

WAC 415-108-690 How is my membership eligibility evaluated? (1)
Your eligibility to participate as a member of PERS is based on your position.

In evaluating whether your position is eligible for membership, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010 and WAC 415-108-680(1). Your employer will not consider your membership status or individual circumstances unless you:

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

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

(2) Your employer will evaluate your position's eligibility for a particular year at the beginning of the year. This is normally a calendar year unless your employer has determined and supports a different twelve-month period for its year.

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

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

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

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

(ii) If:

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

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

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

You will enter membership prospectively.

(4) The department will not reclassify your position's eligibility until history of the position shows that it meets the criteria for an eligible or ineligible position.

(a) If your employer has declared your position ineligible, the department will not reclassify your position as eligible until history of the position shows a period of two consecutive years of at least five months of seventy or more hours of compensated employment each month.

(b) If your employer has declared your position ineligible, the position must continue to fail to meet the requirements of an eligible

position or reclassification of your position will occur as stated in subsection (3)(b) of this section.

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

- (a) "Eligible position" - RCW 41.40.010.
- (b) "Employer" - RCW 41.40.010.
- (c) "Ineligible position" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Project position" - WAC 415-108-010.
- (f) "Report" - WAC 415-108-010.
- (g) "Year" - WAC 415-108-010.

[Statutory Authority: RCW 41.50.050. WSR 21-16-020, § 415-108-690, filed 7/23/21, effective 8/23/21. Statutory Authority: RCW 41.50.050(5), 41.40.010, 41.40.023. WSR 02-03-120, § 415-108-690, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. WSR 95-16-053, § 415-108-690, filed 7/25/95, effective 8/25/95.]