



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/10/97)

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

- Permanent Rule
Emergency Rule
Expedited Adoption
Expedited Repeal

(1) Date of adoption: June 18, 1998

(2) Purpose: TIAA/CREF Retirement Plan Rules

Adoption of Retirement Plan Rules to Qualify the TIAA/CREF plan under Section 403 (a) of the IRS Code with a Section 414 (H) (2) -- Employer Pick-up of Contributions

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

Repealed:

Amended: WAC 131-16-010; WAC 131-16-011; WAC 131-16-021; WAC 131-16-031; WAC 131-16-

Suspended: 045; WAC 131-16-050; 131-16-055; WAC 131-16-056; WAC 131-16-061

(4) Statutory authority for adoption:

RCW 28B.10.400 and RCW 28B.50

Other authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 98-08-028 on March 23, 1998 (date).

Describe any changes other than editing from proposed to adopted version:

None

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:

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) *

Emergency Rules

- Immediately
Later (specify)

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

NAME (TYPE OR PRINT)

James C. Krueger

SIGNATURE

Executive Assistant/Agency Rules Coordinator

TITLE

DATE

6/23/98

CODE REVISER USE ONLY



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	Repealed 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	Repealed 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	Repealed 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

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

New 0 Amended 0 Repealed 0

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

New 0 Amended 9 Repealed 0

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

New 0 Amended 9 Repealed 0

The number of sections adopted using:

Negotiated rule making:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
Pilot rule making:	New <u>0</u>	Amended <u>0</u>	Repealed <u>0</u>
Other alternative rule making:	New <u>0</u>	Amended <u>9</u>	Repealed <u>0</u>



AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

WAC 131-16-010 Designation of community and technical college system retirement plan. There is hereby established for the eligible employees of the community and technical colleges of the state of Washington and the state board, a retirement plan which shall ~~((entitle))~~ provide such employees ~~((to purchase retirement annuities from))~~ with an employer sponsored retirement plan through the teachers' insurance annuity association (TIAA) and the college retirement equities fund (CREF), hereafter called ((the)) TIAA/CREF ((plan)), subject to the provisions of WAC 131-16-011 through 131-16-066. On and after January 1, 1998, this retirement plan is intended to comply with the requirements of a qualified plan under Section 403((b)) (a) of the Internal Revenue Code of 1986, as amended and the provisions of the plan document filed with the Internal Revenue Service on October 29, 1997. Prior to January 1, 1998, the plan was intended to comply with the requirements of Section 403(b) of the Internal Revenue Code of 1986, as amended. ((Notwithstanding the previous sentence, the state board shall reserve the right to modify the plan to qualify under Section 403(a) of the Internal Revenue Code of 1986, as amended.))

AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

WAC 131-16-011 Definitions. For the purpose of WAC 131-16-010 through 131-16-066, the following definitions shall apply:

(1) "Participant" means any employee who is eligible to purchase retirement annuities through the TIAA/CREF plan who, as a condition of employment, on and after January 1, 1997, shall participate in the TIAA/CREF plan upon initial eligibility.

(2) "Supplemental retirement benefit" means payments, as calculated in accordance with WAC 131-16-061, made by the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the TIAA/CREF plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which TIAA/CREF contributions were made by both the participant and a Washington

public higher education institution or the state board or any year or fractional year of prior service in a Washington public retirement system while employed at a Washington public higher education institution: *Provided*, That the participant will receive a pension benefit from such other retirement system(~~:(—And provided further,)~~) and that not more than one year of full-time service will be credited for service in any one fiscal year.

(4) "Fiscal year" means the period beginning on July 1 of any calendar year and ending on June 30 of the succeeding calendar year.

(5) "Average annual salary" means the amount derived when the salary received during the two consecutive highest salaried fiscal years of full-time service for which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution is divided by two.

(6) "TIAA/CREF retirement benefit" means the amount of annual retirement income derived from a participant's accumulated annuities including dividends at the time of retirement: *Provided*, That solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

(7) "Salary" means all remuneration received by the participant from the employing college district or the state board, including summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the college district or state board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leave, or remuneration for unused annual or vacation leave in excess of the amount payable for thirty days or two hundred forty hours of service.

(8) "Designated beneficiary" means the surviving spouse of the retiree or, with the consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education or the state board.

(9) "State board" means the state board for community and technical colleges ((education)) as created in RCW 28B.50.050.

(10) "Appointing authority" means a college district board of trustees or the state board or the designees of such boards.

AMENDATORY SECTION (Amending WSR 97-10-069, filed 5/5/97, effective 7/8/97)

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 who are assigned a cumulative total of at least eighty percent of full-time workload as defined by the appointing authority at one or more college districts or the state board for at least two consecutive college quarters or (~~who otherwise would be eligible for membership in~~) whose employment meets the requirements for an "eligible position" as defined by the Washington state teachers retirement system.

(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) (~~Participation in the plan without matching employer contributions is also permitted for any employee of a college district or the state board who desires to utilize the plan as a supplemental retirement savings vehicle to any state-sponsored retirement plan in which the employee participates~~) 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 by the same appointing authority. For the purpose 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 (~~pursuant to an irrevocable salary reduction agreement. Such participation shall commence~~) 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 Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-031 Participation in the plan. ((1))

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) College district or state board employees who are members of retirement plans other than the TIAA/CREF plan may participate in the TIAA/CREF plan, without a matching employer contribution, through tax deferred annuity purchase agreements with the employing college district or the state board, to the extent allowed by the applicable United States Internal Revenue Code provisions.))~~

AMENDATORY SECTION (Amending WSR 93-22-008, filed 10/21/93, effective 11/21/93)

WAC 131-16-045 Transfers to and from plans other than TIAA/CREF.

(1) A participant employed in a Washington state community or technical college or the state board for community and technical colleges may directly transfer into his or her TIAA/CREF account any account balances from other employers' retirement plans: ~~((*Provided*, That such other plans are authorized under Section 403(b) of the Internal Revenue Code, and:))~~ *Provided* ~~((*further*))~~, That such other employers' plans permit transfers out of their plans and such other employers' plans are covered by the same sections of the Internal Revenue Code as this plan.

(2) A participant who leaves the employment of all Washington state community and technical colleges and the state board for community and technical colleges, may choose to transfer his or her existing TIAA/CREF account balances, subject to the rules established by TIAA/CREF for transfers, to any other employer's retirement plan ~~((authorized under Section 403(b) of the Internal Revenue Code))~~: *Provided*, That such other employer's plans will accept the transferred balances and such other employers' plans are covered by the same sections of the Internal Revenue Code as this plan.

WAC 131-16-050 Contribution rates established. (1) ((Each participant in the TIAA/CREF plan shall contribute five percent of salary each pay period until attainment of age thirty-five; seven and one-half percent each pay period thereafter through and including age forty-nine; and ten percent of salary each pay period after attaining age fifty. Employees who are participants on December 31, 1996, shall make a one-time, irrevocable election to contribute to the plan on a pretax or after-tax basis, and such election shall not be changed during the remainder of the participant's eligibility at the district or state board. Required contributions made pursuant to an irrevocable salary reduction or deduction agreement are not subject to the elective deferral limits of Section 402 (g) (4) or (8) of the Internal Revenue Code of 1986, as amended. The employing district or state board shall contribute a sum equal to all required employee contributions under this plan. All employee and employer contributions to this plan shall be one hundred percent vested when made. The combined contributions may be allocated among the TIAA and CREF funds as directed by the participant.

(2)) On and after January 1, 1998, the employing college or state board shall make employee contributions on behalf of participants in lieu of paying an equal amount of each participant's salary, and such contributions shall be treated as employer contributions pursuant to Internal Revenue Code Section 414 (h) (2) in determining the tax treatment under the code. Such contributions shall be made by the employer in lieu of employee contributions.

(2) Contributions made under subsection (1) of this section shall be paid from the same source of funds as used in paying salary for affected participants. Participants do not have the option to receive the amounts contributed under subsection (1) of this section directly.

(3) The amounts of the contributions made under subsection (1) of this section shall be limited as follows:

(a) Five percent of salary each pay period until the participant attains age thirty-five;

(b) Seven and one-half percent of salary for each pay period from age thirty-five through and including age forty-nine; and

(c) Ten percent of salary for each pay period after attaining age fifty.

(4) The employing college or state board shall contribute an additional sum equal to the contributions required by subsection (3) of this section.

(5) During periods when participants are on leave of absence and are receiving partial compensation, the employer shall continue to make contributions on the same basis as herein provided if the participant agrees to contribute in a like manner.

((3) In addition to the required salary reduction or deduction agreement in subsection (1) of this section, an eligible

~~employee may enter into a voluntary agreement with the college district or state board to reduce the employee's monthly salary by a supplemental amount, within the limits prescribed in the Internal Revenue Code.)~~

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-055 Options for self-directed investment of retirement plan contributions and accumulations. While actively employed, participants may exercise any or a combination of the following options for allocation of current premiums or transfer of accumulated TIAA or CREF fund accumulated balances.

(1) Current premiums may be allocated among the TIAA account and the CREF accounts in any whole percentage proportions.

(2) CREF ((fund)) account and TIAA real estate account accumulations resulting from previously contributed premiums may be transferred in whole or in part among any of the CREF ((subsidiary)) and TIAA real estate accounts or to the TIAA traditional annuity account, subject to procedures established by TIAA/CREF.

(3) TIAA ((fund)) traditional annuity accumulations resulting from previously contributed premiums or from transfers from ((CREF)) other accounts may be transferred to any CREF accounts on the basis of an irrevocable ten-year schedule of payments, subject to procedures established by TIAA/CREF.

AMENDATORY SECTION (Amending WSR 95-13-069, filed 6/20/95, effective 7/21/95)

WAC 131-16-056 Hardship withdrawals. (1) In the event of a financial hardship consistent with requirements of subsection (2) of this section and Section 403 (b)(11) of the Internal Revenue Code, a participant may withdraw all or part of the following plan funds:

(a) Pre-1998 employee contributions ((and));

(b) Any pre-((1988)) 1989 earnings on employee contributions((+));

(c) Any Section 414 (h) employer pick-up contributions; and

(d) Any contributions transferred to this plan from another employer's plan. Such funds may be withdrawn from the participant's Washington community and technical college system TIAA/CREF retirement account while actively employed ((or after termination of employment)). Hardship withdrawals may not be

larger than the amount necessary to meet the immediate and heavy financial need defined in subsection (2) of this section plus taxes on withdrawn funds and early withdrawal penalties. Employer contributions (other than Section 414 (h) pick-up contributions) and earnings on the employer contributions may not be withdrawn as a hardship withdrawal.

(2) To enable hardship withdrawal of funds, the Internal Revenue Code (Section 1.401(k)-1(d)(2)) requires that the college president or designee shall verify that the participant has certified in writing that:

- (a) The participant has an immediate and heavy financial need; and
- (b) The participant has no other resources reasonably available to meet the need.

Withdrawals shall be deemed to be for "an immediate and heavy financial need" only if they are for:

- (i) Payments to prevent eviction from or foreclosure on the principal residence of the participant;
- (ii) Payments to prevent the participant's impending bankruptcy; and/or
- (iii) Unreimbursable medical expenses incurred by the participant, spouse, dependent children, and/or dependent parents.

The participant shall be deemed to have "no other resources reasonably available to meet the need" if the participant certifies that he/she cannot meet the need through:

- (A) Reimbursement or compensation by insurance or another source;
- (B) Reasonable liquidation of assets;
- (C) Borrowing from supplemental retirement accounts, life insurance values, or commercial sources; and/or
- (D) Stopping any voluntary employee contributions to tax deferral or savings plans made available by the employer. ((Note:)) Contributions to the employer-sponsored retirement plan must continue while the employee remains eligible for the plan.

(3) Hardship withdrawals from the community and technical college TIAA/CREF plan are taxable income in the year received. Taxes, early withdrawal penalties, and any other consequences of hardship withdrawals shall be the sole responsibility of the participant. Withdrawals from ((the employer-sponsored)) this qualified TIAA/CREF plan may not be replaced at a later date.

AMENDATORY SECTION (Amending Resolution No. 91-20, Order 129, filed 6/14/91, effective 7/15/91)

WAC 131-16-061 Supplemental retirement benefits. (1) A participant is eligible to receive supplemental retirement benefit payments if at the time of retirement the participant is age sixty-two or over and has at least ten years of full-time service in the

TIAA/CREF plan at a Washington public institution of higher education: *Provided*, That the amount of the supplemental retirement benefit, as calculated in accordance with the provisions of this section, is a positive amount.

(2) Subject to the provisions of subdivisions (c), (d), and (e) of this subsection, the annual amount of supplemental retirement benefit payable to a participant upon retirement is the excess, if any, when the value determined in subdivision (b) is subtracted from the value determined in subdivision (a), as follows:

(a) The lesser of fifty percent of the participant's average annual salary or two percent of the average annual salary multiplied by the number of years of full-time service; provided that if the participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty, service for such periods shall be calculated at the rate of one and one-half percent instead of two percent.

(b) The combined retirement benefit from the TIAA/CREF annuity and any other Washington state public retirement system as a result of service while employed by a Washington public higher education institution that the participant would receive in the first month of retirement multiplied by twelve: *Provided*, That the TIAA/CREF benefit shall be calculated on the following assumptions:

(i) After July 1, 1974, fifty percent of the combined contributions were made to the TIAA traditional annuity and fifty percent to the CREF stock ((fund)) account during each year of full-time service: *Provided*, That benefit calculations related to contributions made prior to July 1, 1974, shall be computed on the basis of actual allocations between TIAA and CREF; and

(ii) The full TIAA/CREF annuity accumulations, including all dividends payable by TIAA and further including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried participants the TIAA accumulations, including dividends, were settled on an installment refund option and the CREF accumulations were settled on a life annuity with ten-year guarantee option, all to be based on TIAA/CREF estimates at the time of retirement; and

(iii) Annuity benefits purchased by premiums paid other than as a participant in a Washington public institution of higher education TIAA/CREF retirement plan shall be excluded.

(iv) For the purposes of this calculation, the assumptions applied to the TIAA/CREF accumulation settlement shall also apply to settlement of the benefit from any other retirement plan.

(c) The amount of supplemental retirement benefit for a participant who has not attained age sixty-five at retirement is the amount calculated in subsection (2) of this section reduced by one-half of one percent for each calendar month remaining until age sixty-five: *Provided*, That the supplemental retirement benefit for an otherwise qualified participant retired for reason of health or

permanent disability shall not be so reduced.

(d) Any portion of participant's TIAA and/or CREF annuity accumulation paid to a participant's spouse upon dissolution of a marriage shall be included in any subsequent calculation of supplemental retirement benefits just as if these funds had remained in the participant's TIAA and/or CREF annuity.

(e) The selection of a TIAA/CREF retirement option other than the joint and two-thirds survivorship with ten-year guarantee shall not alter the method of calculating the supplemental retirement benefit; however, if the participant's combined TIAA/CREF retirement benefit and calculated supplemental retirement benefit exceeds fifty percent of the participant's average annual salary, the supplemental retirement benefit shall be reduced so that the total combined benefits do not exceed fifty percent of average annual salary.

(3) The payment of supplemental retirement benefits shall be consistent with the following provisions:

(a) Supplemental retirement benefits shall be paid in equal monthly installments, except that if such monthly installments should be less than ten dollars, such benefit payments may be paid at longer intervals as determined by the state board.

(b) Supplemental retirement benefit payments will continue for the lifetime of the retired participant; however, prior to retirement, a participant may choose to provide for the continuation of supplemental retirement benefit payments, on an actuarially equivalent reduced basis, to his or her spouse or designated beneficiary after the retiree's death. Notification of such choice shall be filed in writing with the state board and shall be irrevocable after retirement. If such option is chosen, the supplemental retirement benefit payments shall be in the same proportion as any TIAA/CREF survivor annuity option potentially payable to and elected by the participant. If a designation of a survivor's option is not made and the participant dies after attaining age sixty-two but prior to retirement, any supplemental benefit payable shall be based on the two-thirds benefit to survivor option.

(c) Prior to making any supplemental benefit payments, the state board shall obtain a document signed by the participant and spouse, if any, or designated beneficiary acknowledging the supplemental retirement benefit option chosen by the participant.

(4) A retired participant who is reemployed shall continue to be eligible to receive retirement income benefits, except that the supplemental retirement benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month or five months duration in any fiscal year. Retirement contributions shall not be made from the salary for such employment, unless the individual once again becomes eligible to participate under the provisions of WAC 131-16-021.