

WAC 415-112-415 Are cash-outs for annual leave and personal leave included in earnable compensation and/or average final compensation? (1)(a) **Plan 1.** Under RCW 41.32.010 (10)(a), cash-outs for up to two hundred forty hours of unused annual leave are included in earnable compensation¹ for Plan 1 members according to this section.

(b) **Plans 2 and 3.** Under RCW 41.32.010 (10)(b), cash-outs for unused annual leave and personal leave are not earnable compensation in Plans 2 and 3, and are **not** includable in average final compensation. Subsections (2) through (4) of this section apply to Plan 1 members only.

(2) For Plan 1 members, cash-outs for unused annual leave and personal leave may be included in average final compensation only if the leave was earned during the two fiscal years used to calculate your average final compensation under WAC 415-112-430.

(3) The department determines when your cashed-out leave was earned as follows:

(a) You accrue annual leave and personal leave at a prescribed rate, often a certain number of hours per month. Your accrued leave is stored until you use it.

(b) Except as provided in (c) of this subsection, the department applies a "first-in-first-out (FIFO)" methodology to determine what personal leave and annual leave you have used.

Example: John has accrued ten days of annual leave. He earned five days in 2000 and five days in 2001. In 2002, John uses five days of annual leave. He is deemed to have used the five days earned in 2000. The five days earned in 2001 remain unused.

(c) If the employer has a different methodology in place, the department will use the employer's methodology, rather than the FIFO methodology; provided that:

(i) The employer's methodology was clearly documented by a collective bargaining agreement, regulation, charter provision, ordinance, or other comparable written policy statement; and

(ii) The employer's methodology was applied consistently to all employees for all purposes.

(4) For purposes of determining average final compensation and excess compensation, the department will consider the hours of leave in the form in which the leave was earned. If an employer converts one form of leave to another form of leave, the department will disregard the conversion and bill the employer for the amount converted if it meets the definition of excess compensation in RCW 41.50.150.

¹In certain cases, an employee may cash out personal leave and/or more than two hundred forty hours of annual leave. Although this cash-out is not earnable compensation, it may be used in the calculation of the employee's retirement allowance and the employer will be billed for the excess compensation. See WAC 415-02-140.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). WSR 05-12-108, § 415-112-415, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050 and 41.32.010(10). WSR 00-13-001, § 415-112-415, filed 6/7/00, effective 7/8/00. Statutory Authority: RCW 41.50.050. WSR 94-23-049, § 415-112-415, filed 11/10/94, effective 12/11/94. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). WSR 94-11-009, § 415-112-415, filed

5/5/94, effective 6/5/94. Statutory Authority: RCW 41.32.010(11) and 41.32.160. WSR 87-17-060 (Order DRS 87-07), § 415-112-415, filed 8/19/87.]