) Chronic osteoarthritis or traumatic arthritis of isolated joints of more than minimal degree, which has interfered with the following of a physically active vocation in civilian life or which precludes the satisfactory performance of duty;

(c) Documented clinical history of rheumatoid arthritis;

(d) Traumatic arthritis of a major joint of more than minimal degree;

(2) **Disease of any bone or joint,** healed, with such resulting deformity or rigidity that function is impaired to such a degree that it will interfere with service;

(3) **Dislocation,** old unreduced; substantiated history of recurrent dislocations of major joints; instability of a major joint, symptomatic and more than mild; or if, subsequent to surgery, there is evidence of more than mild instability in comparison with the normal joint, weakness or atrophy in comparison with the normal side, or if the individual requires medical treatment of sufficient frequency to interfere with the performance of duty;

(4) **Fractures:**

(a) Malunited fractures that interfere significantly with function;

(b) Ununited fractures;

(c) Any old or recent fracture in which a plate, pin, or screws were used for fixation and left in place and which may be subject to easy trauma, i.e., as a plate tibia, etc;

(5) **Injury of a bone or joint** within the preceding six weeks, without fracture or dislocation, of more than a minor nature;

(6) **Muscular paralysis,** contracture, or atrophy, if progressive or of sufficient degree to interfere with service;

(7) **Myotonia congenita,** confirmed;

(8) **Osteomyelitis,** active or recurrent, of any bone or substantiated history of osteomyelitis of any of the long bones unless successfully treated two or more years previously without subsequent recurrence or disqualifying sequelae as demonstrated by both clinical and X-ray evidence;

(9) **Osteoporosis;**

(10) **Scars,** extensive, deep or adherent, of the skin and soft issues or neuromas of an extremity which are painful, which interfere with muscular movements, which preclude the wearing of equipment, or that show a tendency to break down;

(11) **Chondromalacia,** manifested by verified history of joint effusion, interference with function, or residuals from surgery.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-588, filed 2/15/78. Formerly WAC 297-50-090.]

WAC 415-104-590 Eyes. The following conditions of the eye are causes for rejection of membership:

(1) **Lids:**

(a) Blepharitis, chronic, more than mild. Cases of acute blepharitis will be rejected until cured;

(b) Blepharospasm;

(c) Dacryocystitis, acute or chronic;

(d) Destruction of the lids, complete or extensive, sufficient to impair protection of the eye from exposure;

(e) Disfiguring cicatrices and adhesions of the eyelids to each other or to the eyeball;

(f) Growth or tumor of the eyelid other than small early basal cell tumors of the eyelid, which can be cured by treatment, and small nonprogressive symptomatic benign lesions;

(g) Marked inversion or eversion of the eyelids sufficient to cause unsightly appearance or watering of eyes (entropion or ectropion);

(h) Lagophtalmos;

(i) Ptosis interfering with vision;

(j) Trichiasis, severe;

(2) **Conjunctive:**

(a) Conjunctivitis, chronic, including vernal catarrh and trachoma. Individuals with acute conjunctivitis are unacceptable until the condition is cured;

(b) Pterygium:

(i) Pterygium recurring after three operative procedures;

(ii) Pterygium encroaching on the cornea in excess of three millimeters or interfering with vision;

(3) **Cornea:**

(a) Dystrophy, corneal, of any type including keratoconus of any degree;

(b) Keratitis, acute or chronic;

(c) Ulcer, corneal; history of recurrent ulcers or corneal abrasions (including herpetic ulcers);

(d) Vascularization or opacification of the cornea from any cause which interferes with visual function or is progressive;

(4) **Uveal tract:** Inflammation of the uveal tract except healed traumatic choroiditis;

(5) **Retina:**

(a) Angiomatoses, phakomatoses, retinal cysts, and other congenito-hereditary conditions that impair visual function;

(b) Degenerations of the retina to include macular cysts, holes and other degenerations (hereditary as acquired degenerative changes) and other conditions affecting the macule. All types of pigmentary degenerations (primary and secondary);

(c) Detachment of the retina or history of surgery for same;

(d) Inflammation of the retina (retinitis or other inflammatory conditions of the retina to include Coat's disease, diabetic retinopathy, Earles' disease, and retinitis proliferans);

(6) **Optic nerve:**

(a) Congenito-hereditary conditions of the optic nerve or any other central nervous system pathology affecting the efficient function of the optic nerve;

(b) Optic neuritis, neuroretinitis, or secondary optic atrophy resulting therefrom or document history of attacks of retrovulbar neuritis;

(c) Optic atrophy (primary or secondary);

(d) Papilledema;

(7) **Lens:**

(a) Aphakia (unilateral or bilateral);

(b) Dislocation, partial or complete, of a lens;

(c) Opacities of the lens which interfere with vision or which are considered to be progressive;

(8) **Ocular mobility and motility:**

(a) Displopia, documented, constant or intermittent from any cause or of any degree interfering with visual function (i.e., may suppress);

(b) Diplopia, monocular, documented, interfering with visual function;

(c) Mystagmus, with both eyes fixing, congenital or acquired;

(d) Strabismus of forty prism diopters or more, uncorrectable by lenses to less than forty diopters;

(e) Strabismus of any degree accompanied by documented diplopia;

(f) Strabismus, surgery for the correction of, within the preceding six months;

(9) **Miscellaneous defects and diseases;**

(a) Abnormal conditions of the eye or visual fields due to diseases of the central nervous system;

(b) Absence of an eye;

(c) Asthenopia severe;

(d) Exophthalmos, unilateral or bilateral;

(e) Glaucoma, primary or secondary;

(f) Hemianopsia of any type;

(g) Loss of normal pupillary reflex reactions to light or accommodation to distance or Adies syndrome;

(h) Loss of visual fields due to organic disease;

(i) Night blindness associated with objective disease of the eye. Verified congenital night blindness;

(j) Residuals of old contusions, lacerations, penetrations, etc., which impair visual function required for satisfactory performance of duty;

(k) Retained intra-ocular foreign body;

(l) Tumors, see WAC 415-104-590 (1)(f), 415-104-720, and 415-104-725;

(m) Any organic disease of the eye or adnexa not specified above which threatens continuity of vision or impairment of visual functions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-590, filed 2/15/78. Formerly WAC 297-50-100.]

WAC 415-104-595 Vision. The following vision conditions are causes for rejection of membership:

(1) **Distant visual acuity** not less than 20/100 vision in each eye without correction and corrected to 20/20 in the better eye and 20/30 in the lesser eye within eight diopters of plus or minus refractive error;

(2) **Near visual acuity:** Near visual acuity of any degree which does not correct to at least J-6 in the better eye;

(3) **Refractive error:** Any degree of refractive error in spherical equivalent of over -8.00 or +8.00; or if ordinary spectacles cause discomfort by reason of ghost images, prismatic displacement, etc.; or if an ophthalmological consultation reveals a condition which is disqualifying;

(4) **Contact lens:** Complicated cases requiring contact lens for adequate correction of vision as keratoconus, corneal scars, and irregular astigmatism.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-595, filed 2/15/78. Formerly WAC 297-50-100.]

WAC 415-104-600 Genitalia. The following conditions of the genitalia are causes for rejection of membership:

(1) **Bartholinitis,** Bartholin's cyst;

(2) **Cervicitis,** acute or chronic manifested by leukorrhea;

(3) **Dysmenorrhea,** incapacitating to a degree which necessitates recurrent absences of more than a few hours from routine activities;

(4) **Endometriosis,** or confirmed history thereof;

(5) **Hemaphroditism;**

(6) **Menopausal syndrome,** either physiologic or artificial if manifested by more than mild constitutional or mental symptom, or artificial menopause if less than thirteen months have elapsed since cessation of menses. In all cases of artificial menopause, the clinical diagnosis will be reported; if accomplished by surgery, the pathologic report will be obtained and recorded;

(7) **Menstrual cycle,** irregularities of, including menorrhagia, if excessive; metrorrhagia; polymenorrhea; amenorrhea, except as noted in WAC 415-104-600(6);

(8) **New growths of the internal or external genitalia** except single uterine fibroid, subserous, asymptomatic, less than three centimeters in diameter, with no general enlargement of the uterus, see also WAC 415-104-720 and 415-104-725;

(9) **Oophoritis,** acute or chronic;

(10) **Ovarian cysts,** persistent and considered to be of clinical significance;

(11) **Pregnancy;**

(12) **Salpingitis,** acute or chronic;

(13) **Testicle(s):**

(a) Absence or nondescent of both testicles;

(b) Undiagnosed enlargement or mass of testicle or epididymis;

(c) Undescended testicle;

(14) **Urethritis,** acute or chronic, other than gonorrheal urethritis without complications;

(15) **Uterus:**

(a) Cervical polyps, cervical ulcer, or marked erosion;

(b) Endocervicitis, more than mild;

(c) Generalized enlargement of the uterus due to any cause;

(d) Malposition of the uterus if more than mildly symptomatic;

(16) **Vagina:**

(a) Congenital abnormalities or severe lacerations of the vagina;

(b) Vaginitis, acute or chronic, manifested by leukorrhea.

(17) **Varicocele or hydrocele,** if large or painful;

(18) **Vulva:**

(a) Leukoplakia;

(b) Vulvitis, acute or chronic.

(19) Major abnormalities and defects of the genitalia such as a change of sex, a history thereof, or complications (adhesions, disfiguring scars, etc.) residual to surgical correction of these conditions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-600, filed 2/15/78. Formerly WAC 297-50-110.]

WAC 415-104-605 Urinary system. See WAC 415-104-570(1), 415-104-720, and 415-104-725. The following conditions of the urinary system are causes for rejection of membership:

(1) **Albuminuria** if persistent or recurrent including so-called orthostatic or functional albuminuria;

(2) **Cystitis, chronic:** Individuals with acute cystitis are unacceptable until the condition is cured;

(3) **Enuresis** determined to be a symptom of an organic defect not amendable to treatment, see also WAC 415-104-688;

(4) **Epispadias or hypospadias** when accompanied by evidence of infection of the urinary tract or if clothing is soiled when voiding;

(5) **Hematuria, cylindruria,** or other findings indicative of renal tract disease;

(6) **Incontinence** of urine;

(7) **Kidney:**

(a) Absence of one kidney, regardless of cause;

(b) Acute or chronic infections of the kidney;

(c) Cystic or polycystic kidney, confirmed history of;

(d) Hydronephrosis or pyonephrosis;

(e) Nephritis, acute or chronic;

(f) Pyelitis, pyelonephritis;

(8) **Penis,** amputation of, if the resulting stump is insufficient to permit micturition in a normal manner;

(9) **Peyronie's disease;**

(10) **Prostate gland,** hyperthrophy of, with urinary retention;

(11) **Renal calculus:**

(a) Substantiated history of bilateral renal calculus at any time;

(b) Verified history of renal calculus at any time with evidence of stone formation within the preceding twelve months, current symptoms or positive X ray for calculus;

(12) **Skeneitis;**

(13) **Urethra:**

(a) Stricture of the urethra;

(b) Urethritis, acute or chronic, other than gonorrheal urethritis without complications;

(14) **Urinary fistula;**

(15) **Other diseases and defects of the urinary system** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-605, filed 2/15/78. Formerly WAC 297-50-110.]

WAC 415-104-610 Head. The following conditions of the head are causes for rejection of membership:

(1) **Abnormalities** which are apparently temporary in character resulting from recent injuries until a period of three months has elapsed. These include severe contusions and other wounds of the scalp and cerebral concussion;

(2) **Deformities** of the skull in the nature of depressions, exostoses, etc., of a degree which would prevent the individual from the wearing of a gas mask or headgear;

(3) **Deformities of the skull of any degree** associated with evidence of disease of the brain, spinal cord, or peripheral nerves;

(4) **Depressed fractures near central sulcus** with or without convulsive seizures;

(5) **Loss or congenital absence** of the bony substance of the skull, except that the examiner may find individuals acceptable when—

(a) The area does not exceed 2.5 centimeters square, and does not overlie the motor cortex or a dural sinus;

(b) There is no evidence of alteration of brain function in any of its several spheres (intelligence, judgment, perception, behavior, motor control, sensory function, etc.);

(c) There is no evidence of bone degeneration, disease, or other complications of such a defect;

(6) **Unsightly deformities,** such as large birthmarks, large hairy moles, extensive scars, and mutilations due to injuries or surgical operations; ulcerational fistulae, atrophy, or paralysis of part of the face or neck.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-610, filed 2/15/78. Formerly WAC 297-50-120.]

WAC 415-104-615 Neck. The following conditions of the neck are causes for rejection of membership:

(1) **Cervical ribs** if symptomatic, or so obvious that they are found on routine physical examination. (Detection based primarily on X ray is not considered to meet this criterion);

(2) Congenital cysts of branchial cleft origin or those developing from the remnants of the thyroglossal duct, with or without fistulous tracts;

(3) **Fistula,** chronic draining, of any type;

(4) **Healed tuberculosis lymph nodes** when extensive in number or densely calcified;

(5) **Nonspastic contraction** of the muscles of the neck or cicatricial contracture of the neck to the extent that it interferes with the wearing of a uniform or equipment or is so disfiguring as to make the individual objectionable in common social relationships;

(6) **Spastic contraction** of the muscles of the neck, persistent, and chronic;

(7) **Tumor of thyroid or other structures of the neck,** see WAC 415-104-720 and 415-104-725.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-615, filed 2/15/78. Formerly WAC 297-50-120.]

WAC 415-104-620 Heart. The following conditions of the heart are causes for rejection of membership:

(1) **All organic valvular diseases of the heart,** including those improved by surgical procedures;

(2) **Coronary artery disease** or myocardial infarction, old or recent or true angina pectoris, at any time;

(3) **Electrocardiographic evidence** of major arrhythmias such as—

(a) Atrial tachyardia, flutter, or fibrillation, ventricular tachycardia or fibrillation;

(b) Conduction defects such as first degree atrio-ventricular block and right bundle branch block (These conditions occurring as isolated findings are not unfitting when cardiac evaluation reveals no cardiac disease.);

(c) Left bundle branch block, second and third degree aV block;

(d) Unequivocal electrocardiographic evidence of old or recent myocardial infarction; coronary insufficiency at rest or after stress; or evidence of heart muscle disease;

(4) **Hypertrophy or dilation of the heart** as evidenced by clinical examination or roentgenographic examination and supported by electrocardiographic examination. Care should be taken to distinguish abnormal enlargement from increased diastolic filling as seen in the well conditioned subject with a sinus bradycardia;

(5) **Myocardial insufficiency** (congestive circulatory failure, cardiac decompensation) obvious or covert, regardless of cause;

(6) **Paroxysmal tachycardia** within the preceding five years, or at any time if recurrent or disabling or if associated with electrocardiographic evidence of accelerated aV conduction (Wolff-Parkinson-White);

(7) **Pericarditis; endocarditis; or myocarditis,** history or finding of, except for a history of a single acute idiopathic or coxsackie pericarditis with no residuals;

(8) **Tachycardia** persistent with a resting pulse rate of 100 or more, regardless of cause.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-620, filed 2/15/78. Formerly WAC 297-50-130.]

WAC 415-104-624 Vascular system. The following conditions of the vascular system are causes for rejection of membership:

(1) **Congenital or acquired lesions of the aorta and major vessels,** such as syphilitic aortitis, demonstrable atherosclerosis which interferes with circulation, congenital or acquired dilatation of the aorta (especially is associated with other features of Marfan's syndrome), and pronounced dilatation of the main pulmonary artery;

(2) **Hypertension** evidenced by preponderant blood pressure readings of 150-mm or more systolic in an individual over thirty-five years of age or preponderant readings of 140-mm or more systolic in an individual thirty-five years of age or less. Preponderant diastolic pressure over 90-mm diastolic is cause for rejection at any age;

(3) **Marked circulatory instability** as indicated by orthostatic hypotension, persistent tachycardia, severe peripheral vasomotor disturbances, and sympatheticotonia;

(4) **Peripheral vascular disease** including Raynaud's phenomena, Buerger's disease (thromboangitis obliterans), erythromelalgia, arteriosclerotic and diabetic vascular diseases. Special tests will be employed in doubtful cases;

(5) **Thrombophlebitis:**

(a) History of thrombophlebitis with persistent thrombus or evidence of circulatory obstruction or deep venous incompetence in the involved veins;

(b) Recurrent thrombophlebitis;

(6) **Varicose veins,** if more than mild, or if associated with edema, skin ulceration, or residual scars from ulceration.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-624, filed 2/15/78. Formerly WAC 297-50-130.]

WAC 415-104-628 Heart and vascular system—Miscellaneous. The following conditions of the heart and vascular system are causes for rejection of membership:

(1) **Aneurysm of the heart or major vessel,** congenital or acquired;

(2) **History and evidence of a congenital abnormality** which has been treated by surgery but with residual abnormalities or complications, for example: Patent ductus arteriosus with residual cardiac enlargement or pulmonary hypertension; resection of a coarctation of the aorta without a graft when there are other cardiac abnormalities or complications; closure of a secundum type atrial septal defect when there are residual abnormalities or complications;

(3) **Major congenital abnormalities and defects of the heart and vessels** unless satisfactorily corrected without residuals or complications. Uncomplicated dextrocardia and other minor asymptomatic anomalies are acceptable;

(4) **Substantiated history of rheumatic fever or chorea** within the previous two years, recurrent attacks of rheumatic fever or chorea at any time, or with evidence of residual cardiac damage.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-628, filed 2/15/78. Formerly WAC 297-50-130.]

WAC 415-104-630 Height. The following conditions are causes for rejection of membership:

(1) **Men:** Height below . . . . inches or over . . . . inches, as specified by hiring agency;

(2) **Women:** Height below . . . . inches or over . . . . inches, as specified by hiring agency.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-630, filed 2/15/78. Formerly WAC 297-50-140.]

WAC 415-104-634 Weight. The following conditions are causes for rejection of membership:

(1) **Weight related to height** which is below the minimum shown in WAC 415-104-650 (Table 2);

(2) **Weight related to age and height** which is in excess of the maximum shown in WAC 415-104-650 (Table 2) for all applicants.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-634, filed 2/15/78. Formerly WAC 297-50-140.]

WAC 415-104-638 Body build. The following conditions of body build are causes for rejection of membership:

(1) **Congenital malformation of bones and joints;**

(2) **Deficient muscular development** which would interfere with the completion of required training;

(3) **Evidence of congenital asthenia** (slender bones; weak thorax; visceroptosis, severe chronic constipation; or "drop heart" if marked in degree);

(4) **Obesity:** Even though the individual's weight is within the maximum shown in WAC 415-104-650 (Table 2) he will be reported as medically unacceptable when the medical and musculature, constitutes obesity of such a degree as to interfere with the satisfactory completion of prescribed training.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-638, filed 2/15/78. Formerly WAC 297-50-140.]

WAC 415-104-640 Lungs and chest wall—General. The following conditions of the lungs and chest are causes for rejection of membership, until study indicates recovery without disqualifying sequelae:

(1) **Abnormal elevation of the diaphragm** on either side;

(2) **Acute abscess** of the lung;

(3) **Acute bronchitis** until the condition is cured;

(4) **Acute fibrinous pleurisy,** associated with acute nontuberculous pulmonary infection;

(5) **Acute mycotic disease** of the lung such as coccidioidomycosis and histoplasmosis;

(6) **Acute nontuberculous pneumonia;**

(7) **Foreign body in trachea or bronchus;**

(8) **Foreign body of the chest wall** causing symptoms;

(9) **Lobectomy,** history of, for a nontuberculous nonmalignant lesion with residual pulmonary disease. Removal of more than one lobe is cause for rejection regardless of the absence of residuals;

(10) **Other traumatic lesions** of the chest or its contents;

(11) **Pneumothorax,** regardless of etiology or history thereof;

(12) **Recent fracture** of ribs, sternum, clavicle, or scapula;

(13) **Significant abnormal findings** on physical examination of the chest.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-640, filed 2/15/78. Formerly WAC 297-50-150.]

WAC 415-104-644 Lungs and chest—Tuberculous lesions. See also WAC 415-104-710. The following tubercular lesions of the lungs and chest are causes for rejection of membership:

(1) **Active tuberculosis** in any form or location;

(2) **Pulmonary tuberculosis,** active within the past five years;

(3) **Substantiated history or X-ray findings** of pulmonary tuberculosis of more than minimal extent at any time; or minimal tuberculosis not treated with a full year of approved chemotherapy or combined chemotherapy and surgery; or a history of pulmonary tuberculosis with reactivation, relapse, or other evidence of poor host resistance.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-644, filed 2/15/78. Formerly WAC 297-50-150.]

WAC 415-104-648 Lungs and chest—Nontuberculous lesions. The following nontubercular lesions of the lungs and chest are causes for rejection of membership:

(1) **Acute mastitis,** chronic cystic mastitis, if more than mild;

(2) **Bronchial asthma,** except for childhood asthma with a trustworthy history of freedom from symptoms since the twelfth birthday;

(3) **Bronchitis,** chronic with evidence of pulmonary function disturbance;

(4) **Bronchiectasis;**

(5) **Bronchopleura fistula;**

(6) **Bullous or generalized pulmonary emphysema;**

(7) **Chronic abscess of lung;**

(8) **Chronic fibrous pleuritis** of sufficient extent to interfere with pulmonary function or obscure the lung field in the roentgenogram;

(9) **Chronic mycotic diseases** of the lung including coccidioidomycosis; residual cavitation or more than a few small-sized inactive and stable residual modules demonstrated to be due to mycotic disease;

(10) **Empyema,** residual sacculation or unhealed sinuses of chest wall following operation for empyema;

(11) **Extensive pulmonary fibrosis** from any cause, producing dyspnea on exertion;

(12) **Foreign body of the lung or mediastinum** causing symptoms or active inflammatory reaction;

(13) **Multiple cystic disease** of the lung or solitary cyst which is large and incapacitating;

(14) **New growth on breast, history of mastectomy;**

(15) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;

(16) **Pleurisy with effusion** of unknown origin within the preceding five years;

(17) **Sarcoidosis,** see WAC 415-104-710;

(18) **Suppurative periostitis** of rib, sternum, clavicle, scapula, or vertebra.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-648, filed 2/15/78. Formerly WAC 297-50-150.]

WAC 415-104-650 Table 2—Table of weight.

Table of Acceptable Weight (in Pounds)
as Related to Age and Height for Applicants

Height (Inches)	Mininum (regardless of age)	Maximum 19-20 years	21-24 years	25-30 years	31-35 years
60 ——	94	163	173	173	173
61 ——	96	171	176	175	175
62 ——	98	174	178	178	177
63 ——	100	178	182	181	180
64 ——	102	183	184	185	185
65 ——	104	187	190	191	190
66 ——	106	191	196	197	196
67 ——	109	196	201	202	201
68 ——	112	202	207	208	207
69 ——	115	208	213	214	212
70 ——	118	214	219	219	218
71 ——	122	219	224	225	223
72 ——	125	225	231	232	230
73 ——	129	231	239	238	237
74 ——	135	237	246	246	243
75 ——	140	243	253	253	251
76 ——	143	248	260	260	257
77 ——	147	254	267	267	264
78 ——	149	260	275	273	271

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-650, filed 2/15/78. Formerly WAC 297-50-160.]

WAC 415-104-660 Mouth. The following conditions of the mouth are causes for rejection of membership:

(1) **Hard palate,** perforation of;

(2) **Harelip,** unless satisfactorily repaired by surgery;

(3) **Leukoplakia,** if severe;

(4) **Lips,** unsightly mutilations of, from wounds, burns, or disease;

(5) **Ranula,** if extensive, see also WAC 415-104-720 and 415-104-725.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-660, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-663 Nose and sinuses. The following conditions of the nose and sinuses are causes for rejection of membership:

(1) **Allergic manifestations:**

(a) Chronic atophic rhinitis;

(b) Hay fever if severe; or if not controllable by antihistamines or by desensitization, or both;

(2) **Choana, atresia, or stenosis of,** if symptomatic;

(3) **Nasal septum, perforation of:**

(a) Associated with interference of function, ulceration or crusting, and when the result of organic disease;

(b) If progressive;

(c) If respiration is accompanied by a whistling sound;

(4) **Sinusitis, acute;**

(5) **Sinusitis, chronic,** when more than mild:

(a) Evidenced by any of the following: Chronic purulent nasal discharge, large nasal polyps, hyperplastic changes of the nasal tissues, or symptoms requiring frequent medical attention;

(b) Confirmed by transillumination or X-ray examination or both.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-663, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-666 Pharynx, trachea, esophagus, and larynx. The following conditions of the pharynx, trachea, esophagus, and larynx are causes for rejection of membership:

(1) **Esophagus,** organic disease of, such as ulceration, varices, achalsia; peptic esophagitis; if confirmed by appropriate X-ray or esophagoscopic examinations;

(2) **Laryngeal paralysis,** sensory or motor, due to any cause;

(3) **Larynx,** organic disease of, such as neoplasm, polyps, granuloma, ulceration, and chronic laryngitis;

(4) **Plica dysphonia venricularis;**

(5) **Tracheostomy or tracheal fistula.**

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-666, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-668 Miscellaneous mouth, throat, and nose diseases. The following miscellaneous mouth, throat, and nose diseases are causes for rejection of membership:

(1) **Aphonia;**

(2) **Deformities or conditions of the mouth, throat, pharynx, larynx, esophagus, and nose,** which interfere with mastication and swallowing of ordinary food, with speech, or with breathing;

(3) **Destructive syphilitic disease of the mouth, nose, throat, larynx, esophagus,** see WAC 415-104-730;

(4) **Pharyngitis and nasopharyngitis,** chronic, with positive history of objective evidence, if of such a degree as to result in excessive time lost in the fire or law enforcement environment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-668, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-670 Neurological disorders. The following neurological disorders are causes for rejection of membership:

(1) **Degenerative disorders:**

(a) Cerebellar and Friedreich's ataxia;

(b) Cerebral arteriosclerosis;

(c) Encephalomyelitis, residuals of, which preclude the satisfactory performance of duties;

(d) Huntington's chorea;

(e) Multiple sclerosis;

(f) Muscular atrophies and dystrophies of any type;

(2) **Miscellaneous:**

(a) Congenital malformations if associated with neurological manifestations and meningocele even if uncomplicated;

(b) Migraine when frequent and incapacitating;

(c) Paralysis or weakness, deformity, discoordination, pain, sensory disturbances of consciousness, or personality abnormalities regardless of cause which are of such a nature or degree as to preclude the satisfactory performance of duty;

(d) Tremors, spasmodic torticollis, athetosis or other abnormal movements more than mild;

(3) **Neurosyphilis of any form** (general paresis, tables dorsalis, meningovascular syphilis);

(4) **Paroxysmal convulsive disorders,** disturbances of consciousness, all forms of psychomotor or temporal lobe epilepsy or history thereof except for seizures associated with toxic states or fever during childhood up to the age of twelve;

(5) **Peripheral nerve disorder:**

(a) Polyneuritis;

(b) Mononeuritis or neuralgia which is chronic or recurrent and of an intensity that is periodically incapacitating;

(c) Neurofibromatiosis;

(6) **Spontaneous subarachnoid hemorrhage,** verified history of, unless cause has been surgically corrected.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-670, filed 2/15/78. Formerly WAC 297-50-190.]

WAC 415-104-680 Psychoses. The following psychotic conditions are causes for rejection of membership: Psychosis or authenticated history of a psychotic illness other than those of a brief duration associated with a toxic or infectious process.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-680, filed 2/15/78. Formerly WAC 297-50-200.]

WAC 415-104-684 Psychoneuroses. The following psychoneurotic conditions are causes for rejection of membership:

(1) **History of a psychoneurotic reaction** which caused:

(a) Hospitalization;

(b) Prolonged care by a physician;

(c) Loss of time from normal pursuits for repeated periods even if of brief duration, or

(d) Symptoms or behavior of a repeated nature which impaired school or work efficiency;

(2) **History of a brief psychoneurotic reaction or nervous disturbance** within the preceding twelve months which was sufficiently severe to require medical attention or absence from work or school for a brief period (maximum of seven days).

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-684, filed 2/15/78. Formerly WAC 297-50-200.]

WAC 415-104-688 Personality disorders. The following personality disorders are causes for rejection of membership:

(1) **Character and behavior disorders,** as evidenced by:

(a) Frequent encounters with law enforcement agencies, or anti-social attitudes or behavior which, while not a cause for administrative rejection, are tangible evidence of an impaired characterological capacity to adapt to the service;

(b) Sexual deviant practices such as exhibitionism, transvestism, voyeurism, etc;

(c) Chronic alcoholism or alcohol addiction;

(d) Drug use or addiction;

(2) **Character and behavior disorders** where it is evident by history and objective examination that the degree of immaturity, instability, personality inadequacy, and dependency will seriously interfere with adjustment in the service as demonstrated by repeated inability to maintain reasonable adjustment in school, with employers and fellow workers, and other society groups;

(3) **Other symptomatic immaturity reactions** such as authenticated evidence of enuresis which is habitual or persistent, not due to an organic condition occurring beyond early adolescence (age twelve to fourteen) and stammering or stuttering of such a degree that the individual is normally unable to express himself clearly or to repeat commands;

(4) **Specific learning defects** secondary to organic or functional mental disorders.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-688, filed 2/15/78. Formerly WAC 297-50-200.]

WAC 415-104-690 Skin and cellular tissues. The following conditions of the skin and cellular tissues are causes for rejection of membership:

(1) **Acne:** Severe, when the face is markedly disfigured, or when extensive involvement of the neck, shoulders, chest, or back would be aggravated by or interfere with the wearing of required equipment;

(2) **Atopic dermatitis:** With active or residual lesions in characteristic areas (face and neck, antecubital and popliteal fossae, occasionally wrists and hands), or documented history thereof;

(3) **Cysts:** (a) Pilonidal cysts: If evidenced by the presence of a tumor mass or a discharging sinus;

(b) All other cysts. Of such a size or location as to interfere with the normal wearing of required equipment;

(4) **Dermatitis factitia;**

(5) **Dermatitis herpetiformis;**

(6) **Eczema:** Any type which is chronic and resistant to treatment;

(7) **Elephantiatis or chronic lymphedoma;**

(8) **Epidermolyssis bullosa; pemphigus;**

(9) **Fungus infections,** systemic or superficial types: If extensive and not amendable to treatment;

(10) **Furunculosis:** Extensive, recurrent, or chronic;

(11) **Hyperhidrosis** of hands or feet: Chronic or severe;

(12) **Ichthyosis:** Severe;

(13) **Leprosy:** Any type;

(14) **Leukemia cutis;** mycosis fungoides, Hodgkins' disease;

(15) **Lichen planus;**

(16) **Lupus erythematosus** (acute, subacute, or chronic) or any other dermatosis aggravated by sunlight;

(17) **Neurofibromatiosis** (Von Reckloinghausen's disease);

(18) **Nevi or vascular tumors:** If extensive, unsightly, or exposed to constant irritation;

(19) **Psoriasis** or verified history thereof;

(20) **Radiodermatitis;**

(21) **Scars** which are so extensive, deep, or adherent that they may interfere with the wearing of required equipment, or that show a tendency to ulcerate;

(22) **Scleroderma:** Diffuse type;

(23) **Tuberculosis,** see WAC 415-104-710;

(24) **Warts, plantar,** which have materially interfered with the following of a useful vocation in civilian life;

(25) **Urticaria:** Chronic;

(26) **Xanthoma:** If disabling or accompanied by hypercholesterolemia or hyperlipemia;

(27) **Any other chronic skin disorder** of a degree or nature which requires frequent outpatient treatment or hospitalization, interferes with the satisfactory performance of duty, or is so disfiguring as to make the individual objectionable in ordinary social relationships.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-690, filed 2/15/78. Formerly WAC 297-50-210.]

WAC 415-104-700 Spine and sacroiliac joints. The report of the medical history by the examining physician requires a full back X ray (cervical-dorsal-lumbar-sacral). See WAC 415-104-588. The following conditions of the spine and sacroiliac joints are causes for rejection of membership:

(1) **Arthritis,** see WAC 415-104-588(1);

(2) **Complaint of disease or injury of the spine or sacroiliac joints** either with or without objective signs and symptoms which have prevented the individual from successfully following a physically active vocation in civilian life. Substantiation or documentation of the complaint without symptoms and objective signs is required;

(3) **Deviation or curvature of spine** from normal alignment, structure, or function (scoliosis, kyphosis, or lordosis, spina bifida acculta, spondylolysis, etc.) if:

(a) Mobility and weight-bearing power is poor;

(b) More than moderate restriction of normal physical activities is required;

(c) Of such a nature as to prevent the individual from following a physically active vocation in civilian life;

(d) Of a degree which will interfere with the wearing of required equipment;

(e) Symptomatic, associated with positive physical finding(s) demonstrable by X ray;

(4) **Disease of the lumbosacral or sacroiliac joints** of a chronic type and obviously associated with pain referred to the lower extremities, muscular spasm, postural deformities and limitation of motion in the lumbar region of the spine;

(5) **Granulomatous diseases** either active or healed;

(6) **Healed fracture of the spine or pelvic bones** with associated symptoms which have prevented the individual from following a physically active vocation in civilian life or which preclude the satisfactory performance of required duties;

(7) **Ruptured nucleus pulposus** (herniation of intervertebral disk) or history of operation for this condition;

(8) **Spondylolyssis or spondylolisthesis** that is symptomatic or is likely to interfere with performance of duty or is likely to require assignment limitations.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-700, filed 2/15/78. Formerly WAC 297-50-220.]

WAC 415-104-705 Scapulae, clavicles, and ribs. See WAC 415-104-588. The following conditions of the scapulae, clavicles, and ribs are causes for rejection of membership:

(1) **Fractures,** until well healed, and until determined that the residuals thereof will not preclude satisfactory performance of required duties;

(2) **Injury within the preceding six weeks,** without fracture, or dislocation, of more than a minor nature;

(3) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;

(4) **Prominent scapulae** interfering with function or with the wearing of required equipment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-705, filed 2/15/78. Formerly WAC 297-50-220.]

WAC 415-104-710 Systemic diseases. The following systemic diseases are causes for rejection of membership:

(1) **Dermatomyositis;**

(2) **Lupus erythematosus;** acute, subacute, or chronic;

(3) **Progressive systemic sclerosis;**

(4) **Reiter's disease;**

(5) **Sarcoidosis;**

(6) **Scleroderma,** diffuse type;

(7) **Tuberculosis:**

(a) Active tuberculosis in any form or location;

(b) Pulmonary tuberculosis;

(c) Confirmed history of tuberculosis of a bone or joint, genitourinary organs, intestines, peritoneum or mesenteric glands at any time;

(d) Meningeal tuberculosis; disseminated tuberculosis.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-710, filed 2/15/78. Formerly WAC 297-50-230.]

WAC 415-104-715 Miscellaneous conditions and defects. The following miscellaneous conditions and defects are causes for rejection of membership:

(1) **Allergic manifestations:**

(a) Allergic rhinitis (hay fever), see WAC 415-104-570(2);

(b) Asthma, see WAC 415-104-670 (2)(c);

(c) Allergic dermatoses, see WAC 415-104-690;

(d) Visceral, abdominal, and cerebral allergy, if severe or not responsive to treatment;

(2) **Any acute pathological condition,** including acute communicable diseases, until recovery has occurred without sequelae;

(3) **Any deformity** which is markedly unsightly or which impairs general functional ability to such an extent as to prevent satisfactory performance of duty;

(4) **Chronic metallic poisoning** especially beryllium, manganese, and mercury. Undesirable residuals from lead, arsenic, or silver poisoning make the examinee medically unacceptable;

(5) **Cold injury,** residuals, of (example: frostbite, chilblain, immersion foot, or trench foot) such as deep seated acne, paresthesia, hyperhidrosis, easily traumatized skin, cyanosis, amputation of any digit or ankylosis;

(6) **Positive tests for syphilis** with negative TPI test unless there is a documented history of adequately treated lues or any of the several conditions which are known to give a false-positive S.T.S. (vaccinia, infectious hepatitis, immunizations, a typical pneumonia, etc.) or unless there has been a reversal to a negative S.T.S. during an appropriate follow-up period (three to six months);

(7) **Filariasis; trypanosomiasis; amebiasis; schistosomiasis;** (hookworm) associated with anemia, malnutrition, etc., if more than mild, and other similar worm or animal parasitic infestations, including the carrier states thereof;

(8) **Heat pyrexia** (heatstroke, sunstroke, etc.): Documented evidence of predisposition (includes disorders of sweat mechanism and previous serious episode), recurrent episodes requiring medical attention, or residual injury resulting therefrom (especially cardiac, cerebral, hepatic, and renal);

(9) **Industrial solvent and other chemical intoxication, chronic** including carbon bisulfide, tricholorethylene, carbon tetrachloride, and methyl cellosolve;

(10) **Mycotic infection of internal organs;**

(11) **Myositis or fibrositis** severe, chronic;

(12) **Residuals of tropical fevers and various parasitic or protozoal infestations** which in the opinion of the medical examiner preclude the satisfactory performance of duty.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-715, filed 2/15/78. Formerly WAC 297-50-230.]

WAC 415-104-720 Tumors. The following tumors are causes for rejection of membership:

(1) **Any tumor** of the:

(a) Auditory canal, if obstructive;

(b) Eye or orbit;

(c) Kidney, bladder, testicle, or penis

(d) Central nervous system and its membraneous coverings unless five years after surgery and no otherwise disqualifying residuals of surgery or original lesion;

(2) **Benign tumors of the thyroid or other structures of the neck,** including enlarged lymph nodes, if the enlarge-

ment is of such degree as to interfere with the wearing of required equipment;

(3) **Benign tumors of the abdominal wall** if sufficiently large to interfere with required duties;

(4) **Benign tumors of bone** likely to continue to enlarge, be subjected to trauma during service, or show malignant potential;

(5) **Tongue, benign tumor of,** if it interferes with function;

(6) **Breast, thoracic contents, or chest wall tumors,** of other than fibromata lipomata, and inclusion of sebaceous cysts which do not interfere with required duties;

(7) **Tumors of the internal or external female genitalia.**

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-720, filed 2/15/78. Formerly WAC 297-50-240.]

WAC 415-104-725 Malignant diseases and tumors. The following malignant diseases and tumors are causes for rejection of membership:

(1) **Leukemia, acute or chronic;**

(2) **Malignant lymphomata;**

(3) **Malignant tumor of any kind,** at any time, substantiated diagnosis of, even though surgically removed, confirmed by accepted laboratory procedures, except as noted in WAC 415-104-590 (1)(f).

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-725, filed 2/15/78. Formerly WAC 297-50-240.]

WAC 415-104-730 Venereal diseases. In general the finding of acute, uncomplicated venereal disease which can be expected to respond to treatment is not a cause for medical rejection of membership.

However, the following conditions are causes for rejection of membership:

(1) **Chronic venereal disease** which has not satisfactorily responded to treatment. The finding of a positive serologic test for syphilis following adequate treatment of syphilis is not in itself considered evidence of chronic venereal disease which has not responded to treatment. See WAC 415-104-715(6);

(2) **Complications and permanent residuals of venereal disease** if progressive, of such nature as to interfere with the satisfactory performance of duty, or if subject to aggravation in the performance of required duties;

(3) **Neurosyphilis,** see WAC 415-104-670 (1)(c).

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-730, filed 2/15/78. Formerly WAC 297-50-250.]

WAC 415-104-740 Mental examination. The following mental conditions are causes for rejection of membership:

(1) **Psychosis or authenticated history of a psychotic illness** other than those of a brief duration associated with a toxic or infectious process;

(2) **A history of a psychoneurotic reaction** which caused:

(a) Hospitalization;

(b) Prolonged care by a physician;

(c) Loss of time from normal pursuits for repeated periods even if of brief duration;

(d) Symptoms or behavior of a repeated nature which impaired school or work efficiency;

(3) **A history of a brief psychoneurotic reaction or nervous disturbance** within the preceding twelve months which was sufficiently severe to require medical attention or absence from work or school for a brief period;

(4) **Character or behavior (personality) disorders** as evidenced by:

(a) Frequent encounters with the law enforcement agencies, or antisocial attitudes or behavior which, while not a cause for rejection, are tangible evidence of an impaired characterological capacity to adapt to the demands of the service;

(b) Sexual deviant practice such as exhibitionism, transvestism, voyeurism, etc.;

(c) Chronic alcoholism or alcohol addiction;

(d) Drug addiction, including the use of drugs;

(5) **Character and behavior disorders** where it is evident by history and objective examination that the degree of immaturity, instability, personality inadequacy and dependency will seriously interfere with the performance of duties as demonstrated by repeated inability to maintain reasonable adjustment in school, with employers, and fellow workers and other social groups;

(6) **Other symptomatic immaturity reactions** such as authenticated evidence of neurosis which is habitual or persistent, not due to an organic condition occurring beyond early adolescence (age twelve to fourteen) and stammering and stuttering of such degree that the individual is normally unable to express himself clearly or to converse in a normal manner;

(7) **Specific learning defects** secondary to organic or functional mental disorders.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-740, filed 2/15/78. Formerly WAC 297-50-260.]

WAC 415-104-745 Mental examination—Requirement. All applicants must be screened by a licensed physician, who may at his discretion, request the assistance of a psychiatrist or clinical psychologist.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-745, filed 2/15/78. Formerly WAC 297-50-260.]

WAC 415-104-750 Mental examination—Procedure. (1) Applicants will complete preliminary history forms as required by the examiner. The "report of medical history" completed by the applicant will be made available to the examiner.

(2) During the psychiatric interview, the examining physician will evaluate each individual sufficiently to eliminate those with symptoms of a degree that would impair their effective performance of duty.

(a) The applicant's behavior will be observed and an estimate made of his current mental status.

(b) Any evidence of disorganized or unclear thinking, or unusual thought control, or undue suspiciousness, or of apathy or "strangeness" will be noted.

(c) Any unusual emotional expression such as depression, expansiveness, withdrawal, or marked anxiety, which is out of keeping with the content of the interview will be noted and carefully evaluated.

(3) The results of the examination will be recorded and that record or a summary of recommendations will be forwarded to the hiring authority.

(4) The mental examination report will be retained in permanent files by the employing fire department and must be available for examination at any reasonable time by representatives of the retirement system board.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-750, filed 2/15/78. Formerly WAC 297-50-270.]

WAC 415-104-755 Mental examination—Retention by employing department. The employing fire department shall permanently retain the results of the mental examination as conducted by the examiner under WAC 415-104-750.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. WSR 78-03-023 (Order IV), § 415-104-755, filed 2/15/78. Formerly WAC 297-50-260.]

ELECTED OFFICIALS

WAC 415-104-782 Option to preserve LEOFF I retirement rights. The following rules describe the process by which a LEOFF Plan I member whose retirement rights are protected by RCW 41.04.120 may preserve retirement rights as an active LEOFF member while serving in an elective public office.

A LEOFF Plan I member who is elected or appointed to elective office shall have the option to:

(1) Preserve his or her retirement rights as an active member of LEOFF Plan I; or

(2) Be considered to be on normal leave of absence from the LEOFF I employer.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. WSR 93-11-078, § 415-104-782, filed 5/18/93, effective 6/18/93.]

WAC 415-104-783 Verification of eligibility for preservation of LEOFF Plan I membership. A LEOFF Plan I elected official must provide the department with written verification of a leave of absence from the LEOFF employer for the express purpose of serving in the elective public office. The verification must state a beginning date and an ending date for the leave.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. WSR 93-11-078, § 415-104-783, filed 5/18/93, effective 6/18/93.]

WAC 415-104-784 Member contributions for LEOFF Plan I elected officials. A LEOFF Plan I elected official must pay member contributions directly to the department. Such member contributions will be calculated on the salary for the rank the member held at the time of taking the leave of absence. The department will bill the LEOFF I elected official on a monthly basis. Payment of each month's bill is due to the department by the 15th day of the next month. Failure to pay contributions for two consecutive billing months will result in suspension of LEOFF I elected official status. Such status can be reinstated if overdue contributions are paid within ninety days after notice of suspension.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. WSR 93-11-078, § 415-104-784, filed 5/18/93, effective 6/18/93.]

WAC 415-104-785 Employer contributions for LEOFF Plan I elected officials. The elective employer shall pay employer contributions for the LEOFF Plan I elected official. Such employer contributions will be calculated on the annual salary paid to the LEOFF I elected official for employment in the elective office. The elective employer will be directly billed by the department for employer contributions for a LEOFF I elected official. The elective employer shall pay employer contributions for LEOFF I elected officials in a timely manner as provided under chapter 415-114 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. WSR 93-11-078, § 415-104-785, filed 5/18/93, effective 6/18/93.]