



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Wash. State Board for Community and Technical Colleges (SBCTC)

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: April 14, 2000

(2) Purpose: To clarify TIAA/CREF Retirement Plan eligibility and participation

(3) Citation of existing rules affected by this order:

- Repealed:**
- Amended:** WAC 131-16
- Suspended:**

(4) Statutory authority for adoption: RCW 28B.50
Other authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR _____ on _____ (date).
Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: TIAA/CREF new eligibility threshold approved by the State Board effective July 1, 1999 presents possible conflict with PERS statute RCW 41.40.023. The emergency rule revisions (followed by permanent rule adoption) will address potential conflicts.

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

or Expedited Rule Making

- 31 days after filing
- Other (specify) _____ *

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

NAME (TYPE OR PRINT)
Claire C. Krueger

SIGNATURE
Claire C. Krueger

TITLE Executive Assistant and
Agency Rules Coordinator

DATE
4/14/00

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

APR 14 2000

TIME 4:05

00-09-050

AM
PM

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New _____	Amended <u>0</u>	Repealed _____
Federal rules or standards:	New _____	Amended <u>0</u>	Repealed _____
Recently enacted state statutes:	New _____	Amended <u>0</u>	Repealed _____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended 0 Repealed _____

The number of sections adopted on the agency's own initiative:

New _____ Amended 2 Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended 2 Repealed _____

The number of sections adopted using:

Negotiated rule making:	New _____	Amended _____	Repealed _____
Pilot rule making:	New _____	Amended _____	Repealed _____
Other alternative rule making:	New _____	Amended <u>2</u>	Repealed _____

AMENDATORY SECTION (Amending WSR 99-22-052, filed 10/29/99, effective 11/29/99)

WAC 131-16-021 Employees eligible to participate in retirement annuity purchase plan. (1) Eligibility to participate in the TIAA/CREF plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and, effective July 1, 1999, are assigned a cumulative total of at least fifty percent of full-time workload as defined by the collective bargaining agreement and/or the appointing authority at one or more college districts or the state board for at least two consecutive college quarters. (Part-time faculty workload is calculated in accordance with RCW 28B.50.489 and 28B.50.4891.)

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: Provided, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Optional participation in tax-deferred annuities other than this qualified plan as offered by individual colleges is permitted consistent with the Internal Revenue Code: Provided, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed within the community and technical college system. The community and technical college or state board employer shall notify, in writing, all newly hired employees of their potential right to participate. A participating employee, who changes employers without a break in service, shall have the responsibility to notify in writing the new

college or state board employer of his or her eligibility. In no case will there be a requirement for retroactive contributions if an employee fails to inform his or her college or state board employer about eligibility previously established with another community and technical college system employer. For the purposes of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031(~~(+1)~~).

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-031 Participation in the plan. (1) Except as provided in subsections (2) and (3) of this section, participation in the TIAA/CREF plan is required of all otherwise eligible new employees: Provided, That any such new employee, who at the time of employment is a member of the Washington state teachers retirement system or the Washington public employees retirement system, and whose college or state board employment meets the requirements of an "eligible position" as defined by such plan, may irrevocably elect to retain such membership or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in the TIAA/CREF plan.

(2) Employees who establish TIAA/CREF plan eligibility in accordance with WAC 131-16-021 and who, through concurrent employment with another employer, are active Washington public employee retirement system (PERS) members are required to so advise the college or state board employer and shall be given the following options:

(a) To participate in the state board's TIAA/CREF retirement plan in accordance with chapter 131-16 WAC, forgoing active PERS membership (contributions and service credit) with their other employer; or

(b) To continue active participation in PERS based upon their employment with the other public employer; forgoing participation in the state board's TIAA/CREF retirement plan.

Failure to make an election within thirty days of notification results in the employee being placed in the TIAA/CREF plan. The college or state board employer is required to advise the department of retirement systems (DRS) of a PERS member's participation in the TIAA/CREF plan, whether through election or default. It shall be the employee's responsibility to notify the

other employer . he or she elects to participate in the TIAA/CREF plan. The employee will notify his or her college or state board employer should the employee cease to be an active PERS member. This irrevocable election remains in effect as long as the employee is actively participating in a PERS plan and is required because RCW 41.40.023(4) prohibits PERS members from simultaneously participating in two state retirement plans.

(3) Any current active participant of TIAA/CREF who becomes an active member of PERS based on employment with another PERS employer is required to notify his or her college or state board employer. The employee will be provided the options listed in subsection (2) of this section and the college or state board employer will follow through accordingly.