

Title 415 WAC

RETIREMENT SYSTEMS, DEPARTMENT OF

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DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 415-116 ADMINISTRATIVE FEE RATE

415-116-010	Purpose. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-010, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-020	Definitions. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-020, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-030	Administrative fee rate. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-030, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-040	Criteria for changing administrative fee rate. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-040, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.

415-116-050 Current administrative fee rate. [Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-050, filed 6/12/91, effective 7/13/91.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.

Chapter 415-210 TEACHERS' RETIREMENT SYSTEM PLAN III—DEFINED CONTRIBUTION PLAN

415-210-020 Contribution rate options for TRS Plan III members. [Statutory Authority: RCW 41.34.040 and 41.50.050. 97-01-013, § 415-210-020, filed 12/6/96, effective 12/27/96.] Repealed by 01-01-059, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW.

Chapter 415-504 DEFINITIONS

415-504-010	Accumulated deferrals. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-110.
415-504-020	Beneficiary. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-020, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-120.
415-504-030	Compensation. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-030, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-130.
415-504-040	Deferred compensation. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-040, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-140.
415-504-050	Department. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-050, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-150.
415-504-060	Eligible employee. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-060, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-160.
415-504-070	Employee retirement benefits board. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-070, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-170.
415-504-080	Employer. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-080, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-180.
415-504-090	Participant. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-090, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-190.

415-504-100	Participation agreement. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-100, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-200.		
415-504-110	Separation from service. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-110, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-210.		
Chapter 415-508 ADMINISTRATION			
415-508-010	Administered by department. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-310.		
415-508-020	Department to adopt rules and regulations. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-020, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-300.		
415-508-030	Department and employee retirement benefits board actions. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-030, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-350.		
415-508-040	Department to maintain records of accounts. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-040, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-330.		
415-508-050	Deferred compensation accounts. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-050, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-340.		
Chapter 415-512 PARTICIPATION IN THE PLAN			
415-512-010	Enrollment. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-410.		
415-512-015	Plan to plan transfers. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-015, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-015, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-415.		
415-512-020	Deferral limit. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-020, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-020, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-420.		
415-512-030	Catch-up provision. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-030, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-030, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-430.		
		415-512-040	Department may disallow deferral. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-040, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-440.
		415-512-050	Modification of deferral or investment option(s). [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-050, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-050, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-450.
		415-512-070	Suspension and reinstatement of deferrals. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-070, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-070, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-470.
		415-512-075	Investment options. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-075, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-075, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-475.
		415-512-080	Designation of beneficiaries. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-080, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-080, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-480.
		415-512-085	Distribution to participant after separation from service. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-485.
		415-512-086	Distribution in the event of death of participant. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-086, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-486.
		415-512-087	Distribution in event of death of beneficiary. [Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-087, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-487.
		415-512-090	Elections regarding distribution. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-090, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.780(1) and 41.50.050. 97-05-009, § 415-512-090, filed 2/7/97, effective 3/10/97. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-090, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-490.
		415-512-095	Domestic relations orders. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-095, filed 9/30/98, effective 10/31/98.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-495.

415-512-110 Distribution of deferrals. [Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-110, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-110, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-500.

Chapter 415-524

UNFORESEEABLE EMERGENCY

415-524-010 Unforeseeable emergency. [Statutory Authority: RCW 41.50.050, 98-20-047, § 415-524-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-524-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-510.

Chapter 415-528

LEAVE OF ABSENCE

415-528-010 Leave of absence. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-528-010, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-520.

Chapter 415-532

AMENDMENT OR TERMINATION OF PLAN

415-532-010 Termination of plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-532-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-530.

415-532-020 Amendment of plan. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-532-020, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-540.

Chapter 415-536

RELATIONSHIP TO OTHER PLANS

415-536-010 Retirement and Social Security not reduced. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-536-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-550.

Chapter 415-540

TRANSFER IN LIEU OF CASH

415-540-010 Assets in lieu of cash. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-540-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-560.

Chapter 415-544

NONASSIGNABILITY CLAUSE

415-544-010 Accumulated deferrals not assignable. [Statutory Authority: RCW 41.50.050, 98-20-047, § 415-544-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-544-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-570.

Chapter 415-548

ASSETS

415-548-010 Plan assets. [Statutory Authority: RCW 41.50.050, 98-20-047, § 415-548-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-548-010, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-580.

Chapter 415-552

PARTICIPATION BY DEPARTMENT OFFICERS AND EMPLOYEES AND MEMBERS OF THE EMPLOYEE RETIREMENT BENEFITS BOARD

415-552-010 Participation by department officers and employees and members of the employee retirement benefits board. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-552-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-590.

Chapter 415-556

EMPLOYER PARTICIPATION

415-556-010 Employer contributions. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-556-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-600.

Chapter 415-560

INVESTMENT RESPONSIBILITY

415-560-010 Investment responsibility. [Statutory Authority: RCW 41.50.050, 98-20-047, § 415-560-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-560-010, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-610.

Chapter 415-564

DEPARTMENT POWERS

415-564-010 Plan prevails. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-564-010, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-360.

415-564-020 Decision binding. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-564-020, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-370.

415-564-030 Department to interpret. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-564-030, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-305.

415-564-040 Tax status not guaranteed. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-564-040, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-320.

415-564-050 Department may require court order. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-564-050, filed 7/29/96, effective 7/29/96.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-380.

415-564-060 Delegation of authority. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-564-060, filed 7/29/96, effective 7/29/96.] Decodified by 00-

11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-390.

**Chapter 415-568
APPLICABLE LAW**

- 415-568-010 Plan to conform to state law. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-568-010, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-710.
- 415-568-020 Plan to conform to federal law. [Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-568-020, filed 7/29/96, effective 7/29/96.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-720.

**Chapter 415-02 WAC
GENERAL PROVISIONS**

WAC

- 415-02-010 Identification.
- 415-02-020 Authority.
- 415-02-030 Definitions.
- 415-02-050 State Environmental Policy Act—Interface.
- 415-02-060 Refund of contributions—Application.
- 415-02-080 Identification of members.
- 415-02-100 Retiree insurance premium deductions for retirees—
Enrollment requirements.
- 415-02-110 Determination of employee status.
- 415-02-120 Investigative subpoenas.
- 415-02-130 Members receive retirement and account information annually.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 415-02-040 Definition of Plan II. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-040, filed 2/15/78.] Repealed by 00-10-016, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050.
- 415-02-070 Application of particular rules to Plan II members. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-070, filed 2/15/78.] Repealed by 00-10-016, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050.
- 415-02-090 Actuarial tables, schedules, and factors. [Statutory Authority: RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200. 88-17-053 (Order 88-14), § 415-02-090, filed 8/17/88; 87-07-013 (Order 87-1), § 415-02-090, filed 3/11/87; 86-13-022 (Order 86-2), § 415-02-090, filed 6/10/86; 86-07-026 (Order 86-1), § 415-02-090, filed 3/13/86; 84-20-043 (Order IV), § 415-02-090, filed 9/27/84.] Repealed by 91-02-019, filed 12/21/90, effective 1/21/91. Statutory Authority: RCW 41.50.050 and 41.26.060.
- 415-02-099 Purpose. [Statutory Authority: RCW 41.40.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200. 87-17-059 (Order DRS 87-06), § 415-02-099, filed 8/19/87.] Repealed by 96-03-100, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050.

WAC 415-02-010 Identification. The department of retirement systems is a department of state government created by chapter 105, Laws of 1975-76 2nd ex. sess.

(1) The chief executive officer of the department of retirement systems is the director of retirement systems.

(2) Members of the public may obtain information, make submittals or requests, or obtain copies of agency decisions by addressing their requests or submittals to the director of the Department of Retirement Systems at P.O. Box 48380, Olympia, Washington, 98504. Upon receipt of such a request or submittal, the director shall forward the same to the proper

officer or employee of the department of retirement systems for an appropriate response.

(3) Members of the public who wish to inspect and/or copy public records maintained by the agency pursuant to chapter 42.17 RCW shall do so in accordance with the methods and procedures established in chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-010, filed 4/21/00, effective 5/22/00; Order 4, § 415-02-010, filed 7/27/77.]

WAC 415-02-020 Authority. (1) The department is vested with the authority to administer, in accordance with chapter 105, Laws of 1975-76 2nd ex. sess., as now or hereafter amended, the Washington public employees' retirement system created by chapter 41.40 RCW, the Washington state teachers' retirement system created by chapters 41.32 and 41.34 RCW, the Washington school employees retirement system created by chapter 41.35 RCW, the Washington law enforcement officers' and fire fighters' retirement system, created by chapter 41.26 RCW, the Washington state patrol retirement system, created by chapter 43.43 RCW, the Washington judicial retirement system, created by chapter 2.10 RCW, and the judges retirement fund created by chapter 2.12 RCW.

(2) The director is empowered to propose rules pursuant to RCW 41.50.050.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-020, filed 4/21/00, effective 5/22/00; Order 4, § 415-02-020, filed 7/27/77.]

WAC 415-02-030 Definitions. Unless the context requires otherwise, the following terms shall have the meanings established below:

(1) "Appeal" means the process through which a party obtains review of a department action in an adjudicative proceeding before the department's presiding officer or hearings examiner under chapter 415-08 WAC.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of retirement systems.

(4) "Employee" under this chapter, means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

(5) "Independent contractor" under this chapter, means a worker providing services under contract to a retirement system employer for remuneration who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

(6) "Member" means a person who is entitled to membership in one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.40, or 43.43 RCW.

(7) "Petition" means the method by which a party secures a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415.04 WAC.

(8) "Plan 1" means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(9) "Plan 2" means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., and chapter 341, Laws of 1998.

(10) "Plan 3" means the retirement plans established by chapter 239, Laws of 1995 and chapter 341 Laws of 1998.

(11) "Retirement system employer" means "employer" as defined in RCW 41.26.030(2), 41.32.010(11), 41.34.010(5), 41.35.010(4), or 41.40.010(4), and a "city" or "cities" as defined in RCW 41.44.030(2).

(12) "Worker" means a person who performs services for a retirement system employer either as an employee or as an independent contractor.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-030, filed 4/21/00, effective 5/22/00; 94-09-039, § 415-02-030, filed 4/19/94, effective 5/20/94; Order 4, § 415-02-030, filed 7/27/77.]

WAC 415-02-050 State Environmental Policy Act—Interface. The actions and activities of the department of retirement systems are not major actions significantly affecting the quality of the environment as described in chapter 43.21C RCW. All of the activities of the department are exempted from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act (SEPA) by WAC 197-11-875.

The responsible official of the agency for the purposes of SEPA is the director.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-050, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-050, filed 2/15/78.]

WAC 415-02-060 Refund of contributions—Application. The department will cancel a member's request for refund of defined benefit plan member contributions if the refund warrant is not cashed within one hundred eighty days of the date on the warrant. There will be no earnings on returned contributions for the one hundred eighty-day period that funds were held for distribution to the member.

If the member does not cash a warrant for a distribution of defined contribution plan member contributions within one hundred eighty days of the date on the warrant, the contributions will be returned to the member's account with the same allocation as existed on the date of the warrant. There will be no earnings on returned contributions for the one hundred eighty-day period that funds were held for distribution to the member.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-060, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-060, filed 2/15/78.]

WAC 415-02-080 Identification of members. The department is authorized by the Internal Revenue Code to solicit Social Security numbers. The department uses Social Security numbers as the identifying number for the member file to ensure that any amounts paid from retirement accounts are properly reported to the Internal Revenue Service (IRS) as required by law. Each member of the retirement system is required to supply his or her Social Security number to the department. Failure to do so will not cause the member to lose benefits, but may result in misreporting to the IRS which can lead to adverse tax consequences for the member.

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[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-080, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-080, filed 2/15/78.]

WAC 415-02-100 Retiree insurance premium deductions for retirees—Enrollment requirements. The department will not accept requests by retirees of any of the systems which the department administers to deduct premiums for any kind of insurance from retirement allowances unless the provider has at least twenty-five such retirees enrolled in a withholding program. Any providers who have less than twenty-five retirees in their deduction program will have twelve months in which to secure at least twenty-five participants. Failing to acquire the required minimum within twelve months will result in suspension of the deduction program for such provider. Any qualified provider who drops below twenty-five participants will be suspended if they remain under twenty-five participants for ninety days.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-100, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(5) and 41.50.090. 84-24-017 (Order V), § 415-02-100, filed 11/28/84.]

WAC 415-02-110 Determination of employee status. (1) An employee of a retirement system employer, other than a teachers' retirement system plan I retiree, who otherwise meets the eligibility criteria to participate in a state-administered retirement system is required to establish or continue membership in that system. An independent contractor is not eligible for active membership in any state-administered retirement system.

(2)(a) The department will review the entire relationship between the worker and the retirement system employer in order to determine whether a worker is an independent contractor or an employee. Generally, a worker is an employee if the employing individual or entity has the right to control and direct the work of the worker, not only as to the result to be accomplished, but also as to the means or methods by which the result is accomplished.

(b) Generally, a worker is an independent contractor if the employing entity has the right to control or direct only the result of the labor or services and not the means and methods accomplishing the labor or services.

(c) Whether or not the parties intend to establish an employer-employee relationship, or whether the parties regard the worker as being an independent contractor is not controlling. When the elements of direction and control are present in determining the means and methods of performing the worker's labor or service, any disclaimers to the contrary are not binding on the department for the purpose of determining employer-employee status. The terms of the contract and the actual arrangement under which the labor or services are performed will determine whether a worker is an employee or independent contractor.

(d) In evaluating whether the retirement system employer has direction or control over the means and methods of performing the worker's labor or services, no one factor is determinative. The department will apply several factors, including but not limited to the following:

(i) Is the worker required to comply with detailed work instructions or procedures about when, where and how the

worker must perform services? An employer has control if the employer requires or has the right to require the worker to comply with instructions about the manner in which services must be performed.

(ii) Does the employing individual or entity provide free training for the worker, or have the right to train the worker? Typically, an employer would have the right to train an employee but not an independent contractor.

(iii) Are the worker's services an integral part of the employing individual's or entity's business operation? Usually the regular administrative work of a business is performed by employees rather than independent contractors. Services outside the usual course of the employer's business may imply independent contractor status.

(iv) Is the worker required to perform the labor or services personally? While employees are typically required to personally perform labor or services, independent contractors are not necessarily required to perform personally, but may subcontract part or all of the required labor or services to another party.

(v) Does the employer hire, supervise or pay others to perform the same job as the worker? Usually a person who works the same job or performs the same function as performed by employees of the employer is an employee rather than an independent contractor.

(vi) Does the worker hire, supervise and pay others on the job under a contract to furnish labor and materials? Independent contractors may or may not be responsible for performing the contracted labor or services themselves, and usually have the right to hire and terminate their own employees who perform the contracted labor or services.

(vii) Does the worker perform continuing services for the retirement system employer? Independent contractors are typically hired for a job of relatively short-term or temporary duration and do not have a continuous relationship with or perform continuing services for the employing entity.

(viii) Are the worker's hours, routine or schedule set by the employing entity? The establishment of a set routine or schedule for the worker by the employer indicates employee status. Independent contractors are typically free to set their own hours of work.

(ix) Is the worker required to devote his or her full time to the business of a single employing individual or entity? A worker who is required to work full time for a single employer is likely to be an employee. Independent contractors are usually free to provide labor or services for two or more employing entities concurrently.

(x) Does the employing individual or entity require the worker to perform labor or services on the employer's premises? The employing entity is likely to have the right of control over the worker's method of work if the work is performed solely on the employer's premises, particularly if the worker could perform the required labor or services elsewhere.

(xi) Does the employing individual or entity require the worker to perform labor or services in a set sequence? A worker is likely to be an employee if the worker must perform work in an order or sequence set by the employer.

(xii) Is the worker required to provide regular, oral or written reports to the employer? Regular reports, for exam-

ple weekly time sheets, are usually required of employees as opposed to independent contractors.

(xiii) Is the worker paid by unit of time (hour, week or month)? Employees are typically paid by unit of time while independent contractors are typically paid by the job (commission, bid, piecework or lump sum). Payment for labor or services upon completion of the performance of specific portions of a project or on the basis of an annual or periodic retainer usually indicates independent contractor status.

(xiv) Does the employing individual or entity reimburse the worker for the worker's job-related expenses? Independent contractors typically pay their own business or travel expenses; the regular expenses they incur as part of providing labor or services are generally included in the stipulated contract payment and are not reimbursed by the employing entity.

(xv) Does the worker providing labor or services furnish the tools and supplies necessary for the performance of the contracted labor or service? Generally, an employer furnishes tools and supplies for their employees while independent contractors furnish their own.

(xvi) Has the worker invested in the equipment or facilities used in performing the labor or services? A significant investment by the worker in the equipment or facilities used in performing the labor or services usually indicates independent contractor status.

(xvii) Does the worker have a right to realize a profit or have a significant risk of loss as a result of the worker's services? Having the right to a profit or the risk of loss arising from the worker's services implies independent contractor status. The worker may be presumed to have assumed the risk of loss if the worker assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of a performance bond, warranties, errors, and omissions insurance or liability insurance relating to the labor or services provided.

(xviii) Does the worker perform services for several persons or firms concurrently? Performance of services for a number of different unrelated clients indicates independent contractor status.

(xix) Does the worker offer services to the general public on a regular or consistent basis? An individual actively advertising services to the general public and representing to the public that the labor and services are to be provided by an independently established business is typically an independent contractor. The following are evidence of "actively advertising":

(A) The worker uses commercial advertising or business cards as is customary in operating a similar business, or is a member of a trade association;

(B) The worker uses a telephone listing and service for the business that is separate from the worker's personal residence listing and service.

(xx) Does the employer have the right to discharge the worker at will? An employee is typically subject to discharge or layoff at the will of the employer.

(xxi) Does the worker have the right to terminate the employment relationship without incurring liability? The right to terminate the work relationship at will usually indicates employee status.

(3) Typically, an independent contractor works for an employing individual or entity as a specialist in an independently established occupation, profession, trade or business. While the right of control over the method or means of work is determinative, the department shall also consider the following factors in evaluating independent contractor status. The degree of importance of each factor varies depending on the labor or services to be performed and the context in which the labor or services are performed.

(a) Does the worker perform labor or services only pursuant to written contracts?

(b) Has the worker providing labor or services attained business registrations, professional occupation licenses or certificates required by state law or local government ordinances to perform the contracted labor or services?

(c) Has the worker providing labor or services:

(i) Purchased worker's compensation insurance and paid taxes required for an independent business;

(ii) Filed income tax returns in the name of an independent business; or

(iii) Filed a Schedule of Expenses for the type of business conducted or a Business Schedule C or Farm Schedule F as part of the personal income tax return for the previous year if the worker performed the labor or services as an independent contractor in previous years?

(d) Does the worker providing labor or services maintain a separate set of books or records that reflect all items of business income and expenses as an independently established business?

(e) Has the worker assumed financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of a performance bond, warranties, errors and omissions insurance or liability insurance relating to the labor or services to be provided?

(4) The burden of persuasion in claiming that a worker is an independent contractor or an employee is on the worker or employer making the claim.

[Statutory Authority: RCW 41.50.050. 94-09-039, § 415-02-110, filed 4/19/94, effective 5/20/94.]

WAC 415-02-120 Investigative subpoenas. (1) During the course of the administration of its duties, including, but not limited to, audit or investigation, the department may issue a subpoena under RCW 41.50.137. The department may direct the subpoena to any employer, member, person or entity (served party) who may possess information which is relevant and material to compel the party to:

(a) Appear and give testimony; and/or

(b) Produce any books, papers, correspondence, memoranda, or other documents, which the department deems relevant and material.

(2) The subpoena must:

(a) Identify "Washington state department of retirement systems" as the agency issuing the subpoena;

(b) Identify the name and address of the party subpoenaed;

(c) Specifically describe the information which is sought;

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(d) State a reasonable time and place for the production of the information, but **no** later than twenty days after service; and

(e) Notify the served party that if the information is not produced, the department will apply to the superior court under RCW 34.05.588 for an appropriate order or other remedy.

(3) The subpoena may be served by:

(a) Delivering it personally; or

(b) Sending a copy by certified mail, return receipt requested.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-120, filed 4/21/00, effective 5/22/00.]

WAC 415-02-130 Members receive retirement and account information annually. (1) DRS provides information in an annual statement to all members who are currently employed and are being reported. The statements include, but are not limited to, the following information:

(a) Service credit;

(b) Contributions; and

(c) Interest.

(2) The annual statement is based on information provided to the department by the employer as of a certain date. At the time the department compiles the annual statement, it may not have all the information necessary to make a final computation of any data reported. **Information in the annual statement is subject to correction.**

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-130, filed 4/21/00, effective 5/22/00.]

Chapter 415-04 WAC PETITION PROCEDURE

WAC

415-04-010	Petition—Procedure.
415-04-020	Petition—Response—Decision—Appeal.
415-04-030	Contents of petition.
415-04-040	Time period for processing petition.
415-04-050	Appeal of petition decision.

WAC 415-04-010 Petition—Procedure. (1) The procedure established in this chapter shall apply to all petitions for:

(a) Service credits;

(b) Service retirement benefits;

(c) Membership and membership credits in the retirement systems;

(d) Disability benefits, except as otherwise provided by law;

(e) Survivor benefits; and

(f) Decisions relating to benefit increases provided by RCW 41.16.145 or 41.18.104.

(2) All applications for review of decisions on requests for pay out of accumulated deferred compensation deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-010, filed 7/29/96, effective 7/29/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-04-010, filed 5/18/93, effective 6/18/93; Order 4, § 415-04-010, filed 7/27/77.]

WAC 415-04-020 Petition—Response—Decision—Appeal. (1) **Time limit for filing appeals.** A person aggrieved by a decision of an administrator may appeal the decision by filing a petition to the director's designee for redress. The petition must be filed within one hundred twenty days from the date the administrator's decision was communicated to the person.

(2) If a person fails to file a timely petition, the person waives the right to judicial review due to failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-020, filed 7/29/96, effective 7/29/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-04-020, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050. 91-19-064, § 415-04-020, filed 9/16/91, effective 10/17/91; Order 4, § 415-04-020, filed 7/27/77.]

WAC 415-04-030 Contents of petition. The person's petition must contain:

(1) A complete and detailed statement of the factual situation underlying the application or petition; which may include all relevant documents and sworn statements deemed appropriate by the petitioner;

(2) A concise but detailed statement of the constitutional, statutory or common law provisions or precedents relied upon by the petitioner in support of his or her petition;

(3) An identification and signature of the individual or individuals filing the petition, as well as an identification of legal counsel, if any; and

(4) The address to which the petitioner wishes further correspondence from the department to be sent.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-030, filed 7/29/96, effective 7/29/96.]

WAC 415-04-040 Time period for processing petition. (1) Upon receipt of the petition, the director will assign the same to the director's designee. The director's designee will notify either the employer(s) if the petitioner is a member(s) or the affected member(s) if the applicant or petitioner is an employer(s) of the filing of the petition within fourteen days. Said notification shall request the employer(s) or member(s) to submit any written response to the petition no later than twenty days from the date of receipt of the notice.

(a) If at any time the director's designee in his or her role as fact finder determines that additional information is necessary to decide the petition, he or she may request such additional information. The person from whom the information is requested will respond no later than within twenty days from the receipt of such request.

(b) The director's designee may extend the time limit for response if the requesting party shows good cause to do so.

(2) Upon receipt of the response, the director's designee will forward a copy of the response to the petitioner. The petitioner will have ten days to reply. If the petitioner does not reply within ten days, he or she waives the right to reply.

(3) Within sixty days of the expiration of the ten-day period for reply following the director's designee's final request for information, the director's designee shall enter a written decision. The written decision will contain such findings of fact and conclusions of law as he or she deems neces-

sary to dispose of the matter. The decision will be sent to the petitioner via certified mail.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-040, filed 7/29/96, effective 7/29/96.]

WAC 415-04-050 Appeal of petition decision. An aggrieved party may appeal the decision of the director's designee to the director.

(1) An appeal must be filed with the director no later than sixty days after petitioner's receipt of the decision in accordance with the procedures established by chapter 415-08 WAC.

(2) If a party fails to file a timely appeal the party waives the right to judicial review due to the failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-050, filed 7/29/96, effective 7/29/96.]

Chapter 415-06 WAC PUBLIC RECORDS

WAC

415-06-010	Purpose.
415-06-020	Definitions.
415-06-030	Public records officer.
415-06-040	Office hours.
415-06-050	Requests for public records.
415-06-060	Copying.
415-06-070	Exemptions.
415-06-080	Review of denials of public records requests.
415-06-090	Records index.
415-06-100	Request for records by mail—Address.
415-06-110	Adoption of form.

WAC 415-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of retirement systems with the provisions of chapter 1, Laws of 1973, (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; now codified as chapter 42.17 RCW.

[Order 4, § 415-06-010, filed 7/27/77.]

WAC 415-06-020 Definitions. (1) **Public records.** "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) **Writing.** "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Department" means the department of retirement systems.

(4) "Director" means the director of retirement systems.

[Order 4, § 415-06-020, filed 7/27/77.]

WAC 415-06-030 Public records officer. The department's records shall be in the charge of the public records officer designated by the department. The person so desig-

nated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the departments rules and regulation regarding release of public records, coordinating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 4, § 415-06-030, filed 7/27/77.]

WAC 415-06-040 Office hours. Public records shall be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Order 4, § 415-06-040, filed 7/27/77.]

WAC 415-06-050 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the department's staff, if the public records office is not available, at the administrative office of the department during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the records;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the department's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Order 4, § 415-06-050, filed 7/27/77.]

WAC 415-06-060 Copying. No fee shall be charged for the inspection of public records. The department shall charge a fee equal to the amount necessary to reimburse the department for its actual costs incident to any copying.

[Order 4, § 415-06-060, filed 7/27/77.]

WAC 415-06-070 Exemptions. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 415-06-

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050 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Order 4, § 415-06-070, filed 7/27/77.]

WAC 415-06-080 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director or an assistant director of the department. The director or assistant shall immediately consider the matter and either affirm or reverse such denial as soon as legally possible. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the director has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order 4, § 415-06-080, filed 7/27/77.]

WAC 415-06-090 Records index. (1) Purpose. This rule is intended to implement RCW 42.17.260 (4)(a) and (b), which require state agencies to establish and implement a system of indexing for certain records maintained by state agencies.

(2) Responsibility for department's indexing system. The department's indexing system for records covered under this section is administered by the manager of the files unit. All record indices described in this section shall be located at the department's files unit.

(3) The department shall establish and implement a system of indexing for all records issued before July 1, 1990, for which the department has maintained an index. The department has maintained an index for the following records which have existed before July 1, 1990:

(a) "Final opinions" which include the director's final orders and other final orders in adjudicative proceedings concerning the department;

(b) "Statements and interpretations of law and policy" which include the department's "DRS notices" advising employers of the department's position regarding law and/or

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policy; and formal and informal opinions by the state attorney general's office, used by the department as the basis for administrative decisions;

- (c) "Administrative staff manuals and instructions" which affect members of the public;
(d) "Planning policies and goals";
(e) "Factual reports and studies" by department staff, consultants, other governmental entities, and private organizations;
(f) "Correspondence" by the department in which the department determines or provides an opinion on the rights of state government, the public, subdivisions of state government, or any private party.

(4) The department shall establish and implement a system of indexing for the following records on or after July 1, 1990:

- (a) "Final orders" which are issued in an adjudicative proceeding as defined by RCW 34.05.010(1) containing analyses or decisions of substantial importance to the department;
(b) "Declaratory orders" which are issued pursuant to RCW 34.05.240 containing analyses or decisions of substantial importance to the department;
(c) "Interpretive statements" which are a written expression of an opinion by the department, entitled "interpretive statement" by the department's director, or his or her designee, and relating to the meaning of a statute or other provision of law, court decision, or agency order; and

(d) "Policy statements" which are a written description of the department's current policy, entitled "policy statement" by the department's director, or his or her designee, and implementing a statute or other provision of law, or court decision, or agency order.

(5) The system of indexing the records identified in WAC 415-06-090 (3) and (4) is as follows:

- (a) An index will be organized in WAC 415-06-090 (3) and (4).
(b) Staff of the department's legal/legislative affairs unit will select the final orders and declaratory orders to be indexed reviewing all final orders and declaratory orders entered after June 30, 1990, and evaluating the substantial importance of the orders.

(c) Records will be indexed by a phrase describing the record's subject, issue or holding, and by citation of the law involved. Examples of phrases to be used are "service credit," "retirement benefits," "membership," and "contributions."

(6) Availability: The department record index shall be available to all persons in the same manner as public records available for inspection, under chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050 and 42.17.260 (4)(a) and (b). 91-19-061, § 415-06-090, filed 9/16/91, effective 10/17/91; Order 4, § 415-06-090, filed 7/27/77.]

WAC 415-06-100 Request for records by mail—

Address. All communications with the director including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the director's or board's decisions and other matters, shall be addressed as follows: Director of Retirement Systems,

Department of Retirement Systems, 1025 East Union, Olympia, Washington 98504.

[Order 4, § 415-06-100, filed 7/27/77.]

WAC 415-06-110 Adoption of form. The director hereby adopts for use by all persons requesting inspection and/or copying or copies of the department records, the form attached hereto as Appendix A, entitled "Request for public record."

APPENDIX A
REQUEST FOR PUBLIC RECORDS

Name of Requestor:
Address: Phone:
Date of Request: Time of Request:
Nature of Request:
1. Index Reference
2. If not identifiable by reference to the index, then describe the document(s) in detail
Signature

For Office Use Only:

- (1) Request Granted [] Record Withheld [] Record Withheld In part []
(2) If withheld, name the exemption contained in section 31, chapter 1, Laws of 1973, which authorizes the withholding of the record or part of record: Subsection (1) ().
(3) If withheld, briefly explain how the exemption applies to the record withheld.
(4) If request granted, time., day.

[Order 4, § 415-06-110, filed 7/27/77.]

Chapter 415-08 WAC
APPEALS

- WAC
415-08-010 Scope.
415-08-015 Appeal of denial for pay out of accumulated deferred compensation deferrals.
415-08-020 Time limit for filing appeals—Procedure.
415-08-023 Contents of the notice of appeal.
415-08-025 Presiding officer.
415-08-027 Parties may stipulate to the record on appeal.
415-08-030 Parties.
415-08-040 Representing another person before the presiding officer.
415-08-050 Appearance in certain proceedings may be limited to attorneys.
415-08-080 Withdrawal or substitution of representatives.
415-08-090 Ethical conduct required.
415-08-100 Appearance by former employee of agency or former member of attorney general's staff.
415-08-105 Prehearing and posthearing memoranda.
415-08-280 Discovery.
415-08-420 Presentation of evidence—Burden of proof.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-08-060 Appearance and practice before the board—Solicitation of business unethical. [Order 4, § 415-08-060, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective

- 415-08-110
 Appearance and practice before the board—Examiner duties and powers. [Order 4, § 415-08-110, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-120
 Informal conference—Purpose. [Order 4, § 415-08-120, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-130
 Informal conference—When held. [Order 4, § 415-08-130, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-140
 Informal conference—Agreements at informal conferences. [Order 4, § 415-08-140, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-150
 Prehearing conference—Purpose. [Order 4, § 415-08-150, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-160
 Prehearing conference—When held. [Order 4, § 415-08-160, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-170
 Computation of time. [Order 4, § 415-08-170, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-180
 Computation of time—Notice of hearing. [Order 4, § 415-08-180, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-190
 Computation of time—Upon whom served. [Order 4, § 415-08-190, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-200
 Computation of time—Service upon parties. [Order 4, § 415-08-200, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-210
 Computation of time—Method of service. [Order 4, § 415-08-210, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-220
 Computation of time—When service complete. [Order 4, § 415-08-220, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-230
 Computation of time—Filing with board. [Order 4, § 415-08-230, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-240
 Computation of time—Fees. [Order 4, § 415-08-240, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-250
 Computation of time—Proof of service. [Order 4, § 415-08-250, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-260
 Computation of time—Quashing. [Order 4, § 415-08-260, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-270
 Computation of time—Enforcement. [Order 4, § 415-08-270, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-290
 Computation of time—Documentary evidence. [Order 4, § 415-08-290, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-300
 Computation of time—Excerpts from documents. [Order 4, § 415-08-300, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-310
 Computation of time—Failure to supply prehearing information. [Order 4, § 415-08-310, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-320
 Computation of time—Agreements at prehearing conference. [Order 4, § 415-08-320, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-330
 Rules of evidence—Admissibility criteria. [Order 4, § 415-08-330, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-340
 Rules of evidence—Official notice—Matters of law. [Order 4, § 415-08-340, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-350
 Rules of evidence—Official notice—Material facts. [Order 4, § 415-08-350, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-360
 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Order 4, § 415-08-360, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-370
 Presumptions. [Order 4, § 415-08-370, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-380
 Presumptions—Additional evidence by presiding officer. [Order 4, § 415-08-380, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-390
 Stipulations and admissions of record. [Order 4, § 415-08-390, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-400
 Expert or opinion testimony number and qualifications of witnesses. [Order 4, § 415-08-400, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-410
 Expert or opinion testimony number and qualifications of witnesses—Written sworn statements. [Order 4, § 415-08-410, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-430
 Petitions for rule making, amendment or repeal—Who may petition. [Order 4, § 415-08-430, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-440
 Petitions for rule making, amendment or repeal—Requisites. [Order 4, § 415-08-440, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-450
 Petitions for rule making, amendment or repeal—Agency must consider. [Order 4, § 415-08-450, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-460
 Petitions for rule making, amendment or repeal—Notice of disposition. [Order 4, § 415-08-460, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-470
 Declaratory rulings. [Order 4, § 415-08-470, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-480
 Declaratory rulings—Forms. [Order 4, § 415-08-480, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.

WAC 415-08-010 Scope. This chapter governs the procedure the department follows in conducting adjudicative proceedings under chapter 34.05 RCW. The department adopts the model rules of procedure contained in chapter 10-08 WAC to the extent that those provisions are not contrary to the provisions of this chapter. These rules shall govern all adjudicative proceedings before the department.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-010, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-010, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-010, filed 7/27/77.]

WAC 415-08-015 Appeal of denial for pay out of accumulated deferred compensation deferrals. WAC 415-524-010 and Section 457 of the Internal Revenue Code authorize pay outs from the deferred compensation plan due to an unforeseeable emergency. If your application for a pay out is denied, you are entitled to have that decision reviewed.

(1) **Filing deadline.** You must apply for review in writing within sixty days of the date you receive the denial.

(2) **Contents of review application.** Your application must contain the items listed in WAC 415-08-023.

(3) **Type of proceeding.** Within twenty days of receipt of your application, the department will notify you in writing that it will conduct either:

(a) A brief adjudicative proceeding under RCW 34.05.482 through 34.05.494; or

(b) A full adjudicative proceeding under this chapter.

(4) **Brief adjudicative proceeding.**

(a) The director's designee will serve as presiding officer. The presiding officer will:

(i) Review the agency's view of the matter, as expressed in the documentation denying your request for a withdrawal;

(ii) Review the materials you have previously submitted, as well as any additional material you wish to submit;

(iii) Give each party an opportunity to be informed of the other's view of the matter;

(iv) Make a decision on the request; and

(v) Within ten days, give the parties a brief written statement of the reasons for the decision and information about any internal review available.

(b) If the presiding officer makes an unfavorable determination in your case, you may request an administrative review provided you do so within twenty-one days after you are served with the presiding officer's written determination. If you seek administrative review, the reviewing officer will be a different person than the presiding officer.

(c) If you do not seek administrative review, you may seek judicial review within thirty days after you are served with the written determination (see RCW 34.05.542).

(5) **Full adjudicative proceeding.** If the department conducts a full adjudicative proceeding, that proceeding will be governed by the Administrative Procedure Act, chapter 34.05 RCW, and rules adopted thereunder. The department will be represented in the proceeding by an assistant attorney general.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-08-015, filed 7/29/96, effective 7/29/96.]

WAC 415-08-020 Time limit for filing appeals—Procedure. (1) Any party aggrieved by a petition decision rendered pursuant to chapter 415-04 WAC may appeal the decision by filing a notice of appeal within sixty days from the date such decision was communicated to the party.

(2) The appealing parties shall file the original and two copies of the notice of appeal with the department. The department will acknowledge receipt of the copies filed. The department's stamp placed upon such copies shall be prima facie evidence of the date of receipt. The department may thereafter require additional copies to be filed if necessary.

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(3) If a party fails to file a timely appeal the party waives the right to judicial review due to failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-020, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-020, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-020, filed 7/27/77.]

WAC 415-08-023 Contents of the notice of appeal. The notice of appeal must contain:

(1) The name and mailing address of the member or beneficiary, and the employer of the member;

(2) The name and legal residence of the appealing party, together with the mailing address of his or her representative, if any;

(3) In the case of disability claims:

(a) The date and nature of the accident, injury or disease, the place it occurred and location of the employer, in the case of disability claims; and

(b) If the injury or disease did not occur in the county where the member or beneficiary resides, the name of the county in which the appealing party desires to have the hearing held and a city or town most convenient within the county where the hearing is to be held;

(4) A statement identifying the decision appealed from and that portion of the decision considered to be unjust or unlawful;

(5) A clear and concise statement of facts in support of the grounds stated including, where applicable, a description of the physical facts constituting the claimant's present disability and how it is manifested;

(6) The type of relief sought, including specific dates at which time the appealing party believes the benefit accrued; and

(7) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by his or her signature and the signature of his or her representative, if any.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-023, filed 5/7/96, effective 6/7/96.]

WAC 415-08-025 Presiding officer. The director will designate a presiding officer to issue an order. The director may issue a general or specific presiding officer designation.

(1) If the director designates a presiding officer to issue a final order, that person shall be a different person than director's designee under chapter 415-04 WAC.

(2) If the director designates a presiding officer to issue a proposed order the director, or a person designated by the director, will be the reviewing officer. In that event, the reviewing officer will issue a final order.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-025, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-025, filed 5/18/93, effective 6/18/93.]

WAC 415-08-027 Parties may stipulate to the record on appeal. If the parties stipulate to a record, a hearing before the presiding officer may be waived by agreement of all par-

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ties. The presiding officer will then issue a final order on the stipulated record.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-027, filed 5/7/96, effective 6/7/96.]

WAC 415-08-030 Parties. The parties to an appeal shall be the appealing party or parties and the department. There is no obligation to serve notices, pleadings or correspondence upon any person who has not entered an appearance as a party. Service upon the representative of a party shall constitute service upon such party.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-030, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-030, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-030, filed 7/27/77.]

WAC 415-08-040 Representing another person before the presiding officer. Only the following persons may appear in a representative capacity before the presiding officer:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A legal intern authorized to practice law pursuant to Admission to Practice Rule (APR) 9 of the state supreme court and subject to the limitations contained in said rule. A legal intern shall not appear without the presence of the supervising attorney except in *ex parte* matters and noncontested cases.

(4) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears on behalf of the entity.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-040, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-040, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-040, filed 7/27/77.]

WAC 415-08-050 Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the presiding officer determines that representation in such hearing requires a high degree of legal training, experience, and skill, the board or its examiner may limit those who may appear in a representative capacity to attorneys-at-law.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-050, filed 5/7/96, effective 6/7/96; Order 4, § 415-08-050, filed 7/27/77.]

WAC 415-08-080 Withdrawal or substitution of representatives. An attorney or other representative withdrawing from a case shall immediately so notify the presiding officer and all parties of record in writing, or shall state such withdrawal for the record at a conference or hearing. Any substitution of an attorney or representative shall be accom-

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plished by written notification to the presiding officer and to all parties of record.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-080, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-080, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-080, filed 7/27/77.]

WAC 415-08-090 Ethical conduct required. All persons appearing in a representative capacity in proceedings before the presiding officer shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the presiding officer may, in his/her discretion and depending on all the circumstances, admonish or reprimand such person, exclude such person from further participation in the proceedings and adjourn the same, or report the matter to the department.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-090, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-090, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-090, filed 7/27/77.]

WAC 415-08-100 Appearance by former employee of agency or former member of attorney general's staff. No former employee of the department or system or former member of the attorney general's staff may appear in a representative capacity on behalf of other parties in a formal proceeding wherein he or she previously took an active part as a representative of the department. No such former employee shall appear where to do so would violate RCW 42.52.080.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-100, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-100, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-100, filed 7/27/77.]

WAC 415-08-105 Prehearing and posthearing memoranda. A presiding officer shall grant all timely requests to submit prehearing and posthearing memoranda, and shall set a reasonable time for the submission of memoranda. The department reserves the right to file a brief in response to any posthearing brief submitted by another party.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-105, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-105, filed 5/18/93, effective 6/18/93.]

WAC 415-08-280 Discovery. Any party may obtain discovery in the manner specified in Superior Court Civil Rule 26(a). The attendance of witnesses may be compelled by the use of a subpoena. Such discovery shall be governed generally by the procedures established by Superior Court Civil Rules 26-37, inclusive.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-280, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-280, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-280, filed 7/27/77.]

WAC 415-08-420 Presentation of evidence—Burden of proof. (1) The presiding officer shall determine the proper order of presentation of evidence.

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(2) The person appealing or requesting a hearing shall have the burden of proof in the matter.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-420, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-420, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-420, filed 7/27/77.]

Chapter 415-10 WAC

PURCHASE OF SERVICE CREDIT AFTER STATUTORY DEADLINE RCW 41.50.165

WAC

415-10-010	Can I purchase service credit after the statutory deadline?
415-10-020	Definitions.
415-10-030	Calculation of cost to purchase service credit in LEOFF Plan 1, LEOFF Plan 2, PERS Plan 2, TRS Plan 2, or SERS Plan 2.
415-10-040	Calculation of cost to purchase service credit for members of PERS 1, TRS 1 or WSPRS.
415-10-050	Restrictions on purchasing service credit.
415-10-060	Crediting service credit purchases.
415-10-070	Requesting an estimate—Requesting a bill.
415-10-080	If I purchase service credit, can I receive a refund of my payments?
415-10-090	If I reenter employment after separating from service and withdrawing my plan contributions, must I restore all periods of service?
415-10-100	Can I purchase TRS Plan 2 credit in TRS Plan 3?
415-10-110	Can I purchase SERS Plan 2 credit in SERS Plan 3?

WAC 415-10-010 Can I purchase service credit after the statutory deadline? RCW 41.50.165 generally allows the member to purchase service credit that he or she failed to establish or reestablish within the statutory deadline.

(1) **You must pay the actuarial value of the increase to your retirement allowance.** The actuarial value of the increase to the member's benefit means the cost to the retirement system trust fund of:

(a) Including the additional service credit in the member's retirement allowance calculation; and

(b) Commencing the member's retirement allowance at an earlier age, if applicable. This second factor will not apply if the member's retirement system is LEOFF 1, LEOFF 2, PERS 2, or TRS 2, because length of service is not a factor in determining eligibility to retire in those systems.

(2) **The valuation is based upon economic assumptions.** The cost to the retirement system trust fund for the increased value to the member's benefit is calculated based upon interest rate assumptions adopted by the pension funding council and actuarial factors adopted or approved by the state actuary.

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-010, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-010, filed 12/6/96, effective 1/6/97.]

WAC 415-10-020 Definitions. As used in this chapter:

(1) "Average earnings" means:

(a) The average of your two highest consecutive years of compensation as of the date of your service credit purchase if you are purchasing service credit in PERS Plan 1, TRS Plan 1 or WSPRS;

(b) The average of your five highest consecutive years of compensation as of the date of your service credit purchase if you are purchasing service credit in Plan 2 or Plan 3.

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(c) The basic salary attached to your position at the date of your service credit purchase if you are purchasing service credit in LEOFF Plan 1.

(2) "Factor 1" means the actuarial cost factor calculated by the state actuary and adopted by the department. The actual factor used varies depending upon the time between the date of payment and the projected date of retirement. Generally, the longer the gap between date of payment and date of retirement the lower the factor.

(3) "Factor 2" is the actuarial factor calculated by the state actuary based upon demographic differences between the membership of the different retirement systems. Those factors are: .00788 (PERS 1); .00698 (TRS 1); and .00908 (WSPRS).

(4) "Factor 3" means the interest factor calculated by the state actuary and adopted by the department. This factor is used only when the service credit purchase lowers the projected retirement age and is based upon the higher cost to the system of the earlier retirement.

(5) "LEOFF" means the law enforcement officers' and fire fighters' retirement system established under chapter 41.26 RCW.

(6) "PERS" means the public employees' retirement system established under chapter 41.40 RCW.

(7) "Plan 1" means the retirement system plan that includes persons who established membership before October 1, 1977. PERS and LEOFF are divided into Plan 1 and Plan 2. TRS is divided into Plan 1, Plan 2 and Plan 3. WSPRS has only one plan.

(8) "Plan 2" means the retirement system plan that includes persons who established membership on or after October 1, 1977. PERS and LEOFF are divided into Plan 1 and Plan 2. TRS is divided into Plan 1, Plan 2 and Plan 3. SERS is divided into Plan 2 and Plan 3. WSPRS has only one plan.

(9) "Plan 3" means the teachers' retirement system Plan 3 established by RCW 41.32.831 and the school employees' retirement system Plan 3 established by RCW 41.35.600.

(10) "Service credit being purchased" means the number of service credit months or service credit years you are purchasing.

(11) "TRS" means the teachers' retirement system established under chapters 41.32 and 41.34 RCW.

(12) "WSPRS" means the Washington state patrol retirement system established under chapter 43.43 RCW.

(13) "Years of earlier retirement" equals the number of years or fractions of years you will be able to retire earlier as a result of your purchase of service credit.

(14) "Years of service" equals the total anticipated years of service you will have accrued at retirement, including the additional service credit you purchase under this section.

(15) "SERS" means the school employees' retirement system established under chapters 41.34 and 41.35 RCW.

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-020, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-020, filed 12/6/96, effective 1/6/97.]

WAC 415-10-030 Calculation of cost to purchase service credit in LEOFF Plan 1, LEOFF Plan 2, PERS Plan 2, TRS Plan 2, or SERS Plan 2. If you are a member of

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LEOFF Plan 1, LEOFF Plan 2, PERS Plan 2, TRS Plan 2, TRS Plan 3, SERS Plan 2 or SERS Plan 3, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following formula:

$$\frac{\text{Average Earnings} \cdot \text{Service Credit Being Purchased} \cdot \text{Factor 1}}{\text{Cost to purchase service credit}}$$

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-030, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-030, filed 12/6/96, effective 1/6/97.]

WAC 415-10-040 Calculation of cost to purchase service credit for members of PERS 1, TRS 1 or WSPRS. If you are a member of PERS 1, TRS 1 or WSPRS, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following three part formula:

<u>Part 1 Cost</u> =	<u>Part 2 Cost</u> =
Service Credit Being Purchased	Years of Service
x	x
Average Earnings	Average Earnings
x	x
Factor 1	Factor 2
	x
	Years of Earlier Retirement
	x
	Factor 3

Cost to purchase service credit = Part 1 Cost + Part 2 Cost.

The Part 1 Cost represents the cost of including the additional service in your retirement allowance calculation. The Part 2 Cost represents the cost of commencing your retirement allowance at the earliest possible age.

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-040, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-040, filed 12/6/96, effective 1/6/97.]

WAC 415-10-050 Restrictions on purchasing service credit. (1) You may not purchase service credit under RCW 41.50.165(2) if your deadline to establish or reestablish the service credit has not expired.

(2) If you are reestablishing credit you must purchase at least the service credit you earned in any one calendar month of employment.

(3) If you are establishing credit for the first time you must purchase the entire period of service. If you are not reestablishing credit canceled by a withdrawal of contributions, you must purchase the entire period of service.

(4) Your ability to purchase service credit may be limited by Internal Revenue Code restrictions. The department may limit the amount of service credit you may purchase in any calendar year in order to stay within the maximum employee contribution limits established by the Internal Revenue Code for 401(a) tax qualified plans.

(5) You may not make installment payments. If you purchase service credit under this section, you must make

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payment in a single lump-sum as determined by the department for each unit of service credit purchased.

(6) **Purchasing service credit will not move you from one plan to another.** Plan membership is based upon the date your retirement system membership was established. Purchasing prior service credit does not change the date you first established membership and therefore does not change your plan membership.

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-050, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-050, filed 12/6/96, effective 1/6/97.]

WAC 415-10-060 Crediting service credit purchases.

If you do not purchase all of your previously withdrawn service credit, the department will recredit your purchased service beginning with the oldest month of service canceled by your withdrawal.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-060, filed 12/6/96, effective 1/6/97.]

WAC 415-10-070 Requesting an estimate—Requesting a bill. (1) The department will provide you a service credit purchase estimate upon request. If, after receiving the estimate, you wish to purchase some or all of the available credit you must request a bill in writing. Your request must identify the amount of service credit you wish to purchase.

(2) Your bill will be based on a specific date of payment. The cost to purchase the service credit could change if you attempt to pay after the specific payment date listed on the bill. If you do not make payment by the bill's due date but still wish to purchase service credit, you must request a new bill from the department.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-070, filed 12/6/96, effective 1/6/97.]

WAC 415-10-080 If I purchase service credit, can I receive a refund of my payments? (1) You may not receive a refund unless you separate from service and withdraw your contributions. Except as provided under subsections (2) and (3) of this section, your payments to purchase service credit under RCW 41.50.165(2) qualify as a part of your accumulated contributions. As with other accumulated contributions, you may not receive a refund of your payments unless you separate from service and withdraw all your contributions.

(2) **Additional restrictions for TRS 1 members.** If you are a TRS 1 member, RCW 41.32.498(2) prohibits you from withdrawing payments made to purchase service credit under RCW 41.50.165(2) at the time of retirement.

(3) **Additional restrictions for LEOFF 2 members.** If you are a LEOFF Plan 2 member, payments made to purchase service credit under RCW 41.50.165(2) and interest on those payments may be refunded. However, such payments may not be included when calculating the one hundred fifty percent refund of contributions under RCW 41.26.540.

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-080, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-080, filed 12/6/96, effective 1/6/97.]

WAC 415-10-090 If I reenter employment after separating from service and withdrawing my plan contributions, must I restore all periods of service? If you separate from service, withdraw your plan contributions and then become reemployed with an employer and wish to restore your withdrawn contributions, you must restore all periods of service by repaying the accumulated contributions you withdrew plus interest, if applicable. This includes any payments you made under RCW 41.50.165(2) to purchase service credit plus any interest attributed to those payments.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-090, filed 12/6/96, effective 1/6/97.]

WAC 415-10-100 Can I purchase TRS Plan 2 credit in TRS Plan 3? Yes. (1) **Transferring purchased TRS Plan 2 credit into TRS Plan 3.** If you purchase TRS Plan 2 service credit under this chapter and later elect to enter TRS Plan 3, that credit will also transfer to TRS Plan 3. Fifty percent of the money you paid to purchase the service credit will be credited to the TRS Plan 3 defined contribution account established under chapter 41.34 RCW. The other fifty percent will be credited to the TRS Plan 3 defined benefit portion established under RCW 41.32.831.

(2) **Purchasing TRS Plan 2 service credit after transferring to TRS Plan 3.** You may purchase service credit initially available under TRS Plan 2 after you transfer to TRS Plan 3. The service will be credited in TRS Plan 3. Fifty percent of the money you pay to purchase the service credit will be credited to the TRS Plan 3 defined contribution account established under chapter 41.34 RCW. The other fifty percent will be credited to the TRS Plan 3 defined benefit portion established under RCW 41.32.831.

(3) **Service earned after transferring to TRS Plan 3 cannot be purchased.** Service earned as a Plan 3 member is automatically recredited if the member reenters membership and earns at least twelve service credit months. Plan 3 does not have any deadlines on establishing optional service. Because there are no deadlines for establishing or reestablishing service credit there is no provision for purchasing service credit earned in Plan 3 under RCW 41.50.165

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-100, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-100, filed 12/6/96, effective 1/6/97.]

WAC 415-10-110 Can I purchase SERS Plan 2 credit in SERS Plan 3? Yes. (1) **Transferring purchased SERS Plan 2 credit into SERS Plan 3.** If you purchase SERS Plan 2 service credit under this chapter and later elect to enter SERS Plan 3, that credit will also transfer to SERS Plan 3. Fifty percent of the money you paid to purchase the service credit will be credited to the SERS Plan 3 defined contribution account established under chapter 41.34 RCW. The other fifty percent will be credited to the SERS Plan 3 defined benefit portion established under RCW 41.35.600.

(2) **Purchasing SERS Plan 2 service credit after transferring to SERS Plan 3.** You may purchase service credit initially available under SERS Plan 2 after you transfer to SERS Plan 3. The service will be credited in SERS Plan 3. Fifty percent of the money you pay to purchase the service

credit will be credited to the SERS Plan 3 defined contribution account established under chapter 41.34 RCW. The other fifty percent will be credited to the SERS Plan 3 defined benefit portion established under RCW 41.35.600.

(3) **Service earned after transferring to SERS Plan 3 cannot be purchased.** Service earned as a Plan 3 member is automatically recredited if the member reenters membership and earns at least twelve service credit months. Plan 3 does not have any deadlines on establishing optional service. Because there are no deadlines for establishing or reestablishing service credit there is no provision for purchasing service credit earned in Plan 3 under RCW 41.50.165.

[Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-110, filed 10/27/00, effective 11/27/00.]

Chapter 415-100 WAC JUDICIAL RETIREMENT SYSTEM

WAC

415-100-005	Purpose.
415-100-015	Scope.
415-100-025	Public records.
415-100-035	Retirement for service.
415-100-045	Definition of member.
415-100-051	Married member's benefit selection—Spousal consent required.
415-100-055	Retirement benefit options.
415-100-190	Actuarial recomputation of retirement allowance upon retirement following reemployment.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-100-010	Definitions. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-010, filed 11/22/78.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-020	Public records. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-020, filed 11/22/78. Formerly chapter 290-48 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-040	Appeals—Disability retirement applications. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-040, filed 11/22/78. Formerly chapter 290-28 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-041	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-041, filed 1/7/91, effective 2/7/91.] Repealed by 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.
415-100-050	Appeals to superior court—Notice of appeal. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-050, filed 11/22/78. Formerly chapter 290-28 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-060	Appeals to superior court—Certification of record. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-060, filed 11/22/78. Formerly chapter 290-28 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-100	Members. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-100, filed 11/22/78. Formerly WAC 290-16-010.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-110	Officers. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), §

- 415-100-110, filed 11/22/78. Formerly WAC 290-16-020.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-120 Function. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-120, filed 11/22/78. Formerly WAC 290-16-030.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-130 Duties. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-130, filed 11/22/78. Formerly WAC 290-16-040.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-140 Location. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-140, filed 11/22/78. Formerly WAC 290-16-050.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-150 Meetings. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-150, filed 11/22/78. Formerly WAC 290-16-060.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-160 Office of the chairman. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-160, filed 11/22/78. Formerly WAC 290-16-070.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-170 Business hours. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-170, filed 11/22/78. Formerly WAC 290-16-080.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-180 Correspondence. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-180, filed 11/22/78. Formerly WAC 290-16-090.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

WAC 415-100-005 Purpose. These rules are adopted to implement administration of chapter 2.10 RCW by the director of the department of retirement systems pursuant to RCW 2.10.052.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-005, filed 3/11/87.]

WAC 415-100-015 Scope. These rules shall govern the unique aspects of the administration of chapter 2.10 RCW, Judicial retirement system.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-015, filed 3/11/87.]

WAC 415-100-025 Public records. See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-025, filed 3/11/87.]

WAC 415-100-035 Retirement for service. Any judge who voluntarily leaves service after having served an aggregate of fifteen years but prior to attaining age sixty shall be eligible to apply for and receive a service retirement allowance computed according to RCW 2.10.110 commencing upon his/her attainment of age sixty. Such allowance shall be

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computed in accordance with RCW 2.10.110 and 2.10.030 (9)(b).

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-035, filed 3/11/87.]

WAC 415-100-045 Definition of member. (1) "Member" means:

(a) A judge as defined in RCW 2.10.030(2), who elected to exchange survivor benefits, filed the requisite documents with the department pursuant to RCW 2.10.140(2), and is making contributions to the system; or

(b) A former judge as defined in RCW 2.10.030(2), who elected to exchange survivor benefits, filed the requisite documents with the department pursuant to RCW 2.10.140(2), and left accumulated contributions in the system; or

(c) A retiree.

(2) A retiree means any judge, as defined in RCW 2.10.030(2), in receipt of a retirement allowance or other benefit provided by chapter 2.10 RCW resulting from service rendered to an employer.

[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. 96-01-047, § 415-100-045, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-045, filed 1/7/91, effective 2/7/91.]

WAC 415-100-051 Married member's benefit selection—Spousal consent required. The member, if married, must provide the spouse's written consent to the option selected under WAC 415-100-055. If a married 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 2.10.146(2). "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 constitutes spousal consent.)

[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. 96-01-047, § 415-100-051, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-051, filed 1/7/91, effective 2/7/91.]

WAC 415-100-055 Retirement benefit options. RCW 2.10.146, enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One (standard allowance).** The department pays the retiree a monthly retirement allowance based solely on the single life of the member, in accordance with RCW 2.10.146. When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions, will be paid to:

(a) The member's designated beneficiary; or if none, to

(b) The member's surviving spouse; or if none, to

(c) The member's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

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(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the pop-up provision, Agnes' monthly benefit will increase to the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount		+ Total COLA's		= New Benefit Amount
\$2000		+ \$191.05		= \$2,191.05*

* In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(4) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[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. 96-01-047, § 415-100-055, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-055, filed 1/7/91, effective 2/7/91.]

WAC 415-100-190 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a plan member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again.

(c) Option Four (joint and two-thirds allowance).
(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the member's gross monthly retirement allowance.

(3) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who selected Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance will increase, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One described in subsection (1) of this section; plus

(ii) Any cost-of-living adjustments received prior to the survivor's death based on original selection.

(c) Pop-up recalculation example.

(2) If a member initially retired at or after age sixty and reentered membership, upon the member's next retirement, the department shall recompute the member's retirement allowance pursuant to RCW 2.10.110. In recomputing the member's retirement allowance, the department shall include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 2.10.155 due to reemployment in an eligible position but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive

due to reemployment including cost-of-living adjustments. The retiree may elect to receive the actuarially computed increase in either:

- (i) An amount amortized over the expected term of the recomputed retirement allowance; or
- (ii) A lump sum payment equal to the suspended retirement allowance plus interest.

[Statutory Authority: RCW 41.50.050, 94-11-008, § 415-100-190, filed 5/5/94, effective 6/5/94.]

Chapter 415-103 WAC

WASHINGTON STATE PATROL RETIREMENT SYSTEM (WSPRS) BENEFIT OPTIONS

WAC

415-103-215

Retirement benefit options.

WAC 415-103-215 Retirement benefit options. RCW 43.43.278 requires the department to provide retiring members with an actuarially equivalent retirement option by July 1, 2000. The option pays the retiree a reduced retirement allowance which, upon the retiree's death, continues throughout the life of the lawful surviving spouse. When retiring for service, the married member can select either the historic retirement option under RCW 43.43.270 (Option A) or the actuarially equivalent retirement option (Option B). Both options include a survivor feature that entitles the eligible surviving spouse to receive a monthly allowance after the retiree dies.

(1) **Option A (historic retirement option and survivor benefit).** The department pays the retiree a monthly retirement allowance in accordance with RCW 43.43.260. The department pays survivor benefits in accordance with RCW 43.43.270.

(a) When the retiree dies, the department pays the retiree's lawful spouse a monthly retirement allowance equal to the gross monthly allowance received by the retiree, or an allowance equal to fifty percent of the average final salary (AFS) used to determine the retiree's benefit, whichever is less. This allowance is paid for the duration of the spouse's lifetime. The surviving spouse allowance will be adjusted by the annual increase amount as provided by RCW 43.43.272.

(b) If a surviving spouse who is receiving benefits under this subsection marries another member of this retirement system and the retiree predeceases the spouse, the spouse can receive only the higher of the two survivor's allowances for which he or she qualifies. The surviving spouse cannot receive more than one survivor allowance at a time under this subsection.

(c) To be eligible for an allowance, the lawful surviving spouse of a retired member must have been married to the member prior to the member's retirement and continuously thereafter until the date of the member's death, or must have been married to the retired member at least two years prior to the member's death. As used in this section, the terms "spouse," "surviving spouse" and "eligible spouse" mean "lawful surviving spouse."

(d) If the retiree has surviving unmarried children under the age of eighteen years, each child shall be entitled to a benefit equal to five percent of the retiree's AFS at retirement.

(2001 Ed.)

The combined benefits to the surviving spouse and all children cannot exceed sixty percent of the retiree's AFS.

(e) If there is no surviving spouse or the spouse dies, the child or children will receive a benefit equal to thirty percent of the retiree's AFS for one child and an additional ten percent of AFS for each additional child.

(f) All payments cease upon the death of the surviving spouse or the youngest unmarried child's attainment of age eighteen, whichever occurs last.

(2) **Option B (actuarially equivalent retirement option and survivor benefit).** The department pays the retiree a monthly benefit that is actuarially reduced by three percent to offset the cost of the survivor feature. The retiree's annual post-retirement increase (PRI) is based upon the amount of the retiree's reduced benefit.

(a) When the retiree dies, the department pays the retiree's eligible spouse a monthly retirement allowance equal to the gross monthly allowance received by the retiree. This allowance is paid for the duration of the spouse's lifetime. The surviving spouse allowance will be increased every July 1 by the amount of the PRI that had been paid to the retiree under the provisions of RCW 43.43.260(5).

(b) Benefits to the surviving spouse cease upon the spouse's death.

(3) **Retiree's benefit increases if spouse ceases to be married to retiree or predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after July 1, 2000, who select Option B.

(b) If the retiree's spouse ceases to be married to the retiree or dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option A; plus

(ii) Any post-retirement increases the retiree received prior to the survivor's death or the termination of marriage.

(c) Pop-up recalculation example:

Option B:

Bob retires on August 1, 2000. He selects Option B so that his spouse Linda, to whom he has been married for 30 years, will receive his monthly allowance and post-retirement increases after he dies. As a result, his monthly allowance is reduced by three percent from \$3,000, the Option A, historic retirement and survivor benefit, to \$2,910. Bob's PRI is \$58.20, two percent of his reduced retirement allowance.

Unfortunately, Linda dies in September 2002. Under the "pop-up" provision, Bob's monthly benefit will increase in October 2002 to a total of \$3,116.40. His new benefit amount is composed of the \$3,000 he would have received had he originally chosen Option A, plus the total of the PRIs he received in 2001 and 2002.

[Title 415 WAC—p. 19]

Year	Option A (Historic Survivor Benefit)	Annual PRI Based on Option A Benefit	Option B (Full Survivor Benefit)	Annual PRI Based on Optional B Benefit	Total Benefit
08/01/2000			2,910.00	(not eligible.)	2,910.00
07/01/2001			2,910.00	58.20	2,968.20
07/01/2002			2,968.20	58.20	3,026.40
10/01/2002	3,000.00				3,116.40
07/01/2003	3,000.00	60.00			3,176.40

On July 1, 2003, Bob's PRI will be two percent of the Option A amount (\$60.00) and his benefit will increase to \$3,176.40.

(d) If the retiree whose benefit increases under this section thereafter dies before all contributions are exhausted and there is no surviving spouse or eligible child, the remaining balance is retained by the retirement fund.

[Statutory Authority: RCW 43.43.278 and 41.50.050. 00-11-103, § 415-103-215, filed 5/18/00, effective 6/18/00.]

Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

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MINIMUM MEDICAL AND HEALTH STANDARDS

415-104-500	Purpose.		
415-104-510	Minimum standards for membership—Physical examination.	415-104-110	07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-520	Abdomen and gastrointestinal system.		Administration. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-110, filed 2/15/78.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-530	Blood and blood-forming tissue diseases.		
415-104-540	Dental.	415-104-120	Function. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-120, filed 2/15/78.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
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.	415-104-140	Location. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-140, filed 2/15/78. Formerly WAC 297-25-100.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-584	Lower extremities.		
415-104-588	Miscellaneous extremities.		
415-104-590	Eyes.		
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415-104-600	Genitalia.	415-104-150	Meetings. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-150, filed 2/15/78. Formerly WAC 297-25-020.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-605	Urinary system.		
415-104-610	Head.		
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415-104-620	Heart.		
415-104-624	Vascular system.	415-104-160	Office of the chairman. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-160, filed 2/15/78. Formerly WAC 297-25-030.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-628	Heart and vascular system—Miscellaneous.		
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415-104-640	Lungs and chest wall—General.	415-104-170	Business hours. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-170, filed 2/15/78. Formerly WAC 297-25-030.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-644	Lungs and chest—Tuberculous lesions.		
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415-104-650	Table 2—Table of weight.		
415-104-660	Mouth.		
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415-104-666	Pharynx, trachea, esophagus, and larynx.	415-104-180	Correspondence. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-180, filed 2/15/78. Formerly WAC 297-25-040.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
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.	415-104-190	Identification. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-190, filed 2/15/78. Formerly WAC 297-25-050.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
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.	415-104-200	Decision and order of the local disability board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-200, filed 2/15/78. Formerly WAC 297-30-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
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.	415-104-201	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-201, filed 1/7/91, effective 2/7/91.] Repealed by 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.
415-104-782	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.	415-104-205	Definitions for purposes of WAC 415-104-200 through 415-104-215. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-205, filed 1/7/91, effective 2/7/91.] Repealed by 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.
415-104-785	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. 78-03-023 (Order IV), § 415-104-010, filed 2/15/78. Formerly WAC 297-15-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-210	Processing applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-210, filed 2/15/78. Formerly WAC 297-30-020.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-020	Public records. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-020, filed 2/15/78.] Repealed by 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. 78-03-023 (Order IV), § 415-104-220, filed 2/15/78. Formerly WAC 297-30-030.] Repealed by 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. 78-03-023 (Order IV), § 415-104-030, filed 2/15/78. Formerly WAC 297-60-010.] Repealed by 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. 78-03-023 (Order IV), § 415-104-230, filed 2/15/78. Formerly WAC 297-30-040.] Repealed by 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. 78-03-023 (Order IV), § 415-104-105, filed 2/15/78. Formerly WAC 297-10-010.] Repealed by 87-	415-104-240	Recommendation and conclusion. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-240, filed 2/15/78. Formerly WAC 297-

- 30-050.] Repealed by 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. 78-03-023 (Order IV), § 415-104-250, filed 2/15/78. Formerly WAC 297-30-060.] Repealed by 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. 78-03-023 (Order IV), § 415-104-260, filed 2/15/78. Formerly WAC 297-30-070.] Repealed by 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. 78-03-023 (Order IV), § 415-104-270, filed 2/15/78. Formerly WAC 297-30-080.] Repealed by 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. 78-03-023 (Order IV), § 415-104-300, filed 2/15/78. Formerly WAC 297-35-010.] Repealed by 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. 78-03-023 (Order IV), § 415-104-310, filed 2/15/78. Formerly WAC 297-35-020.] Repealed by 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. 78-03-023 (Order IV), § 415-104-320, filed 2/15/78. Formerly WAC 297-35-030.] Repealed by 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. 78-03-023 (Order IV), § 415-104-400, filed 2/15/78. Formerly WAC 297-45-010.] Repealed by 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. 78-03-023 (Order IV), § 415-104-410, filed 2/15/78. Formerly WAC 297-45-020.] Repealed by 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). 81-07-017 (Order 81-2), § 415-104-800, filed 3/10/81.] Repealed by 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). 81-07-017 (Order 81-2), § 415-104-810, filed 3/10/81.] Repealed by 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). 81-07-017 (Order 81-2), § 415-104-820, filed 3/10/81.] Repealed by 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). 81-07-017 (Order 81-2), § 415-104-830, filed 3/10/81.] Repealed by 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. 87-07-016 (Order 87-4), § 415-104-005, filed 3/11/87.]

[Title 415 WAC—p. 22]

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

[Statutory Authority: RCW 41.50.050. 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. 93-11-078, § 415-104-011, filed 5/18/93, effective 6/18/93.]

WAC 415-104-0111 Commissioned—Definition. An employee is "commissioned" if he or she 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.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0111, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0112 Director of public safety—Definition. (1) "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.

(2) "City or town" as used in this definition, includes only a city or town whose population did not exceed ten thousand at the time the person became employed as a director of public safety.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0112, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0113 Elective employer—Definition. "Elective employer" means the employer of the LEOFF Plan I elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0113, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0114 Full time—Definition. An employee is employed "full time" if the employee is regularly scheduled to earn basic salary from an employer for a minimum of one hundred sixty hours each calendar month.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0114, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0115 Fully compensated—Definition. An employee is "fully compensated" if the employee earns basic salary and benefits from an employer in an amount comparable to the salary received by other full-time employees of the same employer who:

- (1) Hold the same or similar rank; and
- (2) Are employed in a similar position.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0115, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0117 LEOFF employer—Definition. "LEOFF employer" means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or fire fighter.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0117, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0118 LEOFF Plan I elected official—

Definition. "LEOFF Plan I elected official" means a LEOFF Plan I member who is a civil service employee on leave of absence by reason of having 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.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-0118, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0120 Public safety officer—Definition.

(1) "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 fire fighter duties.

(2) "City or town" as used in this definition, includes only a city or town whose population did not exceed ten thousand at the time the person became employed as a public safety officer.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-0120, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0121 Plan I and Plan II—Definition.

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

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

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-0121, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0122 LEOFF—Definition.

"LEOFF" means the law enforcement officers' and fire fighters' retirement system established by chapter 41.26 RCW.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-0122, filed 7/25/95, effective 8/25/95.]

WAC 415-104-0125 Uniformed fire fighter position—Definition.

"Uniformed fire fighter 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 fire fighter 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, 96-04-003, § 415-104-0125, filed 1/24/96, effective 2/24/96.]

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

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

(2001 Ed.)

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

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

WAC 415-104-108 Actuarial tables, schedules, and factors. This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state law enforcement officers' and fire fighters' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based upon the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of the law enforcement officers' and fire fighters' retirement system.

(1) Except as provided in subsection (2) of this section, the tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring on or after January 1, 1996, until such time as these tables, schedules, and factors are amended by the director fol-

lowing the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement.

(2) The early retirement factors govern the retirement allowances of members retiring on or after January 1, 1993.

(3) Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the effective date of such new tables, schedules, and factors.

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN I		LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II	
Monthly Benefit per \$1.00 of Accumulation		Monthly Benefit per \$1.00 of Accumulation	
20	.0025142	20	.0039808
21	.0025304	21	.0039997
22	.0025472	22	.0040196
23	.0025647	23	.0040405
24	.0025828	24	.0040624
25	.0026017	25	.0040855
26	.0026214	26	.0041098
27	.0026418	27	.0041353
28	.0026632	28	.0041622
29	.0026854	29	.0041905
30	.0027086	30	.0042204
31	.0027327	31	.0042518
32	.0027579	32	.0042850
33	.0027842	33	.0043200
34	.0028117	34	.0043569
35	.0028404	35	.0043958
36	.0028704	36	.0044370
37	.0029018	37	.0044805
38	.0029346	38	.0045266
39	.0029690	39	.0045752
40	.0030050	40	.0046267
41	.0030427	41	.0046810
42	.0030823	42	.0047384
43	.0031237	43	.0047988
44	.0031672	44	.0048626
45	.0032128	45	.0049298
46	.0032607	46	.0050007
47	.0033111	47	.0050753
48	.0033640	48	.0051539
49	.0034197	49	.0052369
50	.0034785	50	.0053245
51	.0035404	51	.0054172
52	.0036059	52	.0055155
53	.0036751	53	.0056199
54	.0037485	54	.0057310
55	.0038265	55	.0058496
56	.0039096	56	.0059764
57	.0039981	57	.0061122
58	.0040928	58	.0062578
59	.0041941	59	.0064139
60	.0043026	60	.0065811
61	.0044195	61	.0067600
62	.0045451	62	.0069511
63	.0046805	63	.0071548
64	.0048266	64	.0073714
65	.0049847	65	.0076011
66	.0051560	66	.0078441
67	.0053424	67	.0081009
68	.0055445	68	.0083721
69	.0057645	69	.0086591
70	.0060046	70	.0089634
71	.0062678	71	.0092866
72	.0065554	72	.0096299
73	.0068706	73	.0099940

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN I		LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II		LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II	
Monthly Benefit per \$1.00 of Accumulation		Monthly Benefit per \$1.00 of Accumulation		Early Retirement Factors by Year and Month	
74	.0072168	74	.0103786	1	.7405
75	.0075947	75	.0107825	2	.7349
76	.0080069	76	.0112040	3	.7292
77	.0084560	77	.0116408	4	.7236
78	.0089449	78	.0120905	5	.7180
79	.0094696	79	.0125511	6	.7123
80	.0100369	80	.0130204	7	.7067
81	.0106372	81	.0134944	8	.7011
82	.0112701	82	.0139758	9	.6954
83	.0119271	83	.0144609	10	.6898
84	.0126119	84	.0149489	11	.6841
85	.0133170	85	.0154388	0	.6785
86	.0140467	86	.0159282	1	.6734
87	.0147922	87	.0164153	2	.6684
88	.0155623	88	.0168983	3	.6633
89	.0163745	89	.0173754	4	.6582
90	.0172295	90	.0178441	5	.6532
91	.0181323	91	.0183008	6	.6481
92	.0190934	92	.0187436	7	.6430
93	.0201303	93	.0191730	8	.6379
94	.0212247	94	.0195820	9	.6329
95	.0223693	95	.0199697	10	.6278
96	.0236226	96	.0203443	11	.6227
97	.0250062	97	.0207038	0	.6177
98	.0265426	98	.0210462	1	.6131
99	.0282645	99	.0213706	2	.6085
				3	.6040
				4	.5994
				5	.5949
				6	.5903
				7	.5857
				8	.5812
				9	.5766
				10	.5720
				11	.5675
0	0	1.000		0	.5629
	1	.9921	6	1	.5588
	2	.9843		2	.5547
	3	.9764		3	.5506
	4	.9686		4	.5465
	5	.9607		5	.5423
	6	.9529		6	.5382
	7	.9450		7	.5341
	8	.9372		8	.5300
	9	.9293		9	.5259
	10	.9215		10	.5218
	11	.9136		11	.5177
1	0	.9058	7	0	.5135
	1	.8988		1	.5098
	2	.8918		2	.5061
	3	.8847		3	.5024
	4	.8777		4	.4987
	5	.8707		5	.4950
	6	.8637		6	.4912
	7	.8567		7	.4875
	8	.8496		8	.4838
	9	.8426		9	.4801
	10	.8356		10	.4764
	11	.8286		11	.4727
2	0	.8216	8	0	.4689
	1	.8153		1	.4656
	2	.8090		2	.4622
	3	.8027		3	.4589
	4	.7964		4	.4555
	5	.7902		5	.4521
	6	.7839		6	.4488
	7	.7776		7	.4454
	8	.7713		8	.4421
	9	.7650		9	.4387
	10	.7587		10	.4353
	11	.7524		11	.4320
3	0	.7462			

LAW ENFORCEMENT OFFICERS AND FIRE
FIGHTERS RETIREMENT SYSTEM PLAN II
Early Retirement Factors
by Year and Month

LAW ENFORCEMENT OFFICERS AND FIRE
FIGHTERS RETIREMENT SYSTEM PLAN II
Early Retirement Factors
by Year and Month

9	0	.4286		11	.2560
	1	.4256	15	0	.2541
	2	.4225		1	.2524
	3	.4195		2	.2507
	4	.4164		3	.2489
	5	.4134		4	.2472
	6	.4104		5	.2455
	7	.4073		6	.2438
	8	.4043		7	.2420
	9	.4012		8	.2403
	10	.3982		9	.2386
	11	.3951		10	.2369
10	0	.3921		11	.2352
	1	.3893	16	0	.2334
	2	.3866		1	.2319
	3	.3838		2	.2303
	4	.3811		3	.2287
	5	.3783		4	.2272
	6	.3755		5	.2256
	7	.3728		6	.2240
	8	.3700		7	.2225
	9	.3673		8	.2209
	10	.3645		9	.2193
	11	.3617		10	.2177
11	0	.3590		11	.2162
	1	.3565	17	0	.2146
	2	.3540		1	.2132
	3	.3515		2	.2117
	4	.3490		3	.2103
	5	.3465		4	.2089
	6	.3439		5	.2074
	7	.3414		6	.2060
	8	.3389		7	.2046
	9	.3364		8	.2031
	10	.3339		9	.2017
	11	.3314		10	.2003
12	0	.3289		11	.1988
	1	.3266	18	0	.1974
	2	.3244		1	.1961
	3	.3221		2	.1948
	4	.3198		3	.1935
	5	.3175		4	.1922
	6	.3153		5	.1908
	7	.3130		6	.1895
	8	.3107		7	.1882
	9	.3084		8	.1869
	10	.3061		9	.1856
	11	.3039		10	.1843
13	0	.3016		11	.1830
	1	.2995	19	0	.1817
	2	.2975		1	.1805
	3	.2954		2	.1793
	4	.2933		3	.1781
	5	.2912		4	.1769
	6	.2892		5	.1757
	7	.2871		6	.1745
	8	.2850		7	.1733
	9	.2830		8	.1721
	10	.2809		9	.1709
	11	.2788		10	.1697
14	0	.2767		11	.1685
	1	.2748	20	0	.1673
	2	.2730		1	.1662
	3	.2711		2	.1651
	4	.2692		3	.1640
	5	.2673		4	.1629
	6	.2654		5	.1618
	7	.2635		6	.1607
	8	.2616		7	.1596
	9	.2598		8	.1585
	10	.2579		9	.1574

LEOFF Retirement System

415-104-108

LAW ENFORCEMENT OFFICERS AND FIRE
FIGHTERS RETIREMENT SYSTEM PLAN II
Early Retirement Factors
by Year and Month

LAW ENFORCEMENT OFFICERS AND FIRE
FIGHTERS RETIREMENT SYSTEM PLAN II
Early Retirement Factors
by Year and Month

	10	.1563
	11	.1552
21	0	.1541
	1	.1531
	2	.1521
	3	.1511
	4	.1501
	5	.1491
	6	.1481
	7	.1470
	8	.1460
	9	.1450
	10	.1440
	11	.1430
22	0	.1420
	1	.1411
	2	.1402
	3	.1392
	4	.1383
	5	.1374
	6	.1365
	7	.1356
	8	.1346
	9	.1337
	10	.1328
	11	.1319
23	0	.1309
	1	.1301
	2	.1292
	3	.1284
	4	.1276
	5	.1267
	6	.1259
	7	.1250
	8	.1242
	9	.1233
	10	.1225
	11	.1216
24	0	.1208
	1	.1200
	2	.1192
	3	.1184
	4	.1177
	5	.1169
	6	.1161
	7	.1153
	8	.1146
	9	.1138
	10	.1130
	11	.1122
25	0	.1115
	1	.1107
	2	.1100
	3	.1093
	4	.1086
	5	.1079
	6	.1072
	7	.1065
	8	.1057
	9	.1050
	10	.1043
	11	.1036
26	0	.1029
	1	.1022
	2	.1016
	3	.1009
	4	.1003
	5	.0996
	6	.0989
	7	.0983
	8	.0976

	9	.0970
	10	.0963
	11	.0957
27	0	.0950
	1	.0944
	2	.0938
	3	.0932
	4	.0926
	5	.0920
	6	.0914
	7	.0908
	8	.0902
	9	.0896
	10	.0890
	11	.0884
28	0	.0878
	1	.0872
	2	.0866
	3	.0861
	4	.0855
	5	.0850
	6	.0844
	7	.0839
	8	.0833
	9	.0828
	10	.0822
	11	.0816
29	0	.0811
	1	.0806
	2	.0801
	3	.0796
	4	.0790
	5	.0785
	6	.0780
	7	.0775
	8	.0770
	9	.0765
	10	.0760
	11	.0755
30	0	.0749
	1	.0745
	2	.0740
	3	.0735
	4	.0731
	5	.0726
	6	.0721
	7	.0716
	8	.0712
	9	.0707
	10	.0702
	11	.0698
31	0	.0693
	1	.0689
	2	.0684
	3	.0680
	4	.0676
	5	.0671
	6	.0667
	7	.0663
	8	.0658
	9	.0654
	10	.0649
	11	.0645
32	0	.0641
	1	.0637
	2	.0633
	3	.0629
	4	.0625
	5	.0621
	6	.0617
	7	.0613

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II
Early Retirement Factors
by Year and Month

	8	.0609
	9	.0605
	10	.0601
	11	.0597
33	0	.0593
	1	.0589
	2	.0585
	3	.0582
	4	.0578
	5	.0574
	6	.0571
	7	.0567
	8	.0563
	9	.0560
	10	.0556
	11	.0552
34	0	.0548
	1	.0545
	2	.0542
	3	.0538
	4	.0535
	5	.0531
	6	.0528
	7	.0525
	8	.0521
	9	.0518
	10	.0514
	11	.0511
35	0	.0508
	1	.0505
	2	.0502
	3	.0499
	4	.0496
	5	.0493
	6	.0490
	7	.0487
	8	.0484
	9	.0481
	10	.0478
	11	.0475
36	0	.0472
	1	.0469
	2	.0467
	3	.0464
	4	.0461
	5	.0458
	6	.0456
	7	.0453
	8	.0450
	9	.0447
	10	.0445
	11	.0442
37	0	.0439
	1	.0437
	2	.0434
	3	.0432
	4	.0429
	5	.0426
	6	.0424
	7	.0421
	8	.0419
	9	.0416
	10	.0414
	11	.0411
38	0	.0409
	1	.0406
	2	.0404
	3	.0401
	4	.0399
	5	.0397
	6	.0394

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II
Early Retirement Factors
by Year and Month

	7	.0392
	8	.0390
	9	.0387
	10	.0385
	11	.0382
39	0	.0380
	1	.0378
	2	.0376
	3	.0373
	4	.0371
	5	.0369
	6	.0367
	7	.0365
	8	.0362
	9	.0360
	10	.0358
	11	.0356

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II

Age

LEOFF II Survivor Option Factors

Age Difference	Member Younger		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.928	0.951	0.963
-19	0.923	0.947	0.960
-18	0.918	0.944	0.957
-17	0.912	0.940	0.954
-16	0.906	0.935	0.951
-15	0.899	0.930	0.947
-14	0.892	0.926	0.943
-13	0.885	0.921	0.939
-12	0.877	0.915	0.935
-11	0.869	0.909	0.930
-10	0.861	0.903	0.926
-9	0.854	0.898	0.922
-8	0.846	0.892	0.917
-7	0.838	0.886	0.912
-6	0.830	0.880	0.907
-5	0.823	0.875	0.903
-4	0.814	0.868	0.898
-3	0.806	0.862	0.893
-2	0.798	0.856	0.888
-1	0.790	0.850	0.883

Age Difference	Member Older		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.780	0.842	0.877
1	0.771	0.835	0.871
2	0.760	0.827	0.864
3	0.751	0.820	0.858
4	0.743	0.813	0.853
5	0.735	0.807	0.848
6	0.728	0.801	0.843
7	0.721	0.795	0.838
8	0.714	0.789	0.833
9	0.706	0.783	0.828
10	0.700	0.778	0.824
11	0.694	0.773	0.820
12	0.687	0.768	0.815
13	0.681	0.762	0.811
14	0.673	0.755	0.805
15	0.664	0.748	0.799

Age Difference	Member Older		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
16	0.656	0.741	0.793
17	0.650	0.736	0.788
18	0.644	0.731	0.784
19	0.639	0.726	0.780
20	0.634	0.722	0.776
21	0.629	0.718	0.773
22	0.625	0.715	0.770
23	0.620	0.710	0.766
24	0.616	0.707	0.763
25	0.612	0.703	0.760
26	0.608	0.700	0.757
27	0.604	0.696	0.754
28	0.601	0.694	0.751
29	0.598	0.690	0.748
30	0.595	0.688	0.746
31	0.592	0.685	0.744
32	0.589	0.682	0.741
33	0.586	0.680	0.739
34	0.583	0.677	0.737
35	0.581	0.675	0.735
36	0.578	0.673	0.733
37	0.576	0.671	0.731
38	0.574	0.669	0.729
39	0.571	0.666	0.727
40	0.569	0.664	0.725

AGE DIFFERENCE = MEMBER'S AGE MINUS BENEFICIARY AGE

* For converting the Normal Form (Option I) to Option II or III.

[Statutory Authority: RCW 41.50.050. 96-03-100, § 415-104-108, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050 and 41.26.060. 91-19-063, § 415-104-108, filed 9/16/91, effective 10/17/91; 91-02-019, § 415-104-108, filed 12/21/90, effective 1/21/91.]

WAC 415-104-111 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age fifty-five.

(2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.26.500 as follows:

(a) If the member first retired before age fifty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.26.420 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(2001 Ed.)

(b) If the member initially retired at or after age fifty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.26.500 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.26.500 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payment the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

[Statutory Authority: RCW 41.50.050. 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. 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. 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. 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. 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

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court. Such hearing shall be in accordance with RCW 41.26.221.

[Statutory Authority: RCW 41.50.050. 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. 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 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. 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. 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. 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. 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. 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.

(2001 Ed.)

[Statutory Authority: RCW 41.50.050, 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, 87-07-016 (Order 87-4), § 415-104-175, filed 3/11/87.]

WAC 415-104-211 Married member's benefit selection—Spousal consent required. (1) A member, if married, must provide the spouse's written consent to the option selected under WAC 415-104-215. If a married 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 constitutes spousal consent.

[Statutory Authority: RCW 41.50.050, 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, 96-01-047, § 415-104-211, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-014, § 415-104-211, filed 1/7/91, effective 2/7/91.]

WAC 415-104-215 Retirement benefit options, RCW 41.26.460 enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One (standard allowance).** The department pays the retiree a monthly retirement allowance actuarially based solely on the single life of the member, in accordance with RCW 41.26.430 (service) or 41.26.470 (disability). When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

Plan Two: Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount	\$2000	+ Total COLA's		= New Benefit Amount
		+ \$191.05		= \$2,191.05*

* In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) **Option Two (joint and whole allowance).** When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(b) **Option Three (joint and one-half allowance).** When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

(c) **Option Four (joint and two-thirds allowance).**

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation example:

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(5) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death.

The retiree is not required to apply for the increased benefit provided in this subsection. The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.26.460 (3)(c) for Plan 2 retirees.

(6) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 41.50.050. 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. 96-01-047, § 415-104-215, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 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. 95-16-053, § 415-104-224, filed 7/25/95, effective 8/25/95.]

WAC 415-104-225 Am I a member? If you are employed by an employer as a full-time, fully compensated law enforcement officer or fire fighter, 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) **Fire fighters.** You are a fire fighter if you are employed in a uniformed fire fighter 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 or extinguishing fires.

(a) "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 or extinguishing fires.

(b) You are a fire fighter if you qualify as supervisory fire fighter personnel.

(c) If your employer requires fire fighters 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 fire fighter unless you qualify as supervisory fire fighter personnel.

(d) You are a fire fighter 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.

(e) You do not qualify for membership as a fire fighter if you are a volunteer fire fighter or resident volunteer fire fighter.

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

(a) "Commissioned" - WAC 415-104-0111.

(b) "Director of public safety" - WAC 415-104-0112.

- (c) "Employer" - RCW 41.26.030.
- (d) "Fire fighter" - RCW 41.26.030.
- (e) "Full time" - WAC 415-104-0114.
- (f) "Fully compensated" - WAC 415-104-0115.
- (g) "Law enforcement officer" - RCW 41.26.030.
- (h) "Member" - RCW 41.26.030.
- (i) "Public safety officer" - WAC 415-104-0120.
- (j) "Uniformed fire fighter position" - WAC 415-104-0125.

[Statutory Authority: RCW 41.50.050, 96-01-045, § 415-104-225, filed 12/14/95, effective 1/14/96; 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 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 fire fighter.

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

- (a) "Fire fighter" - RCW 41.26.030 and WAC 415-104-225(2).
- (b) "Full-time" - WAC 415-104-0114.
- (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, 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 I membership? (1) **You may be required to meet minimum medical and health standards in order to establish or reestablish Plan I 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 fire fighter 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 I 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 I from the first day of your employment. Your enrollment in Plan I, however, is provisional depending upon the results of your medical examination.

(2001 Ed.)

(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 I membership because you did not meet minimum medical and health standards, you will enter membership in Plan II.**

(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 I.

(b) If you do not meet the standards, your employer must stop reporting you to the department in Plan I and report you in Plan II. The department will transfer your membership from Plan I to Plan II 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) "Fire fighter" - RCW 41.26.030.
- (c) "Full time" - WAC 415-104-0114.
- (d) "Fully compensated" - WAC 415-104-0115.
- (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 I and Plan II" - WAC 415-104-0121.

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

WAC 415-104-299 Basic salary table. The following table is provided as a quick reference guide to help you characterize payments under LEOFF Plan I and LEOFF Plan II. Be sure to turn to 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).

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Type of Payment	LEOFF I Basic Salary?	LEOFF II Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-3205	Yes - WAC 415-104-360
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	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
Worker's Compensation	Not Applicable	No - WAC 415-104-380

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-299, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050 and 41.50.055, 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, 97-01-016, § 415-104-301, filed 12/6/96, effective 1/6/97.]

LEOFF PLAN I

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 fire fighter 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

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(b) Paid to all law enforcement officers or fire fighters 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, 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.

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(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. 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. 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

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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. 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. 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 credit-

able, 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. 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. 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.

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[Statutory Authority: RCW 41.50.050 and 41.50.055. 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. 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. 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. 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

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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. 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. 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 fire fighter 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. 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. 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

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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. 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. 97-01-016, § 415-104-3401, filed 12/6/96, effective 1/6/97.]

WAC 415-104-3402 Fringe benefits are not LEOFF Plan I 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 I. Fringe benefits include but are not limited to:

(1) Any type of insurance such as medical, dental, or life insurance;

(2) Any contribution by an employer to meet the premium or charge for such plan or 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 and 41.50.055. 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. 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. 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. 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. 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. 97-01-016, § 415-104-350, filed 12/6/96, effective 1/6/97.]

LEOFF PLAN II

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 exclu-

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sions 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. 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. 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. 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. 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 fire fighter 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. 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

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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. 97-01-016, § 415-104-373, filed 12/6/96, effective 1/6/97.]

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 com-

pensation for the services provided by the employee.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 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. 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. 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 com-

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pany 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: Provided, however, That if the leave provided to an employee is based upon leave earned by another employee then it is a form of shared leave and does not qualify as basic salary.

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

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

(1) Any type of insurance such as medical, dental or life insurance;

(2) Any employer contribution to meet the premium or charge for such plan or insurance; or

(3) Any payments by the employer into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), except for 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 and 41.50.055. 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. 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. 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. 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. 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. 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. 97-01-016, § 415-104-401, filed 12/6/96, effective 1/6/97.]

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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. 97-01-016, § 415-104-405, filed 12/6/96, effective 1/6/97.]

WAC 415-104-450 Designation of beneficiaries—Death benefit if a member dies before retirement. (1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) A trust in existence at the time of death. Before making distribution to the trust the department must receive:

(i) A copy of the trust document;

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

(iii) The tax identification number;

(d) A trust to be established under your last will.

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

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

Subject to applicable statute, at John's death, the department will consider both the Barbara Trust and daughter Ann as primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the trust and other information specified in this rule before distribution to the trust.

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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 (no trust name is provided). He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.

Result

At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.

[Statutory Authority: RCW 41.50.050. 00-10-017, § 415-104-450, filed 4/21/00, effective 5/22/00.]

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 fire fighter 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. 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.

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(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. 84-03-047 (Order V), § 415-104-510, filed 1/18/84. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 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 produce 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 gastroenterotomy**, 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. 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, thalassemia and sickle cell anemia;

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

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

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(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) Polycythemia vera;

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

(6) **Thromboembolic disease** except for acute, nonre-current conditions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 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. 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**:

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(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. 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. 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)
(1)	No requirement	"Better ear" is interpreted to mean the ear with better hearing at the frequency level being tested.							
(2)	Not yet standardized								

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

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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. 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. 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. 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;

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(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. 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. 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) Lagophthalmos;

(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 retrobulbar 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) Dislopia, 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) Myasthenia, 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. 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. 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;

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(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. 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

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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,** hypertrophy 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. 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;

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(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. 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. 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 tachycardia, 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. 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. 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:

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(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. 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. 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. 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. 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. 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. 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**;

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- (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. 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)	Minimum (regard-less 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. 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. 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 atrophic 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. 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 esophagosopic 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. 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;

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(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. 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, tabes 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) Neurofibromatosis;

(6) **Spontaneous subarachnoid hemorrhage**, verified history of, unless cause has been surgically corrected.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 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. 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;

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(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. 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. 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) **Elephantiasis or chronic lymphedema;**

(8) **Epidermolysis 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) **Neurofibromatosis** (Von Recklinghausen'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. 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 occulta, 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) **Spondylololysis 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. 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. 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. 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, trichlorethylene, 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. 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 membranous 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 enlargement 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. 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. 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. 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:

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(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. 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. 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. 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. 78-03-023 (Order IV), § 415-104-755, filed 2/15/78. Formerly WAC 297-50-260.]

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. 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. 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

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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. 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. 93-11-078, § 415-104-785, filed 5/18/93, effective 6/18/93.]

Chapter 415-105 WAC

LOCAL DISABILITY BOARD PROCEDURES

WAC

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415-105-160	Purpose—Under age fifty.
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GENERAL PROVISIONS

WAC 415-105-010 Preamble. These rules are not intended to weaken the authority of the local disability board nor to prevent the disability board from adopting additional rules or procedures necessary for performing its duties.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-010, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-010, filed 11/16/81.]

WAC 415-105-020 Purpose. These rules are adopted under the authority of section 1, chapter 294, Laws of 1981 (RCW 41.26.115) to provide a basis for uniform administra-

tion of disability retirement matters. These rules must be followed by each disability board.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-020, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-020, filed 11/16/81.]

WAC 415-105-030 Board doctor. (1) Each board must appoint a board doctor. The board must not approve a disability retirement without prior examination of the applicant by the board doctor or a specialist selected by the board doctor. The board doctor must be a practicing physician licensed under the provisions of chapter 18.71 RCW; or, if the board doctor practices outside the state of Washington, then he/she must be a physician licensed by the state in which he/she practices.

(2) The board doctor and any selected specialist must be knowledgeable about the normal, routine duties, functions and general demands of the position the applicant held at the time the applicant discontinued service.

(3) The board must furnish the examining physician with the applicant's job and/or position description. The board must inform the physician that the board's decision to grant or deny a disability retirement allowance is to be measured against the actual, normal, routine duties that the applicant performs.

(4) The board doctor or approved specialist will provide medical services requested by the board including examinations pursuant to RCW 41.26.120(1); 41.26.125(1); 41.26.130(5); and 41.26.150 (1)(a).

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-030, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-030, filed 11/16/81.]

WAC 415-105-040 Disability leave. (1) The applicant must prove the existence of:

(a) A disabling condition; and

(b) Whether or not the condition was incurred in the line of duty.

(2) The application must include the name of each physician contacted by the applicant within the last six months for the disabling illness or injury. The applicant must advise each examining physician that:

(a) The board has requested the evaluation;

(b) Any reports of the evaluation will be reviewed by the board;

(c) That the doctor-patient privilege may not be invoked with respect to the evaluation; and

(d) The physician may be requested by the board to testify as to his or her findings.

(3) The disability board is authorized to demand the appearance of the applicant and to request the appearance of any other persons it deems appropriate.

(4) Following receipt of an application for disability benefits, the board must:

(a) Review the application and all relevant information about the applicant's fitness for duty;

(b) Consider the duties of the applicant's position; and

(c) Consider any other pertinent evidence.

The board must either grant or deny disability leave based on the evidence or continue the matter pending receipt of additional information.

(5) If the information before the board is insufficient to determine whether or not the applicant is disabled, the matter can be continued to the next regular meeting or set for consideration at a special meeting. The board must advise the applicant of:

(a) The additional information needed;

(b) The applicant's obligation to provide the additional information; and

(c) The date by which the information must be provided.

(6) The applicant may waive any or all of the disability leave granted pursuant to RCW 41.26.120(4) and 41.26.125(4).

(7) The board is not to use the minimum medical and health standards (MMHS) to determine whether or not an applicant is unfit for duty. The MMHS established pursuant to RCW 41.26.046 govern entry or reentry into LEOFF System membership and were provided only to safeguard the fiscal integrity of the pension system.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-040, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-040, filed 11/16/81.]

WAC 415-105-050 Examination, review and determination. (1) The board must have the applicant examined during the fifth or sixth month of disability leave. The examination is to be performed by the board doctor or a specialist selected by the board doctor. The board shall not approve the disability retirement without this examination unless:

(a) The applicant establishes that the disabling condition will exist for at least six months; and

(b) The applicant voluntarily waives disability leave.

(2) Following receipt of the examination report, the board must:

(a) Review the medical evidence and all relevant information about the applicant's fitness for duty;

(b) Consider the duties of the applicant's position; and

(c) Consider any other pertinent evidence.

The board must either grant or deny disability retirement based on the evidence or return the applicant to duty for a reasonable period of trial service.

(3) If the board cannot determine with reasonable certainty whether or not the applicant is disabled, the board may issue a written order that the applicant is to return to duty for a reasonable period of trial service to determine the applicant's fitness for active duty.

(a) The length of the trial service period must be supported by medical evidence.

(b) During the period of trial service the applicant is to return to the same duties in the same position held at the time of discontinuance of service.

(c) If the applicant is found to be disabled, the board is not to grant a second six-month period of disability leave, but is to return the applicant to disability leave status for the remainder, if any, of the initial six-month leave period.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-050, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015

(Order 87-3), § 415-105-050, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-050, filed 11/16/81.]

WAC 415-105-060 Granting disability retirement.

(1) The applicant is required to prove that he or she is disabled and unable to perform with average efficiency the duties of the position held at the time of discontinuance of service.

(2) The board must determine, based on the evidence, that the applicant is disabled from performing his or her duties and the disability has been continuous since the beginning of the disability leave period.

(3) The board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period if:

(a) The regular meeting of the board does not precede the end of the six-month disability leave period by more than forty days; and

(b) Medical evidence shows the disability is expected to continue through the full six-month period.

(4) The applicant is not entitled to a disability retirement allowance if:

(a) The employer advises the board that there is an available position for which the applicant is qualified and to which a person of the same grade or rank is normally assigned; and

(b) The board determines that the applicant is capable of discharging the duties of the position with average efficiency.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-060, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-060, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-060, filed 11/16/81.]

WAC 415-105-070 Decision and order. (1) After granting or denying a disability retirement allowance, the board must enter a written decision and order that includes:

(a) Appropriate findings of fact supported by credible evidence sufficient to sustain the decision; and

(b) Conclusions of law.

(2) When a disability retirement allowance is granted, the decision and order and all supporting documentation must be sent to the director of the department of retirement systems.

(a) The accompanying findings of fact shall include at least the following:

(i) The applicant's length of service with the employer and the position held at discontinuance of service;

(ii) The names of the examining physicians and the dates of the examinations;

(iii) The nature of the disability;

(iv) Whether or not the disability was incurred in the line of duty;

(v) Whether or not the disability was incurred in other employment;

(vi) Dates encompassing disability leave;

(vii) Dates related to authorized return to duty on a trial basis and the factual basis for the decision; and

(viii) Dates encompassing waiver of disability leave, if applicable, and that applicant established that the disability will be continuous for at least six months.

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(b) The supporting documentation shall include a copy of at least the following:

(i) The application for disability benefits showing the applicant's current mailing address;

(ii) The job description accurately reflecting the duties of the position the applicant held at discontinuance of service;

(iii) Employer statement(s), if any, relevant to the applicant's position and/or fitness for duty;

(iv) All medical and other evidence considered by the board; and

(v) The minutes and/or transcript of all meetings at which the applicant's disability status was considered.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-070, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-070, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-070, filed 11/16/81.]

WAC 415-105-072 Burden of proof to cancel disability allowance. The disability board has the burden of proof in any proceeding to cancel a disability retirement allowance.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-072, filed 8/3/99, effective 9/3/99.]

WAC 415-105-074 Determination to cancel disability allowance. The board need not rely solely on medical evidence in making its determination. To cancel a disability retirement allowance, the board must demonstrate that:

(1) The retiree is reasonably able to perform the ordinary duties of his or her former position or a position within the retiree's former rank with average efficiency; and

(2) There has been a material change in the circumstances upon which the retirement was based; and

(3) No other physical or mental disability now prevents the retiree from performing the ordinary duties of his or her position or rank.

The board may not cancel a disability retirement allowance based on a determination that the medical condition was incorrectly diagnosed at the time of the initial disability hearing. If the medical condition for which the retiree was granted disability retirement has improved, but the retiree is still not physically or mentally able to perform his or her duties with average efficiency, the retiree shall continue to receive the disability retirement allowance. The board must send a copy of all determinations and the examination reports and other evidence on which they are based to the department of retirement systems.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-074, filed 8/3/99, effective 9/3/99.]

WAC 415-105-080 Notice of denial of benefits and right to appeal. (1) The board must immediately notify the applicant if the board:

(a) Denies disability leave or retirement; or

(b) Cancels a previously granted disability leave or retirement.

(2) The board must advise the applicant of his or her right to appeal the board's decision to the director of the department of retirement systems pursuant to RCW 41.26.200.

(3) Notification and advice must be in writing and served by personal service or mail unless the applicant or the applicant's authorized representative attends the meeting and is advised in person of the board's decision and the applicant's right to appeal.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-080, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 81-23-032 (Order 81-03), § 415-105-080, filed 11/16/81.]

WAC 415-105-090 Reexamination after retirement.

(1) Every retiree under 49.5 years of age must be medically reexamined every six months by the board doctor or approved physician, except as provided in subsection (4) of this section.

(2) The retirement allowance of any retiree who fails to submit to a medical examination as required in subsection (1) of this section shall be discontinued until the retiree complies with the reexamination requirement. If the retiree continues for one year to refuse to undergo reexamination, the board shall cancel his or her retirement allowance.

(3) If the retiree resides more than one hundred miles from his or her former employer, the board may authorize the retiree to be examined by a physician in the retiree's local area. The board must approve the local area physician and provide him or her with information about the purpose of the examination and the issues to be addressed in the physician's report to the board.

(4) If the board doctor or approved physician finds that no possibility exists for the retiree's recovery and return to duty, the board may determine that subsequent medical examinations are not required. The determination may be made at the time of retirement or at any time thereafter, but must be based on a current (within ninety days) recommendation of the examining physician. The board must notify the department of retirement systems when it makes a determination of permanent disability. A copy of the physician's report must accompany the notice.

(5) If the examination shows that the retiree is fit to perform the duties of the rank or position held at retirement, the retiree shall be entitled to a hearing before the board. The notification and hearing shall comply with the requirements of the Administrative Procedure Act, chapter 34.05 RCW. Unless the retiree waives his or her right to the hearing, the board must hold the hearing before it can cancel the disability retirement allowance.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-090, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-090, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-090, filed 11/16/81.]

CESSATION OF DISABILITY

WAC 415-105-100 Purpose—Age fifty and older.

These rules are adopted under RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and 41.26.135 and establish procedures to be followed by the applicant and the disability board. These rules apply only to a disability retiree age fifty and older who seeks a determination that his/her disability has ceased.

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[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-100, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-100, filed 3/11/87.]

WAC 415-105-110 Application to disability board—Age fifty and older. (1) When a disability retiree over age fifty believes that his/her disability has ceased, he/she may make application to cancel the disability retirement allowance. Such application shall be made to the disability board that originally considered the application for disability retirement.

(2) The application must be in writing and contain the following information:

(a) The retiree's name, birthdate, Social Security number, mailing address, telephone number, former LEOFF employer, and the name and mailing address of the retiree's legal representative, if any;

(b) The nature of the disability and the date the disability ceased;

(c) The names, addresses and telephone numbers of all physicians and other health care practitioners who have been contacted by the retiree or his/her representative in the last year for medical care, consultation or evaluation;

(3) The application must be accompanied by the following documents:

(a) Copies of any written documents supporting the retiree's claim that his/her disability has ceased and that no other physical or mental disability now prevents the retiree from performing the ordinary duties of his/her position or rank;

(b) A copy of the local disability board order granting disability retirement if the original disability board order was summarily affirmed by the director or the LEOFF retirement board; or

(c) A copy of the director's order or the LEOFF retirement board's order if the director or the LEOFF retirement board entered the final order granting disability retirement.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-110, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-110, filed 3/11/87.]

WAC 415-105-120 Burden of proof in disability board proceedings. The retiree has the burden of proof in the proceedings before the disability board.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-120, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-120, filed 3/11/87.]

WAC 415-105-130 Standard for determination. To obtain a determination that a disability has ceased, the retiree must demonstrate that:

(1) He/she is reasonably able to perform the ordinary duties of his/her former position or position within his/her former rank with average efficiency; and

(2) There has been a material change in the circumstances upon which the original disability determination was based; and

(3) No other physical or mental disability now prevents the retiree from performing the ordinary duties of his/her position or rank.

A retiree may not obtain a determination that his/her disability has ceased by demonstrating that the medical condition was incorrectly diagnosed at the time of the initial disability hearing. The disability board need not rely solely on medical evidence in making its determination. If the medical condition for which the retiree was granted disability retirement has improved, but the retiree is still not physically or mentally able to perform his/her duties with average efficiency, he/she shall continue to receive a disability retirement allowance and shall not be entitled to service retirement.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-130, filed 3/11/87.]

WAC 415-105-140 Examination by board physician.

(1) Before acting on an application, the disability board shall have the retiree examined by the board doctor as provided in WAC 415-105-030. If the board doctor has seen the retiree before in any capacity except evaluation on behalf of the disability board, the board doctor must refer the retiree to another physician who has not seen the retiree in any capacity except evaluation on behalf of the disability board.

(2) Before the retiree is examined, the disability board must furnish the board doctor or other physician with a current job description for the rank or position held by the member at the time he/she was granted disability retirement and a copy of these regulations.

(3) The board doctor or other physician will examine the retiree to determine if he/she is able to perform with average efficiency the duties of the rank or position held by the retiree at the time of discontinuance of service and that he/she meets the requirements of WAC 415-105-130.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-140, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-140, filed 3/11/87.]

WAC 415-105-150 Disability board order. (1) The board must review the application, the medical evaluation by the board doctor, and any other relevant evidence. The board must determine whether the retiree has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency.

(2) If the board determines that the retiree's disability has ceased, it shall enter its written decision and order including appropriate findings of fact and conclusions of law. The disability board must:

(a) Enter a decision which specifies the date the disability retirement allowance will cease;

(b) Immediately send a copy of the decision and order to the department of retirement systems.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-150, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-150, filed 3/11/87.]

CESSATION OF DISABILITY WHILE UNDER AGE FIFTY

WAC 415-105-160 Purpose—Under age fifty. These rules are adopted under RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and establish procedures to

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be followed by the applicant and the disability board in cases in which the applicant is under age fifty and believes that his/her disability has ceased.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-160, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-160, filed 3/11/87.]

WAC 415-105-170 Application to the disability board—Under age fifty. A disability retiree under age fifty who believes that his/her disability has ceased may apply for a determination that the disability has ceased. The application must be:

(a) Made to the disability board which originally found the member to be disabled; and

(b) In writing; and

(c) Contain the information stated in WAC 415-105-110(2).

Thereafter, the rules and procedures stated in WAC 415-105-120 through 415-105-140 shall be in effect.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-170, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-170, filed 3/11/87.]

WAC 415-105-180 Disability board hearing and order. (1) The board must review the application, the medical evaluation of the board doctor, and any other relevant evidence. The board must then determine whether the retiree has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency. If the board determines that the retiree's disability has ceased, both the retiree and the former employer shall be entitled to a notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW.

(2) After the hearing, the board must enter its written decision and order, including appropriate findings of fact and conclusions of law. The board order must either deny the retiree's application or cancel his/her disability retirement allowance and restore him/her to duty pursuant to RCW 41.26.140(2).

(3) Any person aggrieved by a determination or order of a disability board that the applicant's disability has not ceased may file an appeal with the director pursuant to RCW 41.26.140(6).

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-180, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-180, filed 3/11/87.]

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WAC

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		415-108-060	Appeal to superior court—Certification of record. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-060, filed 2/15/78. Formerly WAC 184-09-020.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
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		415-108-110	Administration—Officers. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-110, filed 2/15/78. Formerly WAC 184-01-020.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
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		415-108-160	Office of chairman. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-160, filed 2/15/78. Formerly WAC 184-01-060.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
		415-108-180	Correspondence. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-180, filed 2/15/78. Formerly WAC 184-01-070.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
		415-108-190	Nominations. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-190, filed 2/15/78. Formerly WAC 184-01-07001.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.

- 415-108-195 Identification. [Recodified as § 415-108-195. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-200 Disability and benefit claims. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-200, filed 2/15/78. Formerly WAC 184-03-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-210 Disability and benefit claims—Acknowledgment and forms. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-210, filed 2/15/78. Formerly WAC 184-03-020.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-220 Disability and benefit claims—Processing applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-220, filed 2/15/78. Formerly WAC 184-03-030.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-230 Disability and benefit claims—Recording. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-230, filed 2/15/78. Formerly WAC 184-03-040.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-240 Disability and benefit claims—Legal examination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-240, filed 2/15/78. Formerly WAC 184-03-050.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-250 Disability and benefit claims—Medical examination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-250, filed 2/15/78. Formerly WAC 184-03-060.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-260 Disability and benefit claims—Medical recommendation. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-260, filed 2/15/78. Formerly WAC 184-03-070.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-270 Disability and benefit claims—Recommendation and conclusion. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-270, filed 2/15/78. Formerly WAC 184-03-080.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-280 Disability and benefit claims—Board decision on application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-280, filed 2/15/78. Formerly WAC 184-03-090.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-290 Disability and benefit claims—Notification of member. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-290, filed 2/15/78. Formerly WAC 184-03-100.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-300 Identification. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-195.
- 415-108-320 Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-320, filed 1/7/91, effective 2/7/91.] Repealed by 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.
- 415-108-322 Definitions for purposes of WAC 415-108-320 through 415-108-326. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-322, filed 1/7/91, effective 2/7/91.] Repealed by 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.
- 415-108-450 Compensation earnable for Plan I PERS members. [Statutory Authority: RCW 41.40.010(8). 88-11-030 (Order 88-11), § 415-108-450, filed 5/13/88.] Repealed by 98-09-059, filed 4/17/98, effective 5/18/98. Statutory Authority: RCW 41.50.050.
- 415-108-460 Compensation earnable for Plan II PERS members. [Statutory Authority: RCW 41.40.010(8). 88-11-030 (Order 88-11), § 415-108-460, filed 5/13/88.] Repealed by 98-09-059, filed 4/17/98, effective 5/18/98. Statutory Authority: RCW 41.50.050.
- 415-108-461 Standby pay—Location restricted compensation. [Statutory Authority: RCW 41.50.050 and 41.40.020. 94-16-086, § 415-108-461, filed 8/1/94, effective 8/1/94.] Repealed by 96-01-046, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 41.50.050.
- 415-108-462 Location restricted compensation—Employer policy. [Statutory Authority: RCW 41.50.050 and 41.40.020. 94-16-086, § 415-108-462, filed 8/1/94, effective 8/1/94.] Repealed by 96-01-046, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 41.50.050.
- 415-108-490 Back pay award or settlement—Definition—Allocated by the department for retirement system purposes. [Statutory Authority: RCW 41.40.010(8) and 41.40.020. 87-17-061 (Order DRS 87-08), § 415-108-490, filed 8/19/87.] Repealed by 98-09-059, filed 4/17/98, effective 5/18/98. Statutory Authority: RCW 41.50.050.
- 415-108-500 Public employees' retirement board. [Statutory Authority: RCW 41.40.120(17). 86-13-023 (Order 86-3), § 415-108-500, filed 6/10/86.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-730.
- 415-108-530 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure. [Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-530, filed 5/5/94, effective 6/5/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-810.
- 415-108-540 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. [Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-540, filed 5/5/94, effective 6/5/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-820.
- 415-108-580 Actuarial recomputation of retirement allowance upon retirement following reemployment. [Statutory Authority: RCW 41.50.050. 94-09-040, § 415-108-580, filed 4/19/94, effective 5/20/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-830.
- 415-108-671 Administration of early retirement. [Statutory Authority: RCW 41.50.050. 93-20-020, § 415-108-671, filed 9/24/93, effective 10/25/93.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.

DEFINITIONS

WAC 415-108-010 Definitions. All definitions in RCW 41.40.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-010, filed 4/17/98, effective 5/18/98; 95-16-053, § 415-108-010, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-010, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-010, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-010, filed 2/15/78. Formerly WAC 184-01-025 and 184-01-035.]

WAC 415-108-0101 Level of union organization—
Definition. "Level of union organization" means a union or a lodge or division of a union.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0101, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0102 Normally—Definition. "Normally," as used in the definition of eligible position under RCW 41.40.010, means a position is eligible if it is expected to require at least five months of seventy or more hours of compensated service each month during each of two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of seventy or more hours of compensated service during at least one year in any two-year period.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0102, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0103 Project position—Definition. "Project position" means a position established by an employer that has a specific goal and end date.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0103, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0104 Report—Definition. "Report" means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0104, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0105 Retirement plan—Definition. "Retirement plan," as used in RCW 41.40.023 and in this chapter, means any plan operated wholly or in part by the state or a political subdivision. This includes but is not limited to:

- (1) The retirement systems listed under RCW 41.50.030;
- (2) The retirement systems of the cities of Seattle, Spokane and Tacoma; or
- (3) Any higher education plan authorized under RCW 28B.10.400.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0105, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0106 Union—Definition. "Union" means a labor guild, labor association, and/or labor organization.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0106, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0107 Union employer—Definition. "Union employer" means a union or a union lodge or other division of the union which has verified that it meets the definition of a Plan I employer in RCW 41.40.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0107, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0108 Year—Definition. "Year" means any twelve consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. The term may include but is not limited to a school year, calendar year or fiscal year.

[Title 415 WAC—p. 62]

Example: An employer has used the twelve consecutive month period from July 1 to June 30 to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the July 1 through June 30 period to define a year for the position.

Example: If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0108, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0109 System acronyms—Definition. The acronyms used in this chapter are defined as follows:

- (1) "PERS" means the public employees' retirement system.
- (2) "TRS" means the teachers' retirement system.
- (3) "SERS" means the school employees' retirement system.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-0109, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0109, filed 7/25/95, effective 8/25/95.]

WAC 415-108-0110 Reportable compensation—Definition. "Reportable compensation" means compensation earnable as that term is defined in RCW 41.40.010(8).

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0110, filed 4/17/98, effective 5/18/98.]

WAC 415-108-0111 Annual leave—Definition. "Annual leave" means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: Provided, however, That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0111, filed 4/17/98, effective 5/18/98.]

ADMINISTRATION

WAC 415-108-020 Public records. See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-020, filed 2/15/78. Formerly WAC 184-20-010.]

WAC 415-108-030 State-wide cities retirement system. The former state-wide cities retirement system has been merged into the Washington public employees retirement system pursuant to RCW 41.40.405, 41.40.406, and 41.40.407. The statutes and rules applying to the public

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employees retirement system and the department of retirement systems (as provided in chapters 41.40 and 41.50 RCW and Title 415 WAC) govern the administration and operation of the former state-wide cities retirement system.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-030, filed 2/15/78.]

WAC 415-108-040 Appeals—Disability cases. See RCW 41.40.412. Any person aggrieved by any final decision of the public employees' retirement board must, before he appeals to a superior court, invoke the jurisdiction of the public employees' retirement board by filing with the director personally or by mail, within sixty days from the date such decision was communicated to such person, a notice of appeal before the public employees' retirement board. The notice of appeal must contain the information required by WAC 415-08-020 as now existing or hereafter amended.

Appeals will be governed by the provisions of chapter 415-08 WAC as now existing or hereafter amended.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-040, filed 2/15/78. Formerly WAC 184-05-010.]

WAC 415-108-070 Excess contributions to employees' savings fund. Pursuant to authority granted by RCW 41.40.330(2) this section shall cover all applications by members of the retirement system for permission to make excess contributions to the employees' savings fund.

The total contributions of a member of the state employees' retirement system to the employees' savings fund in any calendar year shall in no event exceed ten percent of the member's earnable compensation for that calendar year.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-070, filed 2/15/78. Formerly WAC 184-12-010.]

WAC 415-108-170 Business hours. The office of the department is open between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-170, filed 2/15/78. Formerly WAC 184-01-060.]

BENEFIT OPTIONS

WAC 415-108-315 Designation of beneficiaries—Death benefit if a member dies before retirement. (1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) A trust in existence at the time of death. Before making distribution to any trust the department must receive:

(i) A copy of the trust document;

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

(iii) The tax identification number;

(d) A trust to be established under your last will.

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

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

Subject to applicable statute, at John's death, the department will consider both the Barbara Trust and daughter Ann as primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the trust and other information specified in this rule before distribution to the trust.

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 (no trust name is provided). He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.

Result

At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-108-315, filed 4/21/00, effective 5/22/00.]

WAC 415-108-324 Married member's benefit selection—Spousal consent required. (1) The member, if married, must provide the spouse's written consent to the option selected under WAC 415-108-326. If a married 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 chapter 41.40 RCW and RCW 41.40.660(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 constitutes spousal consent.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-324, filed 6/24/99, effective 7/25/99. 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, 96-01-047, § 415-108-324, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-015, § 415-108-324, filed 1/7/91, effective 2/7/91.]

WAC 415-108-326 Retirement benefit options. RCW 41.40.188 (Plan 1) and RCW 41.40.660 (Plan 2) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan 1 members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement:

(1) **Option One (standard allowance).** The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.40.185, 41.40.190, 41.40.230, 41.40.235, 41.40.250, 41.40.660, or 41.40.670. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly Plan One:

Lucinda retires from PERS Plan 1 in 1996 (Year 0). She would like Garth, her husband, to receive a monthly allowance when she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is actuarially reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$2,000, the amount she would have received had she chosen the Option One (standard allowance) plus any COLA's Lucinda had received based on her prior benefit allowance:

Original Option 1 Benefit Amount	+	Total COLA's	=	New Benefit Amt.
\$2,000.00	+	0 (None accrued)	=	\$2,000.00*

Plan Two:

Agnes retires from PERS Plan 2 in 1996 (Year 0). Agnes would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result, her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor an allowance equal to the gross monthly allowance received by the retiree.

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(c) Option Four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) **Supplemental COLA option for Plan 1 members.** Retiring Plan 1 members may select an annual cost-of-living adjustment (COLA) option, in addition to their choice of retirement benefit options listed in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(5) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation examples.

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—

Original Option One Benefit Amount	+ Total COLA's	Total COLA's	191.05
\$2000	+ \$191.05	= New Benefit Amount	
		= \$2,191.05*	

*In the future (i.e. Year 4), COLAs will be based on the increased benefit amount.

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(6) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides to the department proper proof of the designated beneficiary's death. The retiree is not required to apply for the increased benefit provided by this subsection.

The adjusted retirement allowance will be effective on July 1, 1998, or the first of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.40.188 (3)(c) for Plan 1 retirees or RCW 41.40.660 (3)(c) for Plan 2 retirees.

(7) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-326, filed 6/24/99, effective 7/25/99. 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, 96-01-047, § 415-108-326, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-015, § 415-108-326, filed 1/7/91, effective 2/7/91.]

WAC 415-108-340 Actuarial tables, schedules, and factors. This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state public employees' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of public employees' retirement system. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from January 1, 1996, until such time as these tables, schedules, and factors are amended by

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the director following the next actuarial investigation conducted by the state actuary. The retirement allowances calculated at the time of retirement of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect when each member retires. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances calculated at the time of retirement only of members retiring after the adoption of such new tables, schedules, and factors.

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN 1

Early Retirement Factors
by Year and Month

0	0	1.0000
	1	.9915
	2	.9830
	3	.9746
	4	.9661
	5	.9576
	6	.9491
	7	.9407
	8	.9322
	9	.9237
	10	.9152
	11	.9068
1	0	.8983
	1	.8908
	2	.8834
	3	.8759
	4	.8685
	5	.8610
	6	.8536
	7	.8461
	8	.8387
	9	.8312
	10	.8238
	11	.8163
2	0	.8089
	1	.8023
	2	.7957
	3	.7892
	4	.7826
	5	.7760
	6	.7694
	7	.7629
	8	.7563

Early Retirement Factors
by Year and Month

	9	.7497
	10	.7431
	11	.7366
3	0	.7300
	1	.7242
	2	.7183
	3	.7125
	4	.7067
	5	.7009
	6	.6951
	7	.6892
	8	.6834
	9	.6776
	10	.6718
	11	.6660
4	0	.6601
	1	.6550
	2	.6498
	3	.6446
	4	.6395
	5	.6343
	6	.6291
	7	.6240
	8	.6188
	9	.6136
	10	.6085
	11	.6033
5	0	.5981
	1	.5935
	2	.5889
	3	.5843
	4	.5797
	5	.5751
	6	.5705
	7	.5659
	8	.5613
	9	.5567
	10	.5521
	11	.5475
6	0	.5429
	1	.5388
	2	.5347
	3	.5306
	4	.5265
	5	.5224
	6	.5182
	7	.5141
	8	.5100
	9	.5059
	10	.5018
	11	.4977
7	0	.4936
	1	.4899
	2	.4862
	3	.4825
	4	.4789
	5	.4752
	6	.4715

Early Retirement Factors
by Year and Month

	7	.4678
	8	.4642
	9	.4605
	10	.4568
	11	.4531
8	0	.4494
	1	.4461
	2	.4428
	3	.4395
	4	.4362
	5	.4329
	6	.4296
	7	.4263
	8	.4230
	9	.4197
	10	.4164
	11	.4131
9	0	.4098
	1	.4068
	2	.4039
	3	.4009
	4	.3979
	5	.3950
	6	.3920
	7	.3890
	8	.3860
	9	.3831
	10	.3801
	11	.3771
10	0	.3742
	1	.3715
	2	.3688
	3	.3661
	4	.3635
	5	.3608
	6	.3581
	7	.3554
	8	.3528
	9	.3501
	10	.3474
	11	.3447
11	0	.3420
	1	.3396
	2	.3372
	3	.3348
	4	.3324
	5	.3300
	6	.3275
	7	.3251
	8	.3227
	9	.3203
	10	.3179
	11	.3154
12	0	.3130
	1	.3108
	2	.3087
	3	.3065
	4	.3043

Early Retirement Factors
by Year and Month

	5	.3021
	6	.2999
	7	.2977
	8	.2955
	9	.2933
	10	.2912
	11	.2890
13	0	.2868
	1	.2848
	2	.2828
	3	.2808
	4	.2789
	5	.2769
	6	.2749
	7	.2729
	8	.2709
	9	.2689
	10	.2670
	11	.2650
14	0	.2630
	1	.2612
	2	.2594
	3	.2576
	4	.2558
	5	.2540
	6	.2522
	7	.2504
	8	.2486
	9	.2468
	10	.2450
	11	.2432
15	0	.2414
	1	.2398
	2	.2381
	3	.2365
	4	.2348
	5	.2332
	6	.2316
	7	.2299
	8	.2283
	9	.2267
	10	.2250
	11	.2234
16	0	.2218
	1	.2203
	2	.2188
	3	.2173
	4	.2158
	5	.2143
	6	.2128
	7	.2113
	8	.2098
	9	.2084
	10	.2069
	11	.2054
17	0	.2039
	1	.2025
	2	.2012

Early Retirement Factors
by Year and Month

	3	.1998
	4	.1985
	5	.1971
	6	.1957
	7	.1944
	8	.1930
	9	.1917
	10	.1903
	11	.1890
18	0	.1876
	1	.1864
	2	.1851
	3	.1839
	4	.1826
	5	.1814
	6	.1802
	7	.1789
	8	.1777
	9	.1764
	10	.1752
	11	.1740
19	0	.1727
	1	.1716
	2	.1705
	3	.1693
	4	.1682
	5	.1671
	6	.1659
	7	.1648
	8	.1637
	9	.1625
	10	.1614
	11	.1603
20	0	.1591
	1	.1581
	2	.1571
	3	.1560
	4	.1550
	5	.1540
	6	.1529
	7	.1519
	8	.1509
	9	.1498
	10	.1488
	11	.1478
21	0	.1467
	1	.1458
	2	.1448
	3	.1439
	4	.1429
	5	.1420
	6	.1410
	7	.1401
	8	.1391
	9	.1382
	10	.1372
	11	.1363
22	0	.1353

Early Retirement Factors
by Year and Month

	1	.1345
	2	.1336
	3	.1327
	4	.1319
	5	.1310
	6	.1301
	7	.1293
	8	.1284
	9	.1275
	10	.1267
	11	.1258
23	0	.1249
	1	.1241
	2	.1233
	3	.1225
	4	.1217
	5	.1209
	6	.1201
	7	.1193
	8	.1185
	9	.1177
	10	.1169
	11	.1161
24	0	.1153
	1	.1146
	2	.1139
	3	.1132
	4	.1124
	5	.1117
	6	.1110
	7	.1102
	8	.1095
	9	.1088
	10	.1080
	11	.1073
25	0	.1066
	1	.1059
	2	.1052
	3	.1046
	4	.1039
	5	.1032
	6	.1025
	7	.1019
	8	.1012
	9	.1005
	10	.0998
	11	.0992
26	0	.0985
	1	.0979
	2	.0973
	3	.0966
	4	.0960
	5	.0954
	6	.0948
	7	.0942
	8	.0936
	9	.0929
	10	.0923

Early Retirement Factors
by Year and Month

	11	.0917
27	0	.0911
	1	.0905
	2	.0899
	3	.0894
	4	.0888
	5	.0882
	6	.0877
	7	.0871
	8	.0865
	9	.0860
	10	.0854
	11	.0848
28	0	.0842
	1	.0837
	2	.0832
	3	.0827
	4	.0822
	5	.0816
	6	.0811
	7	.0806
	8	.0801
	9	.0795
	10	.0790
	11	.0785
29	0	.0780
	1	.0775
	2	.0770
	3	.0765
	4	.0760
	5	.0755
	6	.0751
	7	.0746
	8	.0741
	9	.0736
	10	.0731
	11	.0726
30	0	.0722
	1	.0717
	2	.0713
	3	.0708
	4	.0704
	5	.0699
	6	.0695
	7	.0690
	8	.0686
	9	.0682
	10	.0677
	11	.0673
31	0	.0668
	1	.0664
	2	.0660
	3	.0656
	4	.0652
	5	.0648
	6	.0644
	7	.0639
	8	.0635

Early Retirement Factors by Year and Month			
		33	.0042351
		34	.0042675
	9	35	.0043015
	10	36	.0043375
	11	37	.0043756
32	0	38	.0044157
	1	39	.0044581
	2	40	.0045029
	3	41	.0045502
	4	42	.0046001
	5	43	.0046528
	6	44	.0047084
	7	45	.0047670
	8	46	.0048287
	9	47	.0048939
	10	48	.0049626
	11	49	.0050352
33	0	50	.0051120
	1	51	.0051933
	2	52	.0052795
	3	53	.0053712
	4	54	.0054687
	5	55	.0055727
	6	56	.0056837
	7	57	.0058025
	8	58	.0059296
	9	59	.0060657
	10	60	.0062116
	11	61	.0063676
34	0	62	.0065347
	1	63	.0067134
	2	64	.0069044
	3	65	.0071085
	4	66	.0073263
	5	67	.0075587
	6	68	.0078066
	7	69	.0080711
	8	70	.0083537
	9	71	.0086558
	10	72	.0089785
	11	73	.0093230
35	or more	74	.0096898

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Plan II Option 1

Monthly Benefit per \$1.00
of Accumulation

20	.0039357	80	.0123587
21	.0039525	81	.0128793
22	.0039702	82	.0134243
23	.0039887	83	.0139934
24	.0040081	84	.0145880
25	.0040286	85	.0152103
26	.0040500	86	.0158600
27	.0040726	87	.0165374
28	.0040963	88	.0172413
29	.0041213	89	.0179682
30	.0041476	90	.0187162
31	.0041753	91	.0194835
32	.0042044	92	.0202654

				Public Employees Retirement System PERS I Optional COLA*	Public Employees Retirement System Plan 1 Option 1 Monthly Benefit per \$1.00 of Accumulation
	93		.0210569		
	94		.0218459		
	95		.0226265		
	96		.0234038		
	97		.0241752		
	98		.0249356		
	99		.0256785		
		Public Employees Retirement System PERS I Optional COLA*	Public Employees Retirement System Plan 1 Option 1 Monthly Benefit per \$1.00 of Accumulation		
Age					
	20	0.6369	.0061792	65	0.7887
	21	0.6386	.0061891	66	0.7939
	22	0.6404	.0061997	67	0.7992
	23	0.6422	.0062111	68	0.8046
	24	0.6441	.0062232	69	0.8099
	25	0.6460	.0062362	70	0.8154
	26	0.6480	.0062501	71	0.8208
	27	0.6501	.0062650	72	0.8263
	28	0.6522	.0062809	73	0.8317
	29	0.6544	.0062979	74	0.8372
	30	0.6567	.0063162	75	0.8426
	31	0.6590	.0063357	76	0.8480
	32	0.6614	.0063566	77	0.8534
	33	0.6639	.0063790	78	0.8584
	34	0.6665	.0064030	79	0.8641
	35	0.6691	.0064286	80	0.8693
	36	0.6718	.0064561	81	0.8745
	37	0.6747	.0064856	82	0.8796
	38	0.6775	.0065173	83	0.8846
	39	0.6805	.0065512	84	0.8896
	40	0.6836	.0065875	85	0.8945
	41	0.6867	.0066263	86	0.8993
	42	0.6899	.0066677	87	0.9040
	43	0.6932	.0067119	88	0.9086
	44	0.6966	.0067590	89	0.9131
	45	0.7001	.0068091	90	0.9174
	46	0.7036	.0068624	91	0.9216
	47	0.7073	.0069190	92	0.9255
	48	0.7111	.0069792	93	0.9294
	49	0.7149	.0070432	94	0.9329
	50	0.7188	.0071114	95	0.9363
	51	0.7229	.0071843	96	0.9395
	52	0.7270	.0072621	97	0.9424
	53	0.7312	.0073455	98	0.9452
	54	0.7355	.0074351	99	0.9477
	55	0.7399	.0075313		
	56	0.7444	.0076350		
	57	0.7490	.0077467		
	58	0.7537	.0078672		
	59	0.7585	.0079972		
	60	0.7633	.0081375		
	61	0.7682	.0082885		
	62	0.7733	.0084509		
	63	0.7783	.0086255		
	64	0.7835	.0088128		
PERS I Survivor Option Factors Member Younger					
	Age Difference	OPTION II(100%)	OPTION IV (66 2/3%)	OPTION III(50%)	
	20	0.948	0.965	0.973	
	-19	0.945	0.963	0.972	
	-18	0.940	0.959	0.969	
	-17	0.936	0.956	0.967	
	-16	0.933	0.954	0.965	
	-15	0.929	0.951	0.963	
	-14	0.925	0.949	0.961	
	-13	0.921	0.946	0.959	
	-12	0.916	0.943	0.956	
	-11	0.910	0.938	0.953	
	-10	0.906	0.935	0.950	
	-9	0.900	0.931	0.948	
	-8	0.895	0.928	0.945	
	-7	0.889	0.923	0.941	
	-6	0.882	0.918	0.937	

Age Difference	OPTION II(100%)	OPTION IV (66 2/3%)	OPTION III(50%)
-5	0.876	0.914	0.934
-4	0.868	0.908	0.930
-3	0.860	0.902	0.925
-2	0.849	0.894	0.918
-1	0.836	0.884	0.911

Member Older			
Age Difference	OPTION II(100%)	OPTION IV (66 2/3%)	OPTION III(50%)
0	0.822	0.874	0.902
1	0.808	0.863	0.894
2	0.796	0.854	0.886
3	0.787	0.848	0.881
4	0.782	0.844	0.878
5	0.778	0.840	0.875
6	0.773	0.837	0.872
7	0.766	0.831	0.868
8	0.757	0.824	0.862
9	0.746	0.815	0.854
10	0.736	0.807	0.848
11	0.729	0.801	0.843
12	0.724	0.798	0.840
13	0.720	0.794	0.837
14	0.715	0.790	0.834
15	0.711	0.787	0.832
16	0.708	0.784	0.829
17	0.704	0.781	0.827
18	0.702	0.779	0.825
19	0.698	0.776	0.822
20	0.695	0.774	0.820
21	0.692	0.772	0.818
22	0.689	0.769	0.816
23	0.686	0.767	0.814
24	0.683	0.764	0.812
25	0.681	0.763	0.811
26	0.679	0.761	0.809
27	0.677	0.759	0.808
28	0.675	0.758	0.806
29	0.673	0.756	0.805
30	0.671	0.754	0.804
31	0.669	0.753	0.802
32	0.668	0.752	0.801
33	0.667	0.750	0.800
34	0.666	0.749	0.799
35	0.664	0.747	0.798
36	0.663	0.747	0.797
37	0.662	0.746	0.796
38	0.661	0.745	0.796
39	0.660	0.744	0.795
40	0.659	0.743	0.794

Age difference = member's age minus beneficiary's age

PERS II Survivor Option Factors

Member Younger			
Age Difference	OPTION II(100%)	OPTION IV (66 2/3%)	OPTION III(50%)
-20	0.928	0.951	0.962
-19	0.925	0.949	0.961
-18	0.922	0.946	0.959
-17	0.919	0.945	0.958
-16	0.916	0.942	0.956
-15	0.912	0.940	0.954
-14	0.908	0.937	0.952
-13	0.904	0.933	0.949
-12	0.898	0.930	0.946
-11	0.892	0.925	0.943
-10	0.885	0.920	0.939
-9	0.879	0.916	0.935
-8	0.873	0.911	0.932
-7	0.865	0.906	0.927
-6	0.857	0.900	0.923
-5	0.849	0.894	0.918
-4	0.839	0.887	0.912
-3	0.828	0.878	0.906
-2	0.813	0.867	0.897
-1	0.797	0.855	0.887

Member Older			
Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.779	0.841	0.876
1	0.763	0.829	0.866
2	0.748	0.817	0.856
3	0.735	0.807	0.848
4	0.725	0.798	0.841
5	0.716	0.791	0.835
6	0.708	0.785	0.830
7	0.698	0.777	0.823
8	0.687	0.767	0.815
9	0.674	0.757	0.806
10	0.662	0.747	0.797
11	0.653	0.739	0.791
12	0.646	0.733	0.786
13	0.640	0.728	0.781
14	0.634	0.722	0.776
15	0.628	0.717	0.772
16	0.622	0.712	0.767
17	0.616	0.707	0.763
18	0.611	0.702	0.759
19	0.606	0.698	0.755
20	0.602	0.694	0.751
21	0.596	0.689	0.747
22	0.591	0.684	0.743
23	0.587	0.681	0.740
24	0.582	0.676	0.736
25	0.577	0.672	0.732
26	0.573	0.668	0.729
27	0.569	0.665	0.726
28	0.565	0.661	0.722
29	0.562	0.658	0.720

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)	Early Retirement Factors by Year and Month	
30	0.558	0.655	0.717		4 .6914
31	0.555	0.652	0.714		5 .6853
32	0.552	0.649	0.712		6 .6793
33	0.549	0.647	0.709		7 .6732
34	0.546	0.644	0.707		8 .6672
35	0.543	0.641	0.705		9 .6611
36	0.540	0.638	0.702		10 .6551
37	0.538	0.637	0.700		11 .6490
38	0.535	0.634	0.698	4	0 .6429
39	0.533	0.632	0.696		1 .6376
40	0.531	0.630	0.695		2 .6322
Age difference = member's age minus beneficiary's age					3 .6269
					4 .6215
					5 .6162
					6 .6109
					7 .6055
					8 .6002
					9 .5948
					10 .5895
					11 .5841
				5	0 .5788
					1 .5740
					2 .5693
					3 .5646
					4 .5598
					5 .5551
					6 .5504
					7 .5456
					8 .5409
					9 .5362
					10 .5314
					11 .5267
				6	0 .5220
					1 .5178
					2 .5136
					3 .5094
					4 .5052
					5 .5010
					6 .4968
					7 .4926
					8 .4884
					9 .4842
					10 .4800
					11 .4758
				7	0 .4716
					1 .4678
					2 .4641
					3 .4603
					4 .4566
					5 .4529
					6 .4491
					7 .4454
					8 .4416
					9 .4379
					10 .4342
					11 .4304
				8	0 .4267
					1 .4234

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN 2

Early Retirement Factors by Year and Month					
0	0	1.0000			
	1	.9910			
	2	.9821			
	3	.9731			
	4	.9641			
	5	.9551			
	6	.9462			
	7	.9372			
	8	.9282			
	9	.9193			
	10	.9103			
	11	.9013			
1	0	.8923			
	1	.8845			
	2	.8767			
	3	.8688			
	4	.8610			
	5	.8531			
	6	.8453			
	7	.8374			
	8	.8296			
	9	.8217			
	10	.8139			
	11	.8061			
2	0	.7982			
	1	.7913			
	2	.7844			
	3	.7776			
	4	.7707			
	5	.7638			
	6	.7569			
	7	.7500			
	8	.7431			
	9	.7363			
	10	.7294			
	11	.7225			
3	0	.7156			
	1	.7096			
	2	.7035			
	3	.6975			

Early Retirement Factors
by Year and Month

	2	.4200
	3	.4167
	4	.4134
	5	.4100
	6	.4067
	7	.4033
	8	.4000
	9	.3967
	10	.3933
	11	.3900
9	0	.3867
	1	.3837
	2	.3807
	3	.3777
	4	.3747
	5	.3718
	6	.3688
	7	.3658
	8	.3628
	9	.3598
	10	.3569
	11	.3539
10	0	.3509
	1	.3482
	2	.3456
	3	.3429
	4	.3402
	5	.3375
	6	.3349
	7	.3322
	8	.3295
	9	.3269
	10	.3242
	11	.3215
11	0	.3188
	1	.3165
	2	.3141
	3	.3117
	4	.3093
	5	.3069
	6	.3045
	7	.3021
	8	.2997
	9	.2973
	10	.2949
	11	.2925
12	0	.2901
	1	.2879
	2	.2858
	3	.2836
	4	.2815
	5	.2793
	6	.2771
	7	.2750
	8	.2728
	9	.2707
	10	.2685
	11	.2664

Early Retirement Factors
by Year and Month

13	0	.2642
	1	.2623
	2	.2603
	3	.2584
	4	.2564
	5	.2545
	6	.2526
	7	.2506
	8	.2487
	9	.2467
	10	.2448
	11	.2429
14	0	.2409
	1	.2392
	2	.2374
	3	.2357
	4	.2339
	5	.2322
	6	.2304
	7	.2287
	8	.2269
	9	.2252
	10	.2234
	11	.2216
15	0	.2199
	1	.2183
	2	.2167
	3	.2151
	4	.2136
	5	.2120
	6	.2104
	7	.2088
	8	.2072
	9	.2057
	10	.2041
	11	.2025
16	0	.2009
	1	.1995
	2	.1980
	3	.1966
	4	.1952
	5	.1937
	6	.1923
	7	.1909
	8	.1894
	9	.1880
	10	.1866
	11	.1851
17	0	.1837
	1	.1824
	2	.1811
	3	.1798
	4	.1785
	5	.1772
	6	.1759
	7	.1746
	8	.1733
	9	.1720

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	10	.1707		8	.1124
	11	.1694		9	.1116
18	0	.1681		10	.1108
	1	.1670	23	11	.1100
	2	.1658		0	.1092
	3	.1646		1	.1085
	4	.1634		2	.1077
	5	.1623		3	.1070
	6	.1611		4	.1063
	7	.1599		5	.1055
	8	.1587		6	.1048
	9	.1575		7	.1041
	10	.1564		8	.1033
	11	.1552		9	.1026
19	0	.1540		10	.1018
	1	.1529		11	.1011
	2	.1519	24	0	.1004
	3	.1508		1	.0997
	4	.1497		2	.0990
	5	.1487		3	.0984
	6	.1476		4	.0977
	7	.1465		5	.0970
	8	.1455		6	.0963
	9	.1444		7	.0957
	10	.1433		8	.0950
	11	.1422		9	.0943
20	0	.1412		10	.0937
	1	.1402		11	.0930
	2	.1392	25	0	.0923
	3	.1383		1	.0917
	4	.1373		2	.0911
	5	.1363		3	.0905
	6	.1353		4	.0898
	7	.1344		5	.0892
	8	.1334		6	.0886
	9	.1324		7	.0880
	10	.1315		8	.0874
	11	.1305		9	.0868
21	0	.1295		10	.0862
	1	.1286		11	.0856
	2	.1277	26	0	.0849
	3	.1269		1	.0844
	4	.1260		2	.0838
	5	.1251		3	.0833
	6	.1242		4	.0827
	7	.1233		5	.0821
	8	.1224		6	.0816
	9	.1215		7	.0810
	10	.1207		8	.0804
	11	.1198		9	.0799
22	0	.1189		10	.0793
	1	.1181		11	.0788
	2	.1173	27	0	.0782
	3	.1165		1	.0777
	4	.1157		2	.0772
	5	.1149		3	.0767
	6	.1140		4	.0761
	7	.1132		5	.0756

Early Retirement Factors
by Year and Month

	6	.0751
	7	.0746
	8	.0741
	9	.0736
	10	.0731
	11	.0725
28	0	.0720
	1	.0716
	2	.0711
	3	.0706
	4	.0701
	5	.0697
	6	.0692
	7	.0687
	8	.0683
	9	.0678
	10	.0673
	11	.0668
29	0	.0664
	1	.0659
	2	.0655
	3	.0651
	4	.0646
	5	.0642
	6	.0638
	7	.0634
	8	.0629
	9	.0625
	10	.0621
	11	.0616
30	0	.0612
	1	.0608
	2	.0604
	3	.0600
	4	.0596
	5	.0592
	6	.0588
	7	.0584
	8	.0580
	9	.0576
	10	.0572
	11	.0568
31	0	.0564
	1	.0561
	2	.0557
	3	.0553
	4	.0550
	5	.0546
	6	.0543
	7	.0539
	8	.0535
	9	.0532
	10	.0528
	11	.0524
32	0	.0521
	1	.0517
	2	.0514
	3	.0511

Early Retirement Factors
by Year and Month

	4	.0507
	5	.0504
	6	.0501
	7	.0497
	8	.0494
	9	.0491
	10	.0487
	11	.0484
33	0	.0481
	1	.0478
	2	.0475
	3	.0471
	4	.0468
	5	.0465
	6	.0462
	7	.0459
	8	.0456
	9	.0453
	10	.0450
	11	.0447
34	0	.0444
	1	.0441
	2	.0438
	3	.0435
	4	.0433
	5	.0430
	6	.0427
	7	.0424
	8	.0421
	9	.0418
	10	.0416
	11	.0413
35	0	.0410
	1	.0407
	2	.0405
	3	.0402
	4	.0400
	5	.0397
	6	.0394
	7	.0392
	8	.0389
	9	.0387
	10	.0384
	11	.0381
36	0	.0379
	1	.0376
	2	.0374
	3	.0372
	4	.0369
	5	.0367
	6	.0364
	7	.0362
	8	.0360
	9	.0357
	10	.0355
	11	.0352
37	0	.0350
	1	.0348

Early Retirement Factors by Year and Month		Early Retirement Factors by Year and Month	
	2 .0346	42	0 .0237
	3 .0343		1 .0236
	4 .0341		2 .0234
	5 .0339		3 .0233
	6 .0337		4 .0231
	7 .0335		5 .0230
	8 .0332		6 .0228
	9 .0330		7 .0227
	10 .0328		8 .0225
	11 .0326		9 .0224
38	0 .0324		10 .0222
	1 .0322		11 .0221
	2 .0320	43	0 .0219
	3 .0318		1 .0218
	4 .0316		2 .0217
	5 .0313		3 .0215
	6 .0311		4 .0214
	7 .0309		5 .0213
	8 .0307		6 .0211
	9 .0305		7 .0210
	10 .0303		8 .0209
	11 .0301		9 .0207
39	0 .0299		10 .0206
	1 .0297		11 .0205
	2 .0296	44	0 .0203
	3 .0294		1 .0202
	4 .0292		2 .0201
	5 .0290		3 .0199
	6 .0288		4 .0198
	7 .0286		5 .0197
	8 .0284		6 .0196
	9 .0282		7 .0194
	10 .0281		8 .0193
	11 .0279		9 .0192
40	0 .0277		10 .0191
	1 .0275		11 .0189
	2 .0273	45	or more .0188
	3 .0272		
	4 .0270		
	5 .0268		
	6 .0266		
	7 .0265		
	8 .0263		
	9 .0261		
	10 .0260		
	11 .0258		
41	0 .0256		
	1 .0255		
	2 .0253		
	3 .0251		
	4 .0250		
	5 .0248		
	6 .0247		
	7 .0245		
	8 .0243		
	9 .0242		
	10 .0240		
	11 .0239		

[Statutory Authority: RCW 41.50.050, 96-03-100, § 415-108-340, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050, 41.40.165, 41.40.020 and 41.40.022, 91-02-018, § 415-108-340, filed 12/21/90, effective 1/21/91.]

WAC 415-108-400 Purpose and scope. WAC 186-16-400 through 186-16-440 are hereby promulgated by the director in order to implement and give effect to the provisions of RCW 41.40.380 allowing a beneficiary of a retirement allowance to authorize deductions therefrom for payment of premiums due on any group life or disability insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions, in accordance with rules and regulations that may be promulgated by the director.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-400, filed 2/15/78. Formerly WAC 184-16-010.]

WAC 415-108-410 Definitions. As used in WAC 186-16-400 through 186-16-440, unless a different meaning is plainly required by the context:

(a) "Group life insurance policy or plan" means a contract of group life insurance issued by an insurance carrier authorized to do business in the state of Washington which meets one of the group requirements set forth in chapter 48.24 RCW;

(b) "Group disability insurance policy or plan" means a group disability insurance contract issued by an insurance carrier authorized to do business in the state of Washington which meets the requirements of chapter 48.21 RCW, and the term shall also include a group health care service contract as issued pursuant to, and regulated by, the provisions of chapter 48.40 RCW;

(c) To the extent that they are defined by RCW 41.40.010, all other terms used in WAC 186-16-400 through 186-16-440 which are thereby defined shall be given the same meaning herein as is set forth in the cited statute.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-410, filed 2/15/78. Formerly WAC 184-16-020.]

WAC 415-108-420 Scope of authority. Any beneficiary of a retirement allowance payable for service or disability under the provisions of chapter 41.40 RCW may, in the manner provided for by WAC 415-108-430, authorize the director to deduct therefrom, on a monthly basis only, such amounts as are due as premiums on any group life or disability insurance policy or plan currently covering the beneficiary, issued to the employer by which he was employed prior to his retirement for the benefit of a group comprised of himself and his fellow public employees, under authority granted to the employer by act of the Washington legislature. The department and the director are not and will not be liable for any failure to make such deduction payments on time or in the proper amount.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-420, filed 2/15/78. Formerly WAC 184-16-030.]

WAC 415-108-430 Procedure. Any beneficiary, who desires to authorize a retirement allowance deduction for payment of insurance premiums provided for by these rules, shall notify the retirement board of his intention in writing at least thirty days prior to the date upon which the first deduc-

tion is to be made and shall execute and file with the director a formal authorization on such form as may be hereinafter provided by the director.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-430, filed 2/15/78. Formerly WAC 184-16-040.]

WAC 415-108-440 Revocability. No authorization for a retirement allowance deduction for payment of insurance premiums, as made pursuant to WAC 186-16-400 through 186-16-440, shall be revocable except upon submission to the director of an express written revocation, which shall be first applicable to the retirement allowance deduction which would otherwise be made at the end of the calendar month following the month within which the statement of revocation is filed.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-440, filed 2/15/78. Formerly WAC 184-16-050.]

REPORTABLE COMPENSATION

WAC 415-108-441 Purpose and scope of compensation earnable rules. WAC 415-108-443 through 415-108-488 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as compensation earnable in PERS Plan I and PERS 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. 98-09-059, § 415-108-441, filed 4/17/98, effective 5/18/98.]

WAC 415-108-443 Reportable compensation table. The following table is provided as a quick reference guide to help you characterize payments under Plan I and Plan II. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines compensation earnable based upon the nature of the payment, not the name applied to it, see WAC 415-108-445.

Type of Payment	PERS I Reportable Compensation?	PERS II Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-108-456	No - WAC 415-108-456
Assault Pay (State Emp.)	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Base Rate	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Car Allowances	No - WAC 415-108-485 ¹	No - WAC 415-108-485
Cafeteria Plans	Yes - WAC 415-108-455	Yes - WAC 415-108-455
Deferred Wages	Yes - WAC 415-108-459	Yes - WAC 415-108-459
Disability Payments	No - WAC 415-108-477	No - WAC 415-108-477
Disability: Salary lost while on disability leave	Yes - WAC 415-108-468 RCW 41.40.038	Yes - WAC 415-108-468 RCW 41.40.038
Employer Provided Vehicle	No - WAC 415-108-480 ²	No - WAC 415-108-480
Employer taxes/contributions	No - WAC 415-108-459	No - WAC 415-108-459
Fringe Benefits	No - WAC 415-108-475	No - WAC 415-108-475
Illegal Payments	No - WAC 415-108-482	No - WAC 415-108-482
Legislative Leave	Yes - WAC 415-108-464	Yes - WAC 415-108-464
Longevity/Education Attainment Pay	Yes - WAC 415-108-451	Yes - WAC 415-108-451

Nonmoney Maintenance	Yes - WAC 415-108-470 ³	No - WAC 415-108-470
Optional Payments	No - WAC 415-108-483	No - WAC 415-108-483
Payments in Lieu of Excluded Items	No - WAC 415-108-463	No - WAC 415-108-463
Performance Bonuses	Yes - WAC 415-108-453	Yes - WAC 415-108-453

¹A portion of the value of an employer car allowance may be reportable, see WAC 415-108-485.

²A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-108-480.

³A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-108-470.

Type of Payment	PERS I Reportable Compensation?	PERS II Reportable Compensation?
Retroactive Salary Increase	Yes - WAC 415-108-457	Yes - WAC 415-108-457
Reimbursements	No - WAC 415-108-484	No - WAC 415-108-484
Reinstatement Payments	Yes - WAC 415-108-467	Yes - WAC 415-108-467
Retirement or Termination Bonuses	No - WAC 415-108-487	No - WAC 415-108-487
Severance Pay - Earned Over Time	Yes - WAC 415-108-458	No - WAC 415-108-458
Severance Pay - Not Earned Over Time	No - WAC 415-108-488	No - WAC 415-108-488
Shared Leave - State Emp.	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Shared Leave - Local Government Employees	No - WAC 415-108-468	No - WAC 415-108-468
Sick Leave Cash Outs - State Employees	No - WAC 415-108-456	No - WAC 415-108-456
Sick Leave Cash Out - Local Government Employees	Yes - WAC 415-108-456	No - WAC 415-108-456
Standby Pay	Yes - WAC 415-108-469	Yes - WAC 415-108-469
Time Off with Pay	Yes - WAC 415-108-456 WAC 415-108-465	Yes - WAC 415-108-456 WAC 415-108-465
Union Leave ⁴	Yes - WAC 415-108-466	Yes - WAC 415-108-466
Worker's Compensation	No - WAC 415-108-479	No - WAC 415-108-479

⁴Only specific types of union leave are reportable, see WAC 415-108-466.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-443, filed 4/17/98, effective 5/18/98.]

WAC 415-108-445 What compensation can be reported? In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of compensation earnable in RCW 41.40.010(8).

(1) **Payments for personal services rendered.** To determine whether a payment meets this definition and can be reported, ask the following questions:

(a) Was the payment earned as a salary or wage for personal services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).

(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, report the payment.

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(2) **Payments included that are not for personal services rendered.** The legislature has included certain specific payments within the definition of compensation earnable even though those payments are not for personal services rendered by the employee to the employer. (See WAC 415-108-464 through 415-108-469.)

(3) **Reportable compensation is earned when the service is rendered, rather than when payment is made.**

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

(4) **Salary characterizations are based upon the nature of the payment.** A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines whether a payment is reportable compensation by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of compensation earnable.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

(5) Differences in reportable compensation between plans. WAC 415-108-445 through 415-108-488 define reportable compensation for each of the two PERS plans. "Compensation earnable" is defined in very similar terms for both PERS Plan I and PERS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-108-455 through 415-108-488 is the same for both PERS Plan I and PERS Plan II except as specifically noted.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-445, filed 4/17/98, effective 5/18/98.]

WAC 415-108-451 Salary or wages. Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services rendered and qualifies as reportable compensation. Two possible components of an employee's base rate are salary considerations based on longevity or educational attainment.

(1) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of performance due to greater experience or more education. The payment is therefore a payment for personal service and is reportable compensation.

(2) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-451, filed 4/17/98, effective 5/18/98.]

WAC 415-108-453 Performance bonuses. Bonuses that are based upon meeting certain performance goals are earned for services rendered and are reportable compensation. If a bonus was earned over a specified period of time it should be prorated for reporting purposes.

Example: An employer pays each employee in the work group an additional \$100 if the work group had no work related accidents in the preceding year. Remaining accident free is a performance goal. Therefore the payment is for services rendered and qualifies as reportable compensation. The bonus should be prorated over each of the preceding twelve months during which it was earned.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-453, filed 4/17/98, effective 5/18/98.]

(2001 Ed.)

WAC 415-108-455 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 reportable compensation if the employee has an absolute right to receive cash or deferred cash 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 reportable compensation, 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 reportable compensation, see WAC 415-108-475.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-455, filed 4/17/98, effective 5/18/98.]

WAC 415-108-456 Leave payments earned over time. (1) **Sick and annual leave usage.** Sick leave and annual leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave accrued. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered. Whether, and to what extent an annual leave cash out qualifies as reportable compensation depends upon which PERS plan the member belongs to and the type of employer.

(a) Annual leave cash outs are not reportable compensation for PERS Plan II members. Although the payments are for services rendered, they are excluded from the definition of compensation earnable by statute, see RCW 41.40.010 (8)(b).

(b) A cash out of up to thirty days of annual leave for state government employees is reportable compensation for PERS Plan I, see RCW 43.01.040. A cash out in excess of thirty days of annual leave:

(i) Qualifies as reportable compensation if it is authorized by a letter of necessity under RCW 43.01.040. Annual leave qualifies as authorized under a letter of necessity only if the leave was earned after the letter of necessity was issued;

(ii) Does not qualify as reportable compensation if it is earned between the date that the member accrued thirty days of annual leave and the member's anniversary date under RCW 43.01.044.

(c) All annual leave cash outs received by PERS Plan I members who are not state employees qualify as reportable compensation.

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered.

(a) Sick leave cash outs are excluded from the definition of compensation earnable for PERS Plan II members by statute, see RCW 41.40.010 (8)(b).

(b) Sick leave cash outs are reportable compensation for PERS Plan I members other than state, school district, and educational service district employees.

(c) Sick leave cash outs are excluded from reportable compensation for:

- (i) State employees by RCW 41.04.340;
- (ii) School district employees by RCW 28A.400.210; and
- (iii) Educational service district employees by RCW 28A.310.490.

See RCW 41.40.010 (8)(a).

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-456, filed 4/17/98, effective 5/18/98.]

WAC 415-108-457 Retroactive salary increases. A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in lieu of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-108-467.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency;

(c) A collective bargaining agreement; or

(d) Action by the personnel resources board which expressly states the payments are retroactive.

(2) The payments will be deemed earned in the period in which the work was done.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-457, filed 4/17/98, effective 5/18/98.]

WAC 415-108-458 Severance pay earned over time.

(1) **Plan I.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan I. Severance pay is earned over time if the employment contract(s) or compensation policies in effect at the beginning of a given period of employment specify that a certain amount of severance pay will be earned during that period in consideration for services rendered.

Example: Mr. Jones is a PERS Plan I member employed as a city manager. Since the beginning of his term of employment with the city, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be

included in his PERS Plan I retirement calculation.

To the extent that severance pay qualifies as reportable compensation and is earned within the member's average final compensation period, the severance pay is excess compensation, *see* RCW 41.50.150.

(2) **Plan II.** All forms of severance pay are excluded from earnable compensation for Plans II by RCW 41.40.010 (8)(b).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I or II, *see* WAC 415-108-488.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-458, filed 4/17/98, effective 5/18/98.]

WAC 415-108-459 Payroll deductions. Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.

(1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, *see* WAC 415-108-475.

(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as I.R.C. section 457 plan contributions or other authorized deductions, are reportable.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-459, filed 4/17/98, effective 5/18/98.]

WAC 415-108-463 Payments not for services rendered. In general, payments cannot be reported to the retirement system unless they are for services rendered. However, the legislature has identified some types of compensation which are reportable even though they are not for services rendered.

(1) WAC 415-108-464 through 415-108-469 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-108-475 through 415-108-488 discuss some payments that are not a salary or wage for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-108-464 through 415-108-469 is not reportable compensation even if it is not listed in WAC 415-108-475 through 415-108-488.

(3) A payment made in lieu of a payment that is not for services rendered (such as a payment made in lieu of a car allowance) will be treated in the same way that the original payment was treated. Such a payment is not for services rendered and is not reportable.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-463, filed 4/17/98, effective 5/18/98.]

WAC 415-108-464 Legislative leave. If a PERS member takes a leave without pay from an eligible position to serve in the legislature, the member may elect to participate in PERS as a legislator.

(1) **Plan I.** The salary the employee would have earned from their employer is reportable compensation if the required member contribution is paid by the member and the required employer contribution is paid by the member or the employer.

(2) **Plan II.** The employee may choose between:

(a) The reportable compensation he or she would have earned had the member not served in the legislature; or

(b) The actual reportable compensation for nonlegislative public employment and the legislative service combined.

If the member selects option (a) of this subsection, he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-464, filed 4/17/98, effective 5/18/98.]

WAC 415-108-465 Paid leave not earned over time. If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.40.175 and 41.40.710 identify payments received from the employer while on paid leave as reportable for PERS. Contributions are due on these payments to the extent they meet the following conditions:

(1) The payment is equal to the salary for the position that the person is on leave from;

(2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.40.175 (Plan I) and RCW 41.40.710 (Plan II) and WAC 415-108-466.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-465, filed 4/17/98, effective 5/18/98.]

WAC 415-108-466 Union leave. If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.40.175 (Plan I) or RCW 41.40.710 (Plan II) as appropriate, are met.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-466, filed 4/17/98, effective 5/18/98.]

WAC 415-108-467 Reinstatement or payment in lieu of reinstatement. If an employer makes payments to an employee for periods where the employee was not employed and those payments are made upon reinstatement of the employee or in lieu of reinstatement, the payments are not earned for services rendered. However, RCW 41.40.010(8) specifically designates such payments as reportable compensation. The payments are only reportable to the extent that

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they are equivalent to the salary the employee would have earned had he or she been working.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-467, filed 4/17/98, effective 5/18/98.]

WAC 415-108-468 Compensation authorized by statute for periods of absence due to sickness or injury. Compensation that a member receives for periods of absence due to sickness or injury are not payments for services rendered unless the payments are authorized pursuant to sick leave earned by the member for services rendered, see WAC 415-108-456. Certain specific types of payments for periods of absence due to sickness or injury have been included within the statutory definition of compensation earnable and therefore qualify as reportable compensation.

(1) **Assault pay** qualifies as reportable compensation only to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Imputed compensation for periods of duty disability** that a member would have received but for a disability occurring in the line of duty qualify as reportable compensation only to the extent authorized by RCW 41.40.038.

(3) **Shared leave.**

(a) Compensation that a state employee receives due to participation in a leave sharing program to the extent authorized by RCW 41.04.650 through 41.04.670 qualifies as reportable compensation.

(b) Shared leave payments received by members who are not state employees, do not qualify as reportable compensation. Such payments are not for services rendered, nor are they specifically included within the statutory definition of compensation earnable.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-468, filed 4/17/98, effective 5/18/98.]

WAC 415-108-469 Standby pay. Some employers pay employees for being on "standby." A member is on standby when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work if the need arises, although the need may not arise. Because the member is not actually working, the member is not rendering service. However, RCW 41.40.010(8) specifically identifies standby pay that meets the above requirements as reportable compensation. Although included in the definition of compensation earnable, time spent on standby is excluded from the definition of "service," see RCW 41.40.010(9).

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-469, filed 4/17/98, effective 5/18/98.]

WAC 415-108-470 Nonmoney maintenance. Are payments from my employer in any form other than money considered compensation earnable?

(1) **PERS Plan I members.**

(a) **If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not compensation earnable.**

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(i) The value of employer-provided materials is not compensation earnable if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities.

Example: An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not compensation earnable.

(b) The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses. Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not compensation earnable.

(c) If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.

(i) "Nonmoney maintenance compensation" means the fair market value of any form of materials other than cash legally furnished by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance does not include any form of payment other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as compensation earnable. If you pay any amount to your employer in order to own or use the materials, your employer must report as compensation earnable the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

Example: An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation. The employer must report \$400.00 per month to the department as compensation earnable for the employee.

(e) How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation. In addition to the records required under (d) of this subsection, you may provide the department with any oral or written evidence which you or your employer believe corroborates that your use of employer-provided materials qualifies as compensation earnable. However, oral evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than oral evidence or written evidence created years later.

(2) PERS Plan II members. If you are a PERS Plan II member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as compensation earnable.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-108-470, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.40.010(8) and 41.40.020, 87-17-061 (Order DRS 87-08), § 415-108-470, filed 8/19/87.]

WAC 415-108-475 Fringe benefits. Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-108-455) and matching and nonmatching employer contributions to a benefit plan.

Note: Mandatory salary deferrals are salary, not benefits. Such payments are reportable see WAC 415-108-459.

Example: An employer makes matching payments to employees who participate in a deferred compensation plan. This is not a mandatory salary deferral for purposes of PERS reportable compensation. Since the employer matching payment (employer match) is made contingent upon employee plan participation, it is not payment for services rendered. Therefore, it is a fringe benefit that is not reportable compensation under PERS.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-475, filed 6/24/99, effective 7/25/99; 98-09-059, § 415-108-475, filed 4/17/98, effective 5/18/98.]

WAC 415-108-477 Disability insurance. Disability insurance payments are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they are not reportable compensation. This is true whether the payments come directly from the employer or from an insurance company.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-477, filed 4/17/98, effective 5/18/98.]

WAC 415-108-479 Workers' compensation. Workers' compensation is paid to persons for periods when they are unable to work. Workers' compensation payments, like disability insurance, are not payments for services rendered and are not reportable compensation.

Example: Some employees on unpaid disability leave submit their workers' compensation payments to their employer who then issues the employee a check for the same amount through the payroll system. This exchange of payments does not change the character of the workers' compensation payment. Whether the payments come from the department of labor and industries, a self-insured employer, or have the appearance of coming from the employer, workers' compensation payments are not payments for services rendered and do not qualify as reportable compensation.

Note: A member may elect to make contributions and receive service credit for periods of disability covered by industrial insurance, see RCW 41.40.038.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-479, filed 4/17/98, effective 5/18/98.]

WAC 415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable? (1) PERS Plan I members:

(a) **If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as compensation earnable.** Use of an employer-provided vehicle only qualifies as compensation earnable to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as compensation earnable if:

- (i) You use the vehicle solely in connection with your employer's business; or
- (ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.

(b) **The department presumes that any employer-provided vehicle is used solely in connection with your employer's business and does not qualify as compensation earnable.**

(c) **A portion of your use of an employer-provided vehicle may qualify as compensation earnable.** In order for any portion of your use of an employer vehicle to qualify as compensation earnable, your employer must either:

- (i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or

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- (ii) Maintain monthly records reflecting your personal use of the vehicle.

(d) **Your personal use of an employer vehicle qualifies as compensation earnable if your employer reports your use to the IRS as taxable income.** Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as compensation earnable.

(e) **Your personal use of an employer vehicle qualifies as compensation earnable to the extent your employer documents your personal use of the vehicle.** If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as compensation earnable if your employer maintains monthly contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:

- (i) Whether your employer authorized you to have the vehicle for personal use, including commuting;

- (ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;

- (iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;

- (iv) The total number of miles you drove the vehicle during the month; and

- (v) The percentage of the total miles you drove the car during the month for personal use, including commuting.

(f) **Your employer must report as compensation earnable an amount based on your personal use of the vehicle.** If your employer maintains records documenting your personal use of the vehicle as provided in (e) of this subsection, your employer must report to the department as monthly compensation earnable the lesser of the following amounts:

- (i) Monthly Fair Market Lease Value of the Vehicle
x
Percentage of Personal Use of the Vehicle During the Month;
- or
- (ii) Miles of Personal Use
x
IRS Mileage Rate

"IRS mileage rate" means the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.

(2) **PERS Plan II members.** If you are a PERS Plan II member, you are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-108-480, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.40.010(8) and 41.40.020, 87-17-061 (Order DRS 87-08), § 415-108-480, filed 8/19/87.]

WAC 415-108-482 Illegal payments. Payments made by an employer in excess of the employer's legal authority are not reportable.

Example: School districts are prohibited from increasing an employee's salary to include a payment in lieu of a fringe benefit per RCW 28A.400.220. If a district increased a person's salary instead of providing a fringe benefit, the payment would be illegal and should not be reported.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-482, filed 4/17/98, effective 5/18/98.]

WAC 415-108-483 Optional payments. If an employee can receive an additional payment only on the condition of taking an action other than providing service to the employer, the payment is not for services rendered and is not reportable compensation.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to defer a portion of his or her salary. Because the employee does not have a right to receive the contribution based solely on the rendering of service, the employer payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-483, filed 4/17/98, effective 5/18/98.]

WAC 415-108-484 Reimbursements for expenses. Reimbursements are not earned for services rendered and thus are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, see WAC 415-108-485, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-484, filed 4/17/98, effective 5/18/98.]

WAC 415-108-485 Vehicle allowances—Are vehicle allowances earnable compensation? (1) If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not compensation earnable. Your vehicle allowance does not qualify as compensation earnable if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes.

(2) The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not compensation earnable. If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) Your vehicle allowance may qualify as compensation earnable to the extent that it exceeds your actual expenses. If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving

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your own vehicle for business purposes, the excess amount is compensation earnable. Your employer must maintain monthly contemporaneous records documenting the following:

- (a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;
 - (b) The miles you drove the vehicle on each of these trips; and
 - (c) Your itinerary for each of these trips.
- (4) How to determine what amount of your vehicle allowance, if any, is reportable as compensation earnable.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as compensation earnable:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

(b) "IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(5) Your vehicle allowance qualifies as compensation earnable if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes. If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is compensation earnable.

(6) Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation. If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-108-485, filed 6/24/99, effective 7/25/99; 95-22-006, § 415-108-485, filed 10/18/95, effective 11/18/95.]

WAC 415-108-487 Retirement bonus or incentive. A payment made to an employee as a bonus or incentive when retiring or terminating is not a payment for services rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive is not reportable compensation.

Example: A collective bargaining agreement authorizes a city to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire or terminate. Because the payment is in exchange for the agreement to retire or terminate and not for services, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-487, filed 4/17/98, effective 5/18/98.]

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WAC 415-108-488 Severance pay not earned over time—Contract buy outs. Severance pay that is not earned over time is not earned for services rendered and is not reportable. An example of severance pay not earned over time is a payment negotiated as part of termination agreement.

Example: At the time of an employee's termination the employer agrees to pay a lump sum payment equal to two months salary. The employer identifies this payment as "severance pay." Because the payment was not earned for services rendered, it is not reportable compensation and will not be included in the retirement calculation.

For treatment of severance pay earned over time, see WAC 415-108-458.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-488, filed 4/17/98, effective 5/18/98.]

WAC 415-108-491 Salary imputed to periods of unpaid leave. In some circumstances specified in statute, a member may elect to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) **Authorized unpaid leave.** RCW 41.40.710 provides Plan II members with an option to establish service credit for periods of unpaid leave. RCW 41.40.038 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.

(2) **Military leave.** Salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member elects to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-491, filed 4/17/98, effective 5/18/98.]

WAC 415-108-510 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions. (1) Cash compensation in lieu of unused annual or sick leave may be considered compensation earnable for Plan 1 members subject to the provisions of RCW 41.40.010 (8)(a) and WAC 415-108-456. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual or sick leave as compensation earnable in conflict with RCW 41.40.010

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(8)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.40.010 (8)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual or sick leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned, and when or whether the leave was used or cashed out, with the following exceptions:

(a) As otherwise provided in *Bowles v. Department of Retirement Systems*, 121 Wn.2d 52 (1993); and

(b) The employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-108-010, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer from one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-510, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-510, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.40.010(8) and 41.40.020, 87-17-061 (Order DRS 87-08), § 415-108-510, filed 8/19/87.]

MEMBERSHIP

WAC 415-108-520 Membership exceptions—Student and spouse of student. (1) A person employed by a Washington state institution of higher education or community college (employer), who is employed at such institution or college primarily for the purpose of furthering her/his edu-

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cation or the education of the person's spouse, is excepted from membership in PERS when:

(a) The person is a full-time student or the spouse of a full-time student; and

(b) The person is employed at the same institution where she/he is a full-time student or where the person's spouse is a full-time student; and

(c) The person determines her/his employment is primarily an incident to and in furtherance of her/his education or training, or the education or training of the person's spouse.

(2) For purposes of this section, RCW 41.40.023(7) shall be administered as follows:

(a) When a person begins employment in a PERS eligible position, a determination shall be made by the person as to whether the provisions of this section apply. If this section applies to the person, she/he shall determine her/his membership status as either being excepted from membership in PERS, or being a member of PERS, based upon whether employment at the institution of higher education or community college is primarily as an incident to and in furtherance of her/his education or training, or the education or training of the person's spouse. The person shall notify the employer in writing of her/his determination of membership status no later than two months after commencing employment in a PERS eligible position. Based upon the provisions herein and the written notification of status, the person shall either be excepted from membership in PERS or become a member of PERS. In the event that no written notification of status is provided to the employer, based upon the provisions of this section, the employer shall make the presumption:

(i) That the person shall remain a member of PERS where the person is employed in a PERS eligible position and is a member of PERS at the time the person, or his or her spouse, becomes a full-time student;

(ii) That the person shall be excepted from PERS membership where the person or the person's spouse is a full-time student at the time of becoming employed in a PERS eligible position.

(b) A person employed in a PERS eligible position at the time of becoming a full-time student or becoming the spouse of a full-time student, shall remain a member of PERS; except, at the time of becoming a full-time student or becoming the spouse of a full-time student, the person may elect to waive her/his membership in PERS, based upon the provisions of this section excepting membership. The person must provide written notification of the waiver to the employer. If the person elects to waive membership in PERS, she/he cannot later elect membership in PERS unless there is a change of status of the person or of the person's spouse, as set forth below, and the employer has received written notification from the person of the change of status.

(c) A person who is a full-time student or who is the spouse of a full-time student at the time of becoming employed in a PERS eligible position, shall not be eligible for membership in PERS; except, at the time of becoming employed in a PERS eligible position, the person may elect to become a member of PERS, based upon the person's determination that the provisions of this section excepting membership do not apply. The person must provide written notification of the election to be a member of PERS to the employer.

If the person elects to become a member of PERS, she/he cannot later waive PERS membership unless there is a change of status of the person or of the person's spouse, as set forth below, and the employer has received written notification from the person of the change of status.

(d) For purposes of this section, status is defined as:

(i) Student status - is full-time student, part-time student or nonstudent. Part-time student and nonstudent status do not meet the threshold for exception from PERS; only full-time student status meets the threshold:

(ii) Employment status - is employment in a PERS eligible position, employment in a PERS ineligible position, or unemployment. Unemployment refers to termination of employment from a Washington state institution of higher education or community college employer;

(iii) Marital status - is single, married, widowed or divorced.

(3) The department shall rely upon the institutions of higher education and community college employers to:

(a) Notify each person, at the time of hire, of the provisions of this section;

(b) Request all written notifications from persons electing membership or waiving membership under this section;

(c) Retain and make available to the department upon request, all written notifications electing membership or waiving membership on a sixty-four year record retention schedule.

(4) It is recommended, but not required, that no less than annually employers provide notice that employees are required to notify the employer of any change in status as set forth in this section.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-520, filed 6/24/99, effective 7/25/99; 91-21-083, § 415-108-520, filed 10/18/91, effective 12/31/91.]

WAC 415-108-550 Elected officials—Eligibility and application for retirement service membership. (1) For purposes of this section and WAC 415-108-570, and pursuant to RCW 41.40.023, 41.40.010 (25)(b), 41.40.010 (9)(a) and 41.40.035, "elected" officials means individuals elected to any state, local or political subdivision office or individuals appointed to any vacant elective office.

(2) Pursuant to RCW 41.40.023 (3)(a), elected officials are exempted from retirement system membership but may apply for membership during the official's current term of elected office. To apply for membership, the official shall submit a written application directly to the department. If the department approves the application, the elected official is entitled to establish membership and service credit retroactive to the first day of the official's current term of elected service. To establish such membership, the official shall pay the required employee contributions for the official's current term of elected service with interest as determined by the department.

(3) Upon establishing membership for the official's current term of elected office, the official is entitled to establish membership and service credit retroactive to the first day of any previous elected term or terms of office. To exercise this option, the official shall apply to the department pursuant to

subsection (2) of this section. If the department approves the application, the official shall:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, at its discretion, pay the required employer contributions plus interest in lieu of the employee making payment of this amount.

(4) If an official is employed in an eligible position at the time of election to office and will hold multiple positions concurrently, the official may:

(a) Apply to the department to participate in membership pursuant to the official's elected position as provided in subsection (3) of this section; or

(b) Choose not to participate pursuant to the official's elected position while continuing membership through the non-elected position.

(5) Except as provided under RCW 41.40.023 (3)(b), once an elected official has exercised the option of becoming a member of the retirement system the official shall be a member until the official separates from all eligible public employment pursuant to RCW 41.40.150. An official does not separate from public employment when that official's term of office ends and the official commences another term of office in the same or a different position for the same employer without a break in service. An official does not separate from service if the official resigns from the official's elected position and is later reappointed to the same position during the same term.

(6) This section codifies the department's long-standing administrative practice in relation to elected officials. The department will apply this section to service by elected officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050, 94-12-014, § 415-108-550, filed 5/23/94, effective 6/23/94.]

WAC 415-108-560 Appointed officials—Eligibility and application for retirement service membership. (1)

For purposes of this section and WAC 415-108-570, and pursuant to RCW 41.40.023, 41.40.010 (25)(b), 41.40.010 (9)(a) and 41.40.035, "appointed" officials means only those individuals appointed directly by the governor to any position, including but not limited to agency directorships and memberships on a state committee, board or commission.

(2) An individual must be a gubernatorial appointee or be appointed to serve in a position that meets the requirements of RCW 41.40.010 (25)(a) in order to be eligible for membership and service credit.

(3) Pursuant to RCW 41.40.023 (3)(a), appointed officials are exempted from retirement system membership but may apply for membership during the official's current appointed term of office. To apply for membership, the official shall submit a written application directly to the department. If the department approves the application the official is entitled to establish membership and service credit retroactive to the first day of the official's current term of appointed service. To establish such membership, the official shall pay the required employee contributions for the official's current

term of appointed service with interest as determined by the department.

(4) Upon establishing membership for the official's current term of appointed service, the official is entitled to establish membership retroactive to the first day of any previous elected term or terms of office. To exercise this option, the official shall apply to the department pursuant to subsection (3) of this section. If the department approves the application the official shall:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, at its discretion, pay the required employer contributions plus interest in lieu of the employee making payment of this amount.

(c) "Current term of appointed service" includes an appointed official's entire current term of service. If the official has not been appointed to a position with a set term of office, "current term of appointed service" includes all uninterrupted service in the official's current appointed position.

(5) If an appointed official is employed in an eligible position at the time of appointment to office and will hold the two positions concurrently the official may:

(a) Apply to the department to participate in membership pursuant to the appointed position as provided in subsection (3) of this section; or

(b) Choose not to participate pursuant to the official's appointed position while continuing membership through the nonappointive position.

(6) Once an appointed official has exercised the option of becoming a member of the retirement system either at the start of the official's initial term or at a successive term, the official shall be a member until the official separates from all eligible public employment pursuant to RCW 41.40.150. An appointed official does not separate from public employment when that official's term of office ends and the official commences another term of office in the same or a different position for the same employer without a break in service. An appointed official does not separate from service if the official resigns from the appointed position and is later reappointed to the position during the same term.

(7) This section codifies the department's long-standing administrative practice in relation to appointed officials. The department will apply this section to service by appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050, 94-12-014, § 415-108-560, filed 5/23/94, effective 6/23/94.]

WAC 415-108-570 Elected and appointed officials—Requirements for service credit. (1)(a) Plan I elected officials and appointed officials may receive one month of service credit for each month during which they earn compensation pursuant to their elected or appointed positions.

(b) Plan I members who were appointed by the governor prior to July 1, 1976, to serve as members of any committee, board or commission may receive one month of service credit

for each month during which they earn compensation pursuant to their appointed positions.

(c) Plan I members who were appointed or reappointed by the governor on or after July 1, 1976, to serve as members of any committee, board or commission may receive one month of service credit for each month during which they are compensated for at least seventy total hours of work.

(d) Plan I members who serve in governor-appointed positions as members of any committee, board or commission on or after September 1, 1991, may receive one-quarter month of service credit for each month during which they are compensated for less than seventy total hours of work.

(2)(a) Plan II members who were elected to office by state-wide election may receive one month of service credit for each month during which they earn compensation pursuant to their elected positions.

(b) Except for Plan II elected officials covered under (a) of this subsection, Plan II members who were elected to office or appointed by the governor to positions prior to September 1, 1991, may receive service credit only for months during which they are compensated:

(i) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; and

(ii) For ninety or more total hours of work.

(c) On or after September 1, 1991, except for Plan II elected officials covered under (a) of this subsection, Plan II members who were elected to office or appointed by the governor to positions may earn:

(i) One month of service credit for each month during which they are compensated:

(A) For ninety or more total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(ii) One-half month of service credit for each month during which they are compensated:

(A) For less than ninety hours but equal to or more than seventy total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(iii) One-quarter month of service credit for each month during which they are compensated:

(A) For less than seventy total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time they render the service.

(3) This section codifies the department's long-standing administrative practice in relation to elected and appointed officials. The department will apply this section to service by elected and appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050, 94-12-014, § 415-108-570, filed 5/23/94, effective 6/23/94.]

WAC 415-108-620 Requirements for a union to be a PERS I union employer. (1) In order to establish or maintain status as a PERS I union employer, a union must satisfy the following requirements:

(a) Verify that at least forty percent of the members of the level of union organization are employees of an employer: Provided however, That employees of the union

organization are not to be considered in the forty percent determination; and

(b) Beginning on the effective date of this rule, annually complete and submit the verification form set forth in WAC 415-108-660 to the department.

(2) Unions which have reported members prior to the effective date of this rule shall be deemed to have met the requirements of this rule with respect to those members.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a), 93-11-077, § 415-108-620, filed 5/18/93, effective 6/18/93.]

WAC 415-108-630 Calculation and verification of PERS membership requirement. (1) Calculation - Unions applying for union employer status must provide the department with the information specified in WAC 415-108-660.

Each union employer is required to submit to the department the form provided in WAC 415-108-660 in verifying compliance with WAC 415-108-620 on or after November 1 and no later than December 31 of each year.

(2) Union employer status will lapse on January 1 if a union does not submit verification by December 31 of the preceding year. The union may regain union employer status by subsequently submitting verification of compliance with WAC 415-108-620 (1)(a). The union shall be responsible for applicable retroactive employer contributions plus interest for any period of lapsed employer status.

(3) Unions submitting timely verification of qualifications for union employer status are considered Plan I union employers for the succeeding calendar year (January 1 to December 31).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a), 93-11-077, § 415-108-630, filed 5/18/93, effective 6/18/93.]

WAC 415-108-640 Effect of meeting verification requirements. (1) Plan I union employer status applies only to the level of union organization that meets the requirements of WAC 415-108-620(1). Therefore, if only a single union lodge of a union with multiple lodges has been verified to meet the requirements of WAC 415-108-620(1), only that union lodge is a Plan I union employer.

(2) Plan I union employers employing persons who have previously established Plan I membership must report those persons for participation in the retirement system if those persons opt into membership under RCW 41.40.023.

(3) Plan I members who are employed by union employers shall have an irrevocable election to reenter membership. If this option is not exercised when the employee first enters an eligible position with the union employer, it is waived. The union employer has the duty to notify new employees of the option to enter Plan I. Failure of the union employer to provide notification shall not obviate a person's waiver of the right to participate in Plan I under this section. Union employers and their Plan I employees who opt into membership will be subject to the same statutory and regulatory requirements as other Plan I nonstate agency employers and employees.

(4) Union employers shall elicit on a written form from all new employees whether the employee has ever been a Plan I member.

(5) A union employer may not report employees for participation in Plan II.

(6)(a) Upon first establishing union employer status the union must pay the prior service liability as determined by the department under RCW 41.40.363 or 41.40.045, as applicable for union elective officials and employees who opt into membership under RCW 41.40.023 and are eligible for Plan I.

(b) If employer and employee contributions have been erroneously submitted and the union subsequently establishes retroactive union employer status for the period in question, the contributions on deposit with the retirement system will be considered ratified to the extent that the periods of erroneous contributions coincide with periods for which the union has established union employer status.

(7) Notwithstanding any provisions of WAC 415-108-620 Plan I retirees who enter into employment with a union employer in an eligible position are subject to the provisions of RCW 41.40.150 (5)(a).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-640, filed 5/18/93, effective 6/18/93.]

WAC 415-108-650 Effect on unions seeking to maintain union employer status if verification requirement is not met.

(1) A union employer which does not verify that it meets the criteria for union employer status shall not report any employee hired during that succeeding calendar year for retirement system participation. A union employee who previously terminated retirement system membership under RCW 41.40.150 cannot reestablish retirement system membership during a year the hiring union failed to maintain union employer status.

(2) The failure of a union employer to meet the requirements of WAC 415-108-620 and 415-108-630 will not terminate the retirement system participation of employees already employed in an eligible position with the union employer as of December 31 of the preceding year.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-650, filed 5/18/93, effective 6/18/93.]

WAC 415-108-660 Plan I union employer verification form. Unions must use the following form to verify compliance with the requirements of WAC 415-108-620.

I certify under the penalty of perjury under the laws of the state of Washington that the following is true and correct:

_____, verifies that on the date of _____

Name of Union _____ the _____

(Must be a Date in November or December) Identify Level of Union Organization (i.e. lodge) (hereinafter referred to as "organization")

possessed the following membership characteristics:

- A. Total number of organization members _____
- B. Total number of organization members who are employees of a public employee retirement system (PERS) employer other than this union _____

- C. Percentage of organization members who are employees of a public employee retirement system employer other than this union (B ÷ A x 100) _____ %
- D. The percentage identified in "C" is equal to or greater than 40% _____ yes _____ no

If the answer to "D" is yes, then the organization is eligible to participate in PERS with regard to PERS Plan I union employees employed in an eligible position during the succeeding calendar year. Such employees shall remain eligible for participation while employed with the organization regardless of whether the organization continues to meet the requirements of WAC 415-108-620 and 415-108-630.

If the answer to "D" is no then the level of union organization identified above is not eligible to participate in the public employees' retirement system with regard to union employees employed in an eligible position during the succeeding calendar years.

Signature of Local/Division President or Person Designated in Writing by President as Having Authority to Verify

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-660, filed 5/18/93, effective 6/18/93.]

WAC 415-108-679 Purpose and scope of eligibility rules.

WAC 415-108-680 through 415-108-728 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in PERS Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-679, filed 7/25/95, effective 8/25/95.]

WAC 415-108-680 Am I eligible for membership? (1)

You are eligible for membership if you are employed in an eligible position. Your position is eligible under RCW 41.40.010 if the position, as defined by your employer, normally requires at least five months of seventy or more hours of compensated service per month during each year.

(2) **If you leave an eligible position to serve in a project position, you may retain eligibility.** If you are a member and you leave employment in an eligible position to serve in a project position, the project position is eligible if:

(a) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

(b) The position requires at least seventy hours per month and you take the position with the understanding that you are expected to return to your permanent eligible position at the completion of the project.

(3) **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) "Member" - RCW 41.40.010.
- (d) "Membership" - RCW 41.40.023.
- (e) "Normally" - WAC 415-108-0102.

(e) "Project position" - WAC 415-108-0103.

(f) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-680, filed 7/25/95, effective 8/25/95.]

WAC 415-108-690 How is my eligibility evaluated?

(1) Your eligibility is based on your position.

In evaluating whether your position is eligible, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010. 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.

(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 position.** 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.

(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 415-108-0103.

(f) "Report" - WAC 415-108-0104.

(g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-690, filed 7/25/95, effective 8/25/95.]

WAC 415-108-700 Can I qualify for membership if I work in more than one ineligible position with the same employer? (1) All of your monthly work for an employer counts as one position. If you are employed with the same employer in two ineligible positions during a year which, when combined, equate to an eligible position and your employer expects you to continue in this employment for a second consecutive year, your employer will report the total hours you work in both positions to the department as an eligible position.

Example: A person normally works for one employer as a cook for forty hours each month and as a bus driver for forty hours each month. The person is eligible for membership because he works a total of eighty hours each month for at least five months each year and this is the normal pattern of his employment.

Example: A person normally works for one employer for forty hours each month as a cook. For one year only, she takes on extra duties by also working forty hours per month as a bus driver. Although she worked eighty hours each month for five or more months during one year, she is not eligible for membership because these hours are not the normal pattern of her employment.

Example: A person works for one employer for forty hours each month as a cook and also works for another employer for forty hours each month as a bus driver. The person is not eligible for membership because he cannot combine the hours of employment with these separate employers to establish membership.

(2) **You may be reported in TRS if you work in two positions and one position is covered under TRS.** See WAC 415-108-728.

(3) **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) "Normally" - WAC 415-108-0102.

(f) "Report" - WAC 415-108-0104.

(g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-700, filed 7/25/95, effective 8/25/95.]

WAC 415-108-710 If I work for an employer after I retire, will my retirement benefit be affected? (1) If you reenter membership after retiring, the department will suspend payment of your benefit.

(2) **You may work for an employer in some circumstances without reentering membership.** You may enter employment with an employer after retirement without having to reenter membership if:

(a) You are employed in an ineligible position; or

(b) You are employed in an eligible position on a temporary basis for five months or less in a calendar year.

(i) If you enter compensated employment in an eligible position during a month, that month is counted as a month of employment in the calendar year regardless of the number of hours you worked in the month.

(ii) If you are employed in an eligible position for any five months during a calendar year, the department will count your employment as five months of employment, regardless of whether or not the months are consecutive or your employment is with one or more employers.

(3) **You are required to reenter membership if you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year.** If you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year you will reenter membership in the retirement system beginning with the sixth month of your employment. Effective at the beginning of the sixth month of your employment:

(a) Your employer will report you to the department; and

(b) The department will suspend your retirement allowance.

(4) **You are required to reenter membership if you become permanently reemployed in an eligible position.** If you become reemployed in an eligible position on a permanent basis you will immediately become a member. Effective from the date of your reemployment in a permanent eligible position:

(a) Your employer will report you to the department; and

(b) The department will suspend your retirement allowance.

(5) **Meaning of employment on a temporary or permanent basis.**

(a) "Employed on a temporary basis" under subsection (2) of this section means your employer expects your employment to last for five months or less and not be on a recurring basis.

(b) "Employed on a permanent basis" under subsection (3) of this section means either:

(i) Your employer expects you to continue in your position for more than five months in any calendar year; or

(ii) Your employer expects you to continue in the same position for more than one year on a recurring basis and your employment is for five months or less during each year.

(6) **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) "Report" - WAC 415-108-0104.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-710, filed 7/25/95, effective 8/25/95.]

WAC 415-108-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position? (1) You may be exempt from participating in membership even if you meet eligibility criteria. Even if you are employed in an eligible position you are exempt from participating in PERS if your individual circumstances qualify you for one of the exceptions to membership under RCW 41.40.023.

(2) **If you work for a PERS employer after you retire, you are subject to post-retirement employment restrictions even if you are excluded from participating in membership.** If you become employed in an eligible position after you retire, you are subject to the post-retirement employment restrictions under RCW 41.40.150 and 41.40.690 even if you are excluded from membership.

(3) **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.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-720, filed 7/25/95, effective 8/25/95.]

WAC 415-108-725 If I have retired from another retirement plan or am eligible to retire, am I excluded from participating in PERS? (1) If you have retired or are eligible to retire from another retirement system authorized by the laws of this state you cannot participate in PERS membership unless:

(a) You established membership in PERS prior to March 1, 1976; or

(b) You accrued less than fifteen years of service credit in the other retirement plan.

(2) If you are receiving a disability allowance from any retirement system administered by the department you can not participate in PERS unless you established membership in PERS prior to March 1, 1976.

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

(a) "Membership" - RCW 41.40.023.

(b) "Retirement plan" - WAC 415-108-0105.

(c) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-725, filed 7/25/95, effective 8/25/95.]

WAC 415-108-726 If I accrue service credit in PERS and another retirement plan at the same time, may I participate in PERS? (1)(a) Yes. You may earn service credit in PERS and any of the following systems at the same time if:

(i) You work for a PERS employer and an employer covered by a retirement system of the city of Seattle, Spokane or Tacoma (First Class City Retirement System); and

(ii) You cannot report service for the First Class City Retirement System in PERS;

(b) The combined service credit under PERS and the retirement system listed in (a) of this subsection may not exceed one month of service for a calendar month of employment.

(c) To qualify for PERS service credit, it is up to the employee to initiate the process by applying under subsection (2) of this section.

Example: A member works part time for the City of Seattle and part time for the University of Washington (UW). She may receive partial service credit in PERS for the UW service since she cannot report the time she works for Seattle under PERS.

Note: The combined service credit under PERS and the City of Seattle Retirement System may not exceed one month of service for a calendar month of employment. To receive PERS service credit she must apply to the department.

(2) How do I apply?

(a) To apply for membership and service credit under subsection (1) of this section you must send the department an application. The application is a statement that you want membership and/or service credit in PERS. Include:

(i) Your name;

(ii) Your SSN;

(iii) All period(s) of service that you want to receive service credit for;

(iv) All PERS and non-PERS employer(s) that you worked for during the periods of service referenced in (a)(iii) of this subsection.

(b) After the department receives your application, it will contact your employer(s) to verify how much service credit you have earned. When the department receives the necessary information, it will determine how much service credit you will receive. At that time the department will send you a bill for member contributions and interest that must be paid in order to establish the service credit.

(3) When should I submit my payment?

You should pay contributions and interest required under subsection (2)(b) of this section within twenty-four consecutive months from the last day of the calendar year for which you claim service credit. After that date, you must pay the actuarial cost of purchasing the service credit under RCW 41.40.104 and 41.50.165.

(4) What if I worked before this WAC became effective?

If you worked for a PERS employer and for one of the retirement systems listed in subsection (1) of this section, before this WAC became effective, you have until December 31, 2000, to apply in order to purchase service credit by paying member contributions plus interest. After December 31, 2000, you must pay the actuarial cost of purchasing the service credit under RCW 41.40.104 and 41.50.165.

(5) You may participate in PERS if you are concurrently employed, as described in WAC 415-113-200, in a SERS position.

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

(a) "Membership" - RCW 41.40.023.

(b) "Retirement plan" - WAC 415-108-0105.

(c) "Service" - RCW 41.40.010.

(d) "Normally" - WAC 415-108-0102.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-726, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-108-726, filed 10/29/99, effective 11/29/99; 95-16-053, § 415-108-726, filed 7/25/95, effective 8/25/95.]

WAC 415-108-728 If I work in both a PERS position and TRS position during the same school year, which system will I be in?

(1) If you work in both a PERS and TRS position during the same year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either PERS or TRS according to the following table:

Former TRS Plan 1 Members ^{1/}

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, you must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

TRS Plan 1 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for PERS position.
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

TRS Plan 2 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. ^{3/}
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

PERS Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Neither TRS Nor PERS Member

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

^{1/} "Former TRS 1 member", as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same school year.

^{3/} EXAMPLE: A TRS 2 member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS 2.
EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

(2) **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 (PERS); RCW 41.32.010 (TRS).

(c) "Ineligible position" - RCW 41.40.010.

(d) "Member" - RCW 41.40.010.

(e) "Membership" - RCW 41.40.023.

(f) "Report" - WAC 415-108-0104

(g) "Service" - RCW 41.40.010.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-728, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-728, filed 7/25/95, effective 8/25/95.]

WAC 415-108-730 Membership for city managers.

The purpose of the WAC is to implement the provisions of RCW 41.40.120(17) relating to city managers.

Effective immediately and until December 31, 1986 any current member described in RCW 41.40.120(17) may, at his/her option, elect to withdraw from membership in the retirement system provided by chapter 41.40 RCW. Such election is to be made in writing on a form provided for that purpose by the department. Persons making this election will be refunded the contributions and related interest which were credited while in their current position. The effect of such a withdrawal will be to terminate and cancel the service credit acquired while in that position. Such action is final and no service credit may ever be obtained in the future for the period cancelled.

Effective immediately any person described in RCW 41.40.120(17) who is employed in one of the positions described shall not become a member of the system provided by chapter 41.40 RCW unless within thirty days of employment in such position he/she shall submit in writing on a form, provided by the department, a waiver of his/her right to be excluded and requesting his/her inclusion in the system. Such a person may not then subsequently withdraw from the

system except as provided by RCW 41.40.260 or 41.40.730 as appropriate.

[Recodified as § 415-108-730. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.40.120(17). 86-13-023 (Order 86-3), § 415-108-500, filed 6/10/86.]

SERVICE RETIREMENT

WAC 415-108-810 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure. Pursuant to *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993), the department is required to calculate certain Plan I members' retirement allowances without regard to percentage or ceiling limitations on leave cash outs. *Bowles v. Retirement Systems* does not change the terms contained in collective bargaining agreements negotiated by employers and employees or leave policies promulgated by employers, nor does it apply to state and school district employees who cash out sick leave pursuant to RCW 28A.400.210 or 41.04.340, or annual leave pursuant to RCW 43.01.040 through 43.01.044.

(1) Certain Plan I members' retirement allowances shall be calculated pursuant to this section if they meet the following criteria:

(a) Retire on or after March 11, 1993, from Plan I, or be a surviving spouse or beneficiary of a member who retired or died after March 11, 1993; and

(b) Have average final compensation that is:

(i) Based on employment with a nonstate agency or political subdivision employer; and

(ii) Subject to employer percentage or ceiling limitations on leave cash outs.

(c) If a person meets the eligibility requirements for calculation under (a) and (b) of this subsection, the department shall determine whether the person is entitled to the calculation provided under subsection (2) of this section.

(2) For persons who are eligible under subsection (1) of this section, the department shall calculate the retirement allowance as follows:

(a) Calculate average final compensation twice:

(i) First, by including the amount of leave actually cashed out that is accruable within the member's two year average final compensation period, not taking into consideration any employer percentage or ceiling cash out limitations; and

(ii) Second, by including accrued leave as specified in (a)(i) of this subsection but taking into consideration any employer percentages and ceiling cash out limitations.

(b) Calculate the difference between the retirement allowance under (a)(i) and (ii) of this subsection. The department shall calculate the present value of this difference using its actuarial tables and retain eight percent of the present value of this amount to restore pension fund moneys expended in paying *Bowles* plaintiff class attorney fees. Each member's *Bowles* attorney fee payment shall be made in a one-time deduction from the member's first retirement allowance payment after the final computation of the member's benefit; and

(c) Pursuant to RCW 41.50.150, assess the member's employer for any additional excess compensation added to the member's retirement allowance.

[Recodified as § 415-108-810. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-530, filed 5/5/94, effective 6/5/94.]

WAC 415-108-820 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. Based upon estimates of the retiree's compensation and earned service credit through the date of retirement, the department shall compute an interim retirement allowance made payable to the member in the interim between the member's date of retirement and 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 shall, 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 shall 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, leave cash out information for Plan I retirees, earnings history, and copies of the employment contract and

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employer compensation policies, the department shall complete a final computation of the member's retirement allowance. The department's final computation may either increase or decrease the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may subsequently 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 earnable compensation to a member in the member's retirement allowance computation, or excluding earnable compensation not reported by an employer;

(d) Benefit overpayments and underpayments;

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

[Recodified as § 415-108-820. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-540, filed 5/5/94, effective 6/5/94.]

WAC 415-108-830 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.40.690 as follows:

(a) If the member first retired before age sixty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.40.620 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement

allowance pursuant to RCW 41.40.620 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.40.690 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

[Recodified as § 415-108-830. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050. 94-09-040, § 415-108-580, filed 4/19/94, effective 5/20/94.]

Chapter 415-110 WAC

SCHOOL EMPLOYEES' RETIREMENT SYSTEM

WAC

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DEFINITIONS

WAC 415-110-010 Definitions. All definitions in RCW 41.35.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.35 RCW are defined in this chapter.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-010, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0102 Normally—Definition. "Normally," as used in the definition of eligible position under RCW 41.35.010, means a position is eligible if it is expected to require at least five months of seventy or more hours of compensated service each month during each of two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of seventy or more hours of compensated service during at least one year in any two-year period.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0102, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0103 Project position—Definition.

"Project position" means a position established by an employer that has a specific goal and end date.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0103, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0104 Report—Definition.

"Report" means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0104, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0108 Year—Definition.

"Year" means any twelve consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. The term generally will be limited to a school year.

Example: An employer has used the twelve consecutive month period from September 1 to August 31 to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the September 1 through August 31 period to define a year for the position.

Example: If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0108, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0109 System acronyms—Definition.

The acronyms used in this chapter are defined as follows:

- (1) "PERS" means the public employees' retirement system.
- (2) "TRS" means the teachers' retirement system.
- (3) "SERS" means the school employees' retirement system.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0109, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0110 Reportable compensation—Definition.

"Reportable compensation" means compensation earnable as that term is defined in RCW 41.35.010.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0110, filed 12/12/00, effective 1/12/01.]

WAC 415-110-0111 Annual leave—Definition.

"Annual leave" means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: Provided, however, That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused

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absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0111, filed 12/12/00, effective 1/12/01.]

ADMINISTRATION

WAC 415-110-020 Public records. See chapter 415-06 WAC.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-020, filed 12/12/00, effective 1/12/01.]

WAC 415-110-030 Statewide cities retirement system. Pursuant to RCW 41.35.130, the statutes and rules applying to the school employees' retirement system and the department of retirement systems (as provided in chapters 41.35 and 41.50 RCW and Title 415 WAC) govern the administration and operation of the former statewide cities retirement system.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-030, filed 12/12/00, effective 1/12/01.]

WAC 415-110-040 Appeals—Disability cases.

Appeals will be governed by the provisions of chapter 415-08 WAC as now existing or hereafter amended.

Any person aggrieved by any final decision must, before he/she appeals to a superior court, file a notice of appeal with the director personally or by mail, within sixty days from the date such decision was communicated to such person. The notice of appeal must contain the information required by WAC 415-08-020 as now existing or hereafter amended.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-040, filed 12/12/00, effective 1/12/01.]

BENEFIT OPTIONS

WAC 415-110-315 Designation of beneficiaries—Death benefit if a member dies before retirement. This section applies to Plan 2 members' defined benefit or Plan 3 members' defined contribution distribution.

(1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) You may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) A trust in existence at the time of death. Before making distribution to any trust the department must receive:

(i) A copy of the trust document;

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

(iii) The tax identification number;

(d) A trust to be established under your last will.

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

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

Subject to applicable statute, at John's death, the department will consider both the Barbara Trust and daughter Ann as primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the trust and other information specified in this rule before distribution to the trust.

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 (no trust name is provided). He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.

Result

At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-315, filed 12/12/00, effective 1/12/01.]

WAC 415-110-320 Determining SERS Plan 3 defined benefit retirement eligibility. This WAC provides eligibility terms for retirement from the defined benefit component of SERS Plan 3.

(1) Definition. Qualified service credit—For purposes of this section, the following types of service credit may be used to qualify for retirement:

(a) SERS Plan 3 service credit;

(b) Service credit earned in a dual member system, but only in combination with SERS Plan 3 service credit (chapter 41.54 RCW); or

(c) Up to forty-five days of sick leave (RCW 41.35.010).

[Title 415 WAC—p. 98]

(2) Members must be age 65 to retire with an unreduced defined benefit. SERS Plan 3 members can retire with an unreduced defined benefit at age 65 if they have accumulated the following amounts of qualified service credit:

(a) Ten service credit years;

(b) Five service credit years, including twelve service credit months after attaining age 54; or

(c) Five service credit years by September 1, 2000, under Plan 2.

(3) Members may retire with a reduced benefit after attaining age 55. A SERS Plan 3 member who has attained age 55 may retire with an actuarially reduced defined benefit (RCW 41.35.680) if they have accumulated at least ten years of qualified service credit.

(4) Members may use only qualified service credit to receive a retirement benefit from the SERS Plan 3 defined benefit component.

(5) To be eligible to receive a retirement benefit, SERS Plan 3 members must:

(a) Submit a completed, signed, and notarized SERS Plan 3 retirement application; and

(b) Terminate employment with all retirement system employers from which they are claiming service credit. Termination from non-SERS system employers is required in cases where a member is using dual member rules to qualify for retirement (chapter 41.54 RCW).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-320, filed 12/12/00, effective 1/12/01.]

WAC 415-110-324 Married member's benefit selection—Spousal consent required. (1) The member, if married, must provide the spouse's written consent to the option selected under WAC 415-110-326. If a married 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 chapter 41.35 RCW and RCW 41.35.220(2).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an exspouse 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 constitutes spousal consent.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-324, filed 12/12/00, effective 1/12/01.]

WAC 415-110-326 Retirement benefit options. RCW 41.35.220 enables the department to provide retiring members with four retirement benefit options. The retiring member must choose an option(s) when applying for service or disability retirement:

(1) Option one (standard allowance). The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.35.220, 41.35.440, or 41.35.690. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) The retiree's designated beneficiary; or if none, to

(b) The retiree's surviving spouse; or if none, to

(2001 Ed.)

(c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) Benefit options with a survivor feature. A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

Once retired with a survivor option, the retiree may only change the survivor option upon returning to eligible employment for two consecutive years.

(a) Option two (joint and whole allowance). When the retiree dies, the department pays the survivor an allowance equal to the gross monthly allowance received by the retiree.

(b) Option three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(c) Option four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an exspouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) Benefit increases when survivor predeceases retiree (pop-up provision).

(a) This section applies to members retiring on or after January 1, 1996, who select option two, three, or four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen option one; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation examples.

Plan two:

Agnes retires from SERS Plan 2 in 2006 (Year 0). Agnes would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result, her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in 2011 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen option one (standard allowance) plus her accumulated COLAs:

Year	Option One (Standard Allow.)	Survivor Option (2, 3, 4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (2006)	2,000.00	1,750.00	(ineligible)	0.00
1 (2007)		1,750.00	.02	35.00
2 (2008)		1,785.00	.03	53.55
3 (2009)		1,838.55	.025	45.96
4 (2010)		1,884.51	.03	56.54
5 (2011)	2,000.00	1,941.05	-	-
			Total COLAs	191.05
Original Option One Benefit Amount \$2000		+ Total COLAs \$191.05	= New Benefit Amount = \$2,191.05*	

* In the future (i.e. Year 4), COLAs will be based on the increased benefit amount.

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(5) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides to the department proper proof of the designated beneficiary's death. The retiree is not required to apply for the increased benefit provided by this subsection.

The adjusted retirement allowance will be effective on July 1, 1998, or the first of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.35.220 (3)(c) for Plan 2 retirees.

(6) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-326, filed 12/12/00, effective 1/12/01.]

WAC 415-110-340 Actuarial tables, schedules, and factors. This chapter contains the tables, schedules, and fac-

tors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state school employees' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of school employees' retirement system. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from September 1, 2000, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances calculated at the time of retirement only of members retiring after the adoption of such new tables, schedules, and factors.

SCHOOL EMPLOYEES RETIREMENT SYSTEM

Plant 2 Option 1
Monthly Benefit per \$1.00
of Accumulation

20	.0039357
21	.0039525
22	.0039702
23	.0039887
24	.0040081
25	.0040286
26	.0040500
27	.0040726
28	.0040963
29	.0041213
30	.0041476
31	.0041753
32	.0042044
33	.0042351
34	.0042675
35	.0043015
36	.0043375
37	.0043756
38	.0044157
39	.0044581
40	.0045029
41	.0045502
42	.0046001
43	.0046528
44	.0047084
45	.0047670
46	.0048287
47	.0048939
48	.0049626
49	.0050352
50	.0051120
51	.0051933
52	.0052795
53	.0053712
54	.0054687
55	.0055727
56	.0056837

57	.0058025
58	.0059296
59	.0060657
60	.0062116
61	.0063676
62	.0065347
63	.0067134
64	.0069044
65	.0071085
66	.0073263
67	.0075587
68	.0078066
69	.0080711
70	.0083537
71	.0086558
72	.0089785
73	.0093230
74	.0096898
75	.0100792
76	.0104910
77	.0109250
78	.0113811
79	.0118589
80	.0123587
81	.0128793
82	.0134243
83	.0139934
84	.0145880
85	.0152103
86	.0158600
87	.0165374
88	.0172413
89	.0179682
90	.0187162
91	.0194835
92	.0202654
93	.0210569
94	.0218459
95	.0226265
96	.0234038
97	.0241752
98	.0249356
99	.0256785

SERS 2 Survivor Option Factors
Member Younger

Age Difference	OPTION II(100%)	OPTION IV (66 2/3%)	OPTION III(50%)
-20	0.928	0.951	0.962
-19	0.925	0.949	0.961
-18	0.922	0.946	0.959
-17	0.919	0.945	0.958
-16	0.916	0.942	0.956
-15	0.912	0.940	0.954
-14	0.908	0.937	0.952
-13	0.904	0.933	0.949
-12	0.898	0.930	0.946
-11	0.892	0.925	0.943
-10	0.885	0.920	0.939
-9	0.879	0.916	0.935

				SCHOOL EMPLOYEES RETIREMENT SYSTEM PLAN 2	
Age Difference	OPTION II(100%)	OPTION IV (66 2/3%)	OPTION III(50%)	Early Retirement Factors by Year and Month	
-8	0.873	0.911	0.932	0	1.0000
-7	0.865	0.906	0.927		
-6	0.857	0.900	0.923		
-5	0.849	0.894	0.918		
-4	0.839	0.887	0.912		
-3	0.828	0.878	0.906		
-2	0.813	0.867	0.897		
-1	0.797	0.855	0.887		
Member Older					
Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)		
0	0.779	0.841	0.876		0 .9100
1	0.763	0.829	0.866		1 .9910
2	0.748	0.817	0.856		2 .9821
3	0.735	0.807	0.848		3 .9731
4	0.725	0.798	0.841		4 .9641
5	0.716	0.791	0.835		5 .9551
6	0.708	0.785	0.830		6 .9462
7	0.698	0.777	0.823		7 .9372
8	0.687	0.767	0.815		8 .9282
9	0.674	0.757	0.806		9 .9193
10	0.662	0.747	0.797		10 .9103
11	0.653	0.739	0.791		11 .9013
12	0.646	0.733	0.786	1	0 .8923
13	0.640	0.728	0.781		1 .8845
14	0.634	0.722	0.776		2 .8767
15	0.628	0.717	0.772		3 .8688
16	0.622	0.712	0.767		4 .8610
17	0.616	0.707	0.763		5 .8531
18	0.611	0.702	0.759		6 .8453
19	0.606	0.698	0.755		7 .8374
20	0.602	0.694	0.751		8 .8296
21	0.596	0.689	0.747		9 .8217
22	0.591	0.684	0.743		10 .8139
23	0.587	0.681	0.740		11 .8061
24	0.582	0.676	0.736	2	0 .7982
25	0.577	0.672	0.732		1 .7913
26	0.573	0.668	0.729		2 .7844
27	0.569	0.665	0.726		3 .7776
28	0.565	0.661	0.722		4 .7707
29	0.562	0.658	0.720		5 .7638
30	0.558	0.655	0.717		6 .7569
31	0.555	0.652	0.714		7 .7500
32	0.552	0.649	0.712		8 .7431
33	0.549	0.647	0.709		9 .7363
34	0.546	0.644	0.707		10 .7294
35	0.543	0.641	0.705		11 .7225
36	0.540	0.638	0.702	3	0 .7156
37	0.538	0.637	0.700		1 .7096
38	0.535	0.634	0.698		2 .7035
39	0.533	0.632	0.696		3 .6975
40	0.531	0.630	0.695		4 .6914
Age difference = member's age minus beneficiary's age					
					5 .6853
					6 .6793
					7 .6732
					8 .6672
					9 .6611
					10 .6551
					11 .6490
				4	0 .6429
					1 .6376
					2 .6322
					3 .6269
					4 .6215
					5 .6162
					6 .6109
					7 .6055

Early Retirement Factors
by Year and Month

	8	.6002
	9	.5948
	10	.5895
	11	.5841
5	0	.5788
	1	.5740
	2	.5693
	3	.5646
	4	.5598
	5	.5551
	6	.5504
	7	.5456
	8	.5409
	9	.5362
	10	.5314
	11	.5267
6	0	.5220
	1	.5178
	2	.5136
	3	.5094
	4	.5052
	5	.5010
	6	.4968
	7	.4926
	8	.4884
	9	.4842
	10	.4800
	11	.4758
7	0	.4716
	1	.4678
	2	.4641
	3	.4603
	4	.4566
	5	.4529
	6	.4491
	7	.4454
	8	.4416
	9	.4379
	10	.4342
	11	.4304
8	0	.4267
	1	.4234
	2	.4200
	3	.4167
	4	.4134
	5	.4100
	6	.4067
	7	.4033
	8	.4000
	9	.3967
	10	.3933
	11	.3900
9	0	.3867
	1	.3837
	2	.3807
	3	.3777
	4	.3747
	5	.3718

Early Retirement Factors
by Year and Month

	6	.3688
	7	.3658
	8	.3628
	9	.3598
	10	.3569
	11	.3539
10	0	.3509
	1	.3482
	2	.3456
	3	.3429
	4	.3402
	5	.3375
	6	.3349
	7	.3322
	8	.3295
	9	.3269
	10	.3242
	11	.3215
11	0	.3188
	1	.3165
	2	.3141
	3	.3117
	4	.3093
	5	.3069
	6	.3045
	7	.3021
	8	.2997
	9	.2973
	10	.2949
	11	.2925
12	0	.2901
	1	.2879
	2	.2858
	3	.2836
	4	.2815
	5	.2793
	6	.2771
	7	.2750
	8	.2728
	9	.2707
	10	.2685
	11	.2664
13	0	.2642
	1	.2623
	2	.2603
	3	.2584
	4	.2564
	5	.2545
	6	.2526
	7	.2506
	8	.2487
	9	.2467
	10	.2448
	11	.2429
14	0	.2409
	1	.2392
	2	.2374
	3	.2357

Early Retirement Factors
by Year and Month

	4	.2339
	5	.2322
	6	.2304
	7	.2287
	8	.2269
	9	.2252
	10	.2234
	11	.2216
15	0	.2199
	1	.2183
	2	.2167
	3	.2151
	4	.2136
	5	.2120
	6	.2104
	7	.2088
	8	.2072
	9	.2057
	10	.2041
	11	.2025
16	0	.2009
	1	.1995
	2	.1980
	3	.1966
	4	.1952
	5	.1937
	6	.1923
	7	.1909
	8	.1894
	9	.1880
	10	.1866
	11	.1851
17	0	.1837
	1	.1824
	2	.1811
	3	.1798
	4	.1785
	5	.1772
	6	.1759
	7	.1746
	8	.1733
	9	.1720
	10	.1707
	11	.1694
18	0	.1681
	1	.1670
	2	.1658
	3	.1646
	4	.1634
	5	.1623
	6	.1611
	7	.1599
	8	.1587
	9	.1575
	10	.1564
	11	.1552
19	0	.1540
	1	.1529

Early Retirement Factors
by Year and Month

	2	.1519
	3	.1508
	4	.1497
	5	.1487
	6	.1476
	7	.1465
	8	.1455
	9	.1444
	10	.1433
	11	.1422
20	0	.1412
	1	.1402
	2	.1392
	3	.1383
	4	.1373
	5	.1363
	6	.1353
	7	.1344
	8	.1334
	9	.1324
	10	.1315
	11	.1305
21	0	.1295
	1	.1286
	2	.1277
	3	.1269
	4	.1260
	5	.1251
	6	.1242
	7	.1233
	8	.1224
	9	.1215
	10	.1207
	11	.1198
22	0	.1189
	1	.1181
	2	.1173
	3	.1165
	4	.1157
	5	.1149
	6	.1140
	7	.1132
	8	.1124
	9	.1116
	10	.1108
	11	.1100
23	0	.1092
	1	.1085
	2	.1077
	3	.1070
	4	.1063
	5	.1055
	6	.1048
	7	.1041
	8	.1033
	9	.1026
	10	.1018
	11	.1011

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
24	0	.1004	29	10	.0673
	1	.0997		11	.0668
	2	.0990		0	.0664
	3	.0984		1	.0659
	4	.0977		2	.0655
	5	.0970		3	.0651
	6	.0963		4	.0646
	7	.0957		5	.0642
	8	.0950		6	.0638
	9	.0943		7	.0634
	10	.0937		8	.0629
25	11	.0930	9	.0625	
	0	.0923	10	.0621	
	1	.0917	11	.0616	
	2	.0911	30	0	.0612
	3	.0905		1	.0608
	4	.0898		2	.0604
	5	.0892		3	.0600
	6	.0886		4	.0596
	7	.0880		5	.0592
	8	.0874		6	.0588
	9	.0868		7	.0584
10	.0862	8		.0580	
11	.0856	9		.0576	
26	0	.0849		10	.0572
	1	.0844	11	.0568	
	2	.0838	31	0	.0564
	3	.0833		1	.0561
	4	.0827		2	.0557
	5	.0821		3	.0553
	6	.0816		4	.0550
	7	.0810		5	.0546
	8	.0804		6	.0543
	9	.0799		7	.0539
	10	.0793		8	.0535
11	.0788	9		.0532	
27	0	.0782		10	.0528
	1	.0777	11	.0524	
	2	.0772	32	0	.0521
	3	.0767		1	.0517
	4	.0761		2	.0514
	5	.0756		3	.0511
	6	.0751		4	.0507
	7	.0746		5	.0504
	8	.0741		6	.0501
	9	.0736		7	.0497
	10	.0731		8	.0494
11	.0725	9		.0491	
28	0	.0720		10	.0487
	1	.0716	11	.0484	
	2	.0711	33	0	.0481
	3	.0706		1	.0478
	4	.0701		2	.0475
	5	.0697		3	.0471
	6	.0692		4	.0468
	7	.0687		5	.0465
	8	.0683		6	.0462
	9	.0678		7	.0459

Early Retirement Factors
by Year and Month

	8	.0456
	9	.0453
	10	.0450
	11	.0447
34	0	.0444
	1	.0441
	2	.0438
	3	.0435
	4	.0433
	5	.0430
	6	.0427
	7	.0424

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-340, filed 12/12/00, effective 1/12/01.]

WAC 415-110-400 Retirement allowance deduction for payment of insurance premiums. (1) Definitions. Unless a different meaning is plainly required by the context:

(a) "Group life insurance policy or plan" means a contract of group life insurance issued by an insurance carrier authorized to do business in the state of Washington which meets one of the group requirements set forth in chapter 48.24 RCW;

(b) "Group disability insurance policy or plan" means a group disability insurance contract issued by an insurance carrier authorized to do business in the state of Washington which meets the requirements of chapter 48.21 RCW, and the term shall also include a group health care service contract as issued pursuant to, and regulated by, the provisions of chapter 48.40 RCW.

(2) **Scope.** Any beneficiary of a retirement allowance payable for service or disability under the provisions of chapter 41.35 RCW may authorize the director to deduct from his or her retirement allowance, on a monthly basis only, the premiums on any group life or disability insurance policy or plan currently covering the beneficiary, issued to the employer by which the retiree was employed prior to retirement. The department and the director are not and will not be liable for any failure to make such deduction payments on time or in the proper amount.

(3) **Procedure.** Any beneficiary, who desires to authorize a retirement allowance deduction as provided by this section, shall notify the department of his or her intention in writing at least thirty days prior to the date that the first deduction is to be made and shall file with the department a formal authorization on such form as may be provided by the department.

(4) **Revocability.** You must submit to the department an express written statement of revocation to revoke an authorization for a retirement allowance deduction for payment of insurance premiums under this section. Such a revocation shall be applicable to the first retirement allowance deduction which would otherwise be made at the end of the calendar month following the month in which the statement of revocation is filed.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-400, filed 12/12/00, effective 1/12/01.]

REPORTABLE COMPENSATION

WAC 415-110-441 Purpose and scope of compensation earnable rules. WAC 415-110-443 through 415-110-488 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as compensation earnable in SERS Plan 2 and SERS Plan 3. 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-441, filed 12/12/00, effective 1/12/01.]

WAC 415-110-443 Reportable compensation table.

The following table is provided as a quick reference guide to help you characterize payments under SERS Plan 2 and SERS Plan 3. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines compensation earnable based upon the nature of the payment, not the name applied.

Type of Payment	SERS Plan 2 and Plan 3 Reportable Compensation
Annual Leave Cash Outs	No - WAC 415-110-456
Assault Pay	No - WAC 415-110-468
Base Rate	Yes - WAC 415-110-451
Car Allowances	No - WAC 415-110-485
Cafeteria Plans	Yes - WAC 415-110-455
Deferred Wages	Yes - WAC 415-110-459
Disability Payments	No - WAC 415-110-477
Disability Retirees	No - RCW 41.35.440/RCW 41.35.690 (until requirements are met)
Disability: Salary lost while on disability leave	Yes - WAC 415-110-468 RCW 41.35.070
Employer Provided Vehicle	No - WAC 415-110-480
Employer Contributions	No - WAC 415-110-459
Fringe Benefits	No - WAC 415-110-475
Illegal Payments	No - WAC 415-110-482
Legislative Leave	Yes - WAC 415-110-464
Longevity/Education Attainment Pay	Yes - WAC 415-110-451
Nonmoney Maintenance	No - WAC 415-110-470
Optional Payments	No - WAC 415-110-483
Payments in Lieu of Excluded Items	No - WAC 415-110-463
Performance Bonuses	Yes - WAC 415-110-453
Retroactive Salary Increase	Yes - WAC 415-110-457
Reimbursements	No - WAC 415-110-484
Reinstatement Payments	Yes - WAC 415-110-467
Retirement or Termination Bonuses	No - WAC 415-110-487
Severance Pay - Earned Over Time	No - WAC 415-110-458
Severance Pay - Not Earned Over Time	No - WAC 415-110-488
Shared Leave - School/ESD Employees	Yes - WAC 415-110-468
Sick Leave Cash Outs - School/ESD Employees	No - WAC 415-110-456

Standby Pay	Yes - WAC 415-110-469
Time Off With Pay	Yes - WAC 415-110-456 WAC 415-110-465
Union Leave	Yes - WAC 415-110-466 ^{1/}
Worker's Compensation	No - WAC 415-110-479

^{1/} Only specific types of union leave are reportable. See WAC 415-110-466.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-443, filed 12/12/00, effective 1/12/01.]

WAC 415-110-445 What compensation can be reported? In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of compensation earnable in RCW 41.35.010.

(1) **Payments for personal services rendered.** To determine whether a payment meets this definition and can be reported, ask the following questions:

(a) Was the payment earned as a salary or wage for personal services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).

(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, report the payment.

(2) **Payments included that are not for personal services rendered.** The legislature has included certain specific payments within the definition of compensation earnable even though those payments are not for personal services rendered by the employee to the employer. (See WAC 415-110-464 through 415-110-469.)

(3) **Reportable compensation is earned when the service is rendered, rather than when payment is made.**

Example: If a member works during September but does not receive payment for the work until October, the reportable compensation was earned during September and must be reported to the department as September earnings.

(4) **Salary characterizations are based upon the nature of the payment.** A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines whether a payment is reportable compensation by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of compensation earnable.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

(5) **Differences in reportable compensation between plans.** WAC 415-110-445 through 415-110-488 define

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reportable compensation for each of the two SERS plans. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-110-455 through 415-110-488 is the same for both SERS Plan 2 and SERS Plan 3.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-445, filed 12/12/00, effective 1/12/01.]

WAC 415-110-451 Salary or wages. Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services rendered and qualifies as reportable compensation. Two possible components of an employee's base rate are salary considerations based on longevity or educational attainment.

(1) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of performance due to greater experience or more education. The payment is therefore a payment for personal service and is reportable compensation.

(2) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-451, filed 12/12/00, effective 1/12/01.]

WAC 415-110-453 Performance bonuses. Bonuses that are based upon meeting certain performance goals are earned for services rendered and are reportable compensation. If a bonus was earned over a specified period of time, it should be prorated for reporting purposes.

Example: An employer pays each employee in the work group an additional \$100 if the work group had no work related accidents in the preceding year. Remaining accident free is a performance goal. Therefore, the payment is for services rendered and qualifies as reportable compensation. The bonus should be prorated over each of the preceding twelve months during which it was earned.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-453, filed 12/12/00, effective 1/12/01.]

WAC 415-110-455 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 reportable compensation if the employee has an absolute right to receive cash or deferred cash 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 reportable compensation, 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 reportable compensation, see WAC 415-110-475.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-455, filed 12/12/00, effective 1/12/01.]

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WAC 415-110-456 Leave payments earned over time. (1) **Sick and annual leave usage.** Sick leave and annual leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave accrued. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave cash outs are not reportable compensation for SERS Plan 2 and SERS Plan 3 members. Although annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered, they are excluded from the definition of compensation earnable by statute, see RCW 41.35.010 (6)(a).

(3) **Sick leave cash outs.** Sick leave cash outs are excluded from the definition of compensation earnable for SERS Plan 2 and SERS Plan 3 members by statute.

Sick leave cash outs are excluded from reportable compensation for:

- (i) School district employees by RCW 28A.400.210; and
- (ii) Educational service district employees by RCW 28A.310.490. See RCW 41.35.010 (6)(a).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-456, filed 12/12/00, effective 1/12/01.]

WAC 415-110-457 Retroactive salary increases. A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in lieu of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-110-467.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

- (a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;
- (b) A bona fide settlement of such a claim before a court or administrative agency;
- (c) A collective bargaining agreement; or
- (d) Action by the personnel resources board which expressly states the payments are retroactive.

(2) The payments will be deemed earned in the period in which the work was done.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-457, filed 12/12/00, effective 1/12/01.]

WAC 415-110-458 Severance pay earned over time. All forms of severance pay are excluded from earnable com-

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pensation and are not reportable for Plan 2 or Plan 3 by RCW 41.35.010 (6)(a).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-458, filed 12/12/00, effective 1/12/01.]

WAC 415-110-459 Payroll deductions. Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.

(1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-110-475.

(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as I.R.C. section 457 plan contributions or other authorized deductions, are reportable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-459, filed 12/12/00, effective 1/12/01.]

WAC 415-110-463 Payments not for services rendered. In general, payments cannot be reported to the retirement system unless they are for services rendered. However, the legislature has identified some types of compensation which are reportable even though they are not for services rendered.

(1) WAC 415-110-464 through 415-110-469 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-110-475 through 415-110-488 discuss some payments that are not a salary or wage for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-110-464 through 415-110-469 is not reportable compensation even if it is not listed in WAC 415-110-475 through 415-110-488.

(3) A payment made in lieu of a payment that is not for services rendered (such as a payment made in lieu of a car allowance) will be treated in the same way that the original payment was treated. Such a payment is not for services rendered and is not reportable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-463, filed 12/12/00, effective 1/12/01.]

WAC 415-110-464 Legislative leave. If a SERS member takes a leave without pay from an eligible position to serve in the legislature, the member may elect to participate in SERS as a legislator.

(1) The employee may choose between:

- (a) The reportable compensation he or she would have earned had the member not served in the legislature; or
- (b) The actual reportable compensation for nonlegislative public employment and the legislative service combined.

(2) If the member selects option (a) of this subsection, he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-464, filed 12/12/00, effective 1/12/01.]

WAC 415-110-465 Paid leave not earned over time. If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.35.470 and 41.35.650 identify payments received from the employer while on paid leave as reportable for SERS. Contributions are due on these payments to the extent they meet the following conditions:

(1) The payment is equal to the salary for the position that the person is on leave from;

(2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) and WAC 415-110-466.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-465, filed 12/12/00, effective 1/12/01.]

WAC 415-110-466 Union leave. If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) as appropriate, are met.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-466, filed 12/12/00, effective 1/12/01.]

WAC 415-110-467 Reinstatement or payment in lieu of reinstatement. If an employer makes payments to an employee for periods where the employee was not employed and those payments are made upon reinstatement of the employee or in lieu of reinstatement, the payments are not earned for services rendered. However, RCW 41.35.010(6) specifically designates such payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-467, filed 12/12/00, effective 1/12/01.]

WAC 415-110-468 Compensation authorized by statute for periods of absence due to sickness or injury. Compensation that a member receives for periods of absence due to sickness or injury are not payments for services rendered unless the payments are authorized pursuant to sick leave earned by the member for services rendered, see WAC 415-110-456. Certain specific types of payments for periods of absence due to sickness or injury have been included within the statutory definition of compensation earnable and therefore qualify as reportable compensation.

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(1) **Assault pay** qualifies as reportable compensation only to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Imputed compensation for periods of duty disability** that a member would have received but for a disability occurring in the line of duty qualify as reportable compensation only to the extent authorized by RCW 41.35.070.

(3) **Shared leave.**

(a) Compensation that an employee, as defined in RCW 41.04.655, receives due to participation in a leave sharing program to the extent authorized by RCW 41.04.650 through 41.04.670 qualifies as reportable compensation.

(b) Shared leave payments received by members who are not state employees, do not qualify as reportable compensation. Such payments are not for services rendered, nor are they specifically included within the statutory definition of compensation earnable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-468, filed 12/12/00, effective 1/12/01.]

WAC 415-110-469 Standby pay. Some employers pay employees for being on "standby." A member is on standby when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work if the need arises, although the need may not arise. Because the member is not actually working, the member is not rendering service. However, RCW 41.35.010(6) specifically identifies standby pay that meets the above requirements as reportable compensation. Although included in the definition of compensation earnable, time spent on standby is excluded from the definition of "service," see RCW 41.35.010(7).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-469, filed 12/12/00, effective 1/12/01.]

WAC 415-110-470 Nonmoney maintenance. Are payments from my employer in any form other than money considered compensation earnable? If you are a SERS Plan 2 or Plan 3 member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as compensation earnable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-470, filed 12/12/00, effective 1/12/01.]

WAC 415-110-475 Fringe benefits. Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-110-455) and matching and nonmatching employer contributions to a benefit plan.

Note: Mandatory salary deferrals are salary, not benefits. Such payments are reportable, see WAC 415-110-459.

Example: An employer makes matching payments to employees who participate in a deferred compensation plan. This is not a mandatory salary deferral for purposes of SERS reportable com-

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compensation. Since the employer matching payment (employer match) is made contingent upon employee plan participation, it is not payment for services rendered. Therefore, it is a fringe benefit that is not reportable compensation under SERS.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-475, filed 12/12/00, effective 1/12/01.]

WAC 415-110-477 Disability insurance. Disability insurance payments are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they are not reportable compensation. This is true whether the payments come directly from the employer or from an insurance company.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-477, filed 12/12/00, effective 1/12/01.]

WAC 415-110-479 Workers' compensation. Workers' compensation is paid to persons for periods when they are unable to work. Workers' compensation payments, like disability insurance, are not payments for services rendered and are not reportable compensation.

Example: Some employees on unpaid disability leave submit their workers' compensation payments to their employer who then issues the employee a check for the same amount through the payroll system. This exchange of payments does not change the character of the workers' compensation payment. Whether the payments come from the department of labor and industries, a self-insured employer, or have the appearance of coming from the employer, workers' compensation payments are not payments for services rendered and do not qualify as reportable compensation.

Note: A member may elect to make contributions and receive service credit for periods of disability covered by industrial insurance, see RCW 41.35.070.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-479, filed 12/12/00, effective 1/12/01.]

WAC 415-110-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable? You are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-480, filed 12/12/00, effective 1/12/01.]

WAC 415-110-482 Illegal payments. Payments made by an employer in excess of the employer's legal authority are not reportable.

Example: School districts are prohibited from increasing an employee's salary to include a payment in lieu of a fringe benefit per RCW 28A.400.220. If a district increased a person's salary instead of providing a fringe benefit, the payment would be illegal and should not be reported.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-482, filed 12/12/00, effective 1/12/01.]

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WAC 415-110-483 Optional payments. If an employee can receive an additional payment only on the condition of taking an action other than providing service to the employer, the payment is not for services rendered and is not reportable compensation.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to defer a portion of his or her salary. Because the employee does not have a right to receive the contribution based solely on the rendering of service, the employer payment is not reportable compensation.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-483, filed 12/12/00, effective 1/12/01.]

WAC 415-110-484 Reimbursements for expenses. Reimbursements are not earned for services rendered and thus are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, see WAC 415-110-485, or meal and lodging reimbursements for business trips.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-484, filed 12/12/00, effective 1/12/01.]

WAC 415-110-485 Vehicle allowances—Are vehicle allowances earnable compensation? (1) If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not compensation earnable. Your vehicle allowance does not qualify as compensation earnable if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes.

(2) **The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not compensation earnable.** If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) **Your vehicle allowance may qualify as compensation earnable to the extent that it exceeds your actual expenses.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is compensation earnable. Your employer must maintain monthly contemporaneous records documenting the following:

- (a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;
- (b) The miles you drove the vehicle on each of these trips; and
- (c) Your itinerary for each of these trips.

(4) **How to determine what amount of your vehicle allowance, if any, is reportable as compensation earnable.** If your employer documents that your vehicle allowance

exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as compensation earnable:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

(b) "IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(5) Your vehicle allowance qualifies as compensation earnable if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes. If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is compensation earnable.

(6) Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation. If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-485, filed 12/12/00, effective 1/12/01.]

WAC 415-110-487 Retirement bonus or incentive. A payment made to an employee as a bonus or incentive when retiring or terminating is not a payment for services rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive is not reportable compensation.

Example: A collective bargaining agreement authorizes a school district to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire or terminate. Because the payment is in exchange for the agreement to retire or terminate and not for services, the payment is not reportable compensation.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-487, filed 12/12/00, effective 1/12/01.]

WAC 415-110-488 Severance pay not earned over time—Contract buy outs. Severance pay that is not earned over time is not earned for services rendered and is not reportable. An example of severance pay not earned over time is a payment negotiated as part of termination agreement.

Example: At the time of an employee's termination the employer agrees to pay a lump sum payment equal to two months' salary. The employer identifies this payment as "severance pay." Because the payment was not earned for services rendered, it is not reportable compensation.

tion and will not be included in the retirement calculation.

For treatment of severance pay earned over time, see WAC 415-110-458.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-488, filed 12/12/00, effective 1/12/01.]

WAC 415-110-491 Salary imputed to periods of unpaid leave. In some circumstances specified in statute, a member may elect to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) Authorized unpaid leave. RCW 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) provides members with an option to establish service credit for periods of unpaid leave. RCW 41.35.070 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.

(2) Military leave. Salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member elects to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-491, filed 12/12/00, effective 1/12/01.]

MEMBERSHIP

WAC 415-110-550 Elected officials—Eligibility for retirement service membership. (1) For purposes of this section and WAC 415-110-570, and pursuant to RCW 41.35.030 and 41.35.010, "elected" officials means:

(a) Individuals who are elected or appointed to any vacant elective office at a school district or educational service district; or

(b) Active SERS members who become elected or appointed to any state elective position.

(2) An active member of SERS who is elected to a state elective position may elect to continue membership in SERS or apply for membership in PERS pursuant to RCW 41.40.023(3).

(3) An active member of SERS who is elected or appointed to a nonstate elective position for an employer other than a school district or educational service district, does not have the option to continue membership in SERS pursuant to such elected service. However, the member may apply for membership in PERS pursuant to RCW 41.40.023(3).

(4) Pursuant to RCW 41.35.030 (2)(a), elected officials are exempted from retirement system membership but may apply for membership during the official's current term of elected office. To apply for membership, the official shall submit a written application directly to the department. If the department approves the application, the elected official is entitled to establish membership and service credit retroactive to the first day of the official's current term of elected service. To establish such membership, the official shall pay the required employee contributions for the official's current term of elected service with interest as determined by the department.

(5) Upon establishing membership for the official's current term of elected office, the official is entitled to establish membership and service credit retroactive to the first day of any previous elected term or terms of office. The official will be required to establish membership for all consecutive terms of office. To exercise this option, the official shall apply to the department pursuant to subsection (4) of this section. If the department approves the application, the official shall:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, at its discretion, pay the required employer contributions plus interest in lieu of the employee making payment of this amount.

(6) If an official is employed in an eligible position at the time of election to office and will hold multiple positions concurrently the official may:

(a) Apply to the department to participate in membership pursuant to the official's elected position as provided in subsection (4) of this section; or

(b) Choose not to participate pursuant to the official's elected position while continuing membership through the nonelected position.

(7) Except as provided under RCW 41.35.030, once an elected official has exercised the option of becoming a member of the retirement system the official shall be a member until the official separates from all eligible public employment. An official does not separate from public employment when that official's term of office ends and the official commences another term of office in the same or a different position for the same employer without a break in service. An official does not separate from service if the official resigns from the official's elected position and is later reappointed to the same position during the same term.

(8) The department will apply this section to service by elected officials which occurred prior to the effective date of this section.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-550, filed 12/12/00, effective 1/12/01.]

WAC 415-110-560 Appointed officials—Eligibility and application for retirement service membership. (1) For purposes of this section and WAC 415-110-570, and pursuant to RCW 41.35.030 and 41.35.010, "appointed" officials means only those individuals who are active SERS members or were previously active SERS members and are appointed

directly by the governor to any position, including but not limited to, agency directorships and memberships on a state committee, board or commission.

(2) An individual must be a gubernatorial appointee or be appointed to serve in a position that meets the requirements of RCW 41.35.010 in order to be eligible for membership and service credit.

(3) Pursuant to RCW 41.35.030, appointed officials are exempted from retirement system membership but may apply for membership during the official's current appointed term of office. To apply for membership, the official shall submit a written application directly to the department. If the department approves the application, the official is entitled to establish membership and service credit retroactive to the first day of the official's current term of appointed service. To establish such membership, the official shall pay the required employee contributions for the official's current term of appointed service with interest as determined by the department.

(4) Upon establishing membership for the official's current term of appointed service, the official is entitled to establish membership retroactive to the first day of any previous elected term or terms of office. To exercise this option, the official shall apply to the department pursuant to subsection (3) of this section. If the department approves the application, the official shall:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, at its discretion, pay the required employer contributions plus interest in lieu of the employee making payment of this amount.

(c) "Current term of appointed service" includes an appointed official's entire current term of service. If the official has not been appointed to a position with a set term of office, "current term of appointed service" includes all uninterrupted service in the official's current appointed position.

(5) If an appointed official is employed in an eligible position at the time of appointment to office and will hold the two positions concurrently, the official may:

(a) Apply to the department to participate in membership pursuant to the appointed position as provided in subsection (3) of this section; or

(b) Choose not to participate pursuant to the official's appointed position while continuing membership through the nonappointive position.

(6) Once an appointed official has exercised the option of becoming a member of the retirement system either at the start of the official's initial term or at a successive term, the official shall be a member until the official separates from all eligible public employment. An appointed official does not separate from public employment when that official's term of office ends and the official commences another term of office in the same or a different position for the same employer without a break in service. An appointed official does not separate from service if the official resigns from the appointed position and is later reappointed to the position during the same term.

(7) The department will apply this section to service by appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-560, filed 12/12/00, effective 1/12/01.]

WAC 415-110-570 Elected and appointed officials—Requirements for service credit. (1) SERS members who were elected to office by statewide election and elect membership in SERS pursuant to WAC 415-110-550, may receive one month of service credit for each month during which they earn compensation pursuant to their elected positions.

(2) Except for officials covered under subsection (1) of this section, members who were elected to office or appointed by the governor to positions and elect membership in SERS pursuant to WAC 415-110-550 or 415-110-560, may receive service credit only for months during which they are compensated:

(a) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; and

(b) For ninety or more total hours of work.

(3) On or after September 1, 1991, except for officials covered under subsection (1) of this section, members who were elected to office or appointed by the governor to positions and elect membership in SERS pursuant to WAC 415-110-550 or 415-110-560, may earn:

(a) One month of service credit for each month during which they are compensated:

(i) For ninety or more total hours of work; and

(ii) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(b) One-half month of service credit for each month during which they are compensated:

(i) For less than ninety hours but equal to or more than seventy total hours of work; and

(ii) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(c) One-quarter month of service credit for each month during which they are compensated:

(i) For less than seventy total hours of work; and

(ii) In excess of ninety times the state hourly minimum wage in effect at the time they render the service.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-570, filed 12/12/00, effective 1/12/01.]

WAC 415-110-679 Purpose and scope of eligibility rules. WAC 415-110-680 through 415-110-728 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in Plan 2 and Plan 3. The department has applied and will apply these rules to determine eligibility for service occurring prior to effective dates of these sections.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-679, filed 12/12/00, effective 1/12/01.]

WAC 415-110-680 Am I eligible for membership? (1) You are eligible for membership if you are employed in an eligible position. Your position is eligible under RCW 41.35.010 if the position, as defined by your employer, nor-

mally requires at least five months of seventy or more hours of compensated service per month during each year.

(2) **If you leave an eligible position to serve in a project position, you may retain eligibility.** If you are a member and you leave employment in an eligible position to serve in a project position, the project position is eligible if:

(a) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

(b) The position requires at least seventy hours per month and you take the position with the understanding that you are expected to return to your permanent eligible position at the completion of the project.

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

(a) "Eligible position" - RCW 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Member" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

(e) "Normally" - WAC 415-110-0102.

(f) "Project position" - WAC 415-110-0103.

(g) "Year" - WAC 415-110-0108.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-680, filed 12/12/00, effective 1/12/01.]

WAC 415-110-690 How is my eligibility evaluated?

(1) **Your eligibility is based on your position. In evaluating whether your position is eligible, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.35.010.** 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 415-110-680); or

(b) Work in both a SERS and TRS position during the same school year (see WAC 415-110-728).

(2) **Your employer will evaluate your position's eligibility for a particular year at the beginning of the 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 eligibility;

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

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 position.** 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.

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

(a) "Eligible position" - RCW 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Ineligible position" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

(e) "Project position" - WAC 415-110-0103.

(f) "Report" - WAC 415-110-0104.

(g) "Year" - WAC 415-110-0108.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-690, filed 12/12/00, effective 1/12/01.]

WAC 415-110-700 Can I qualify for membership if I work in more than one ineligible position with the same employer? (1) All of your monthly work for an employer counts as one position. If you are employed with the same employer in two ineligible positions during a year which, when combined, equate to an eligible position and your employer expects you to continue in this employment for a second consecutive year, your employer will report the total hours you work in both positions to the department as an eligible position.

Example: A person normally works for one employer as a cook for forty hours each month and as a bus driver for forty hours each month. The person is eligible for membership because he works a total of eighty hours each month for at least five months each year and this is the normal pattern of his employment.

Example: A person normally works for one employer for forty hours each month as a cook. For one year only, she takes on extra duties by also working forty hours per month as a bus driver. Although she worked eighty hours each month for five or more months during one year, she is not eligible for membership because these hours are not the normal pattern of her employment.

Example: A person works for one employer for forty hours each month as a cook and also works for another employer for forty hours each month as a bus driver. The person is not eligible for membership because he cannot combine the

hours of employment with these separate employers to establish membership.

(2) **You may be reported in TRS if you work in two positions and one position is covered under TRS.** See WAC 415-110-728.

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

(a) "Eligible position" - RCW 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Ineligible position" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

(e) "Normally" - WAC 415-110-0102.

(f) "Report" - WAC 415-110-0104.

(g) "Year" - WAC 415-110-0108.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-700, filed 12/12/00, effective 1/12/01.]

WAC 415-110-710 If I work for an employer after I retire, will my retirement benefit be affected? (1) If you reenter membership after retiring, the department will suspend payment of your benefit.

(2) **You may work for an employer in some circumstances without reentering membership.** You may enter employment with an employer after retirement without having to reenter membership if:

(a) You are employed in an ineligible position; or

(b) You are employed in an eligible position on a temporary basis for five months or less in a calendar year.

(i) If you enter compensated employment in an eligible position during a month, that month is counted as a month of employment in the calendar year regardless of the number of hours you worked in the month.

(ii) If you are employed in an eligible position for any five months during a calendar year, the department will count your employment as five months of employment, regardless of whether or not the months are consecutive or your employment is with one or more employers.

(3) **You are required to reenter membership if you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year.** If you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year, you will reenter membership in the retirement system beginning with the sixth month of your employment. Effective at the beginning of the sixth month of your employment:

(a) Your employer will report you to the department; and

(b) The department will suspend your retirement allowance.

(4) **You are required to reenter membership if you become permanently reemployed in an eligible position.** If you become reemployed in an eligible position on a permanent basis, you will immediately become a member. Effective from the date of your reemployment in a permanent eligible position:

(a) Your employer will report you to the department; and

(b) The department will suspend your retirement allowance.

(5) **Meaning of employment on a temporary or permanent basis.**

(a) "Employed on a temporary basis" under subsection (2) of this section means your employer expects your employment to last for five months or less and not be on a recurring basis.

(b) "Employed on a permanent basis" under subsection (3) of this section means either:

(i) Your employer expects you to continue in your position for more than five months in any calendar year; or

(ii) Your employer expects you to continue in the same position for more than one year on a recurring basis and your employment is for five months or less during each year.

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

- (a) "Eligible position" - RCW 41.35.010.
- (b) "Employer" - RCW 41.35.010.
- (c) "Ineligible position" - RCW 41.35.010.
- (d) "Membership" - RCW 41.35.030.
- (e) "Report" - WAC 415-110-0104.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-710, filed 12/12/00, effective 1/12/01.]

WAC 415-110-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position? (1) You may be exempt from participating in membership even if you meet eligibility criteria. Even if you are employed in an eligible position you are exempt from participating in SERS if your individual circumstances qualify you for one of the exceptions to membership under RCW 41.35.030.

(2) **If you work for a SERS employer after you retire, you are subject to postretirement employment restrictions, even if you are excluded from participating in membership.** If you become employed in an eligible position after you retire, you are subject to the postretirement employ-

ment restrictions under RCW 41.35.230 even if you are excluded from membership.

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

- (a) "Eligible position" - RCW 41.35.010.
- (b) "Employer" - RCW 41.35.010.
- (c) "Ineligible position" - RCW 41.35.010.
- (d) "Membership" - RCW 41.35.030.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-720, filed 12/12/00, effective 1/12/01.]

WAC 415-110-725 If I have retired from another retirement plan or am eligible to retire, am I excluded from participating in SERS? (1) If you have retired or are eligible to retire from another retirement system authorized by the laws of this state, you cannot participate in SERS membership unless you accrued less than fifteen years of service credit in the other retirement plan.

(2) If you are receiving a disability allowance from any retirement system administered by the department, you cannot participate in SERS.

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

- (a) "Membership" - RCW 41.35.030.
- (b) "Retirement plan" - WAC 415-110-0105.
- (c) "Service" - RCW 41.35.010.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-725, filed 12/12/00, effective 1/12/01.]

WAC 415-110-728 If I work in both a SERS position and TRS position during the same school year, which system will I be in? (1) If you work in both a SERS and TRS position during the same year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either SERS or TRS according to the following table:

Former TRS Plan 1 Members ^{1/}

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a SERS-eligible position	Same SERS employer	SERS - for both positions.
	Separate SERS employers	SERS - for SERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.
A full-time teaching position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

TRS Plan 1 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.
A full-time or less than full-time TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

TRS Plan 2 or 3 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for TRS position only; your ineligible SERS position is not reported.
An eligible TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions. ^{3/}

SERS Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible SERS position and an ineligible TRS or substitute position	Same employer	SERS - for both positions.
	Separate SERS employers	SERS - for the SERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.

Neither TRS Nor SERS Member

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible SERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate SERS employers	Neither position reported.
A substitute teaching position and an ineligible SERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate SERS employers	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

^{1/} "Former TRS 1 member," as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same school year.

^{3/} EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible SERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the SERS position to the department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in SERS for the SERS position.

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

(a) "Eligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(b) "Employer" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(c) "Ineligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(d) "Member" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(e) "Membership" - RCW 41.35.030 (SERS).

(f) "Report" - WAC 415-110-0104.

(g) "Service" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-728, filed 12/12/00, effective 1/12/01.]

SERVICE RETIREMENT

WAC 415-110-820 Interim retirement allowance—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. Based upon estimates of the retiree's compensation and earned service credit through the date of retirement, the department shall compute an interim retirement allowance made payable to the member in the interim between the member's date of retirement and 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 shall, 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 shall impute the member's earned service credit for the same period.

(3) Following the department's computation of the interim benefit and receipt earnings history, the department shall complete a final computation of the member's retirement allowance. The department's final computation may either increase or decrease the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(4) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (3) of this section, the department may subsequently 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 earnable compensation to a member in the member's retirement allowance computation, or excluding earnable compensation not reported by an employer;

(d) Benefit overpayments and underpayments;

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

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-820, filed 12/12/00, effective 1/12/01.]

WAC 415-110-830 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan 2 member or the defined benefit retirement allowance of a Plan 3 member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan 2 or Plan 3 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.35.230 (Plan 2) or RCW 41.35.640 (Plan 3) as follows:

(a) If the member first retired before age sixty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.35.450 or 41.35.640 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-830, filed 12/12/00, effective 1/12/01.]

MEMBERSHIP CONVERSION

WAC 415-110-910 Conversion of service. (1) **You will be converted from PERS to SERS if:**

(a) You were employed with a school district or educational service district in an eligible position as of September 1, 2000;

(b) You participated and then separated in PERS prior to September 1, 2000, and became reemployed in an eligible position at a school district or educational service district after September 1, 2000;

(c) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS membership; and

(ii) Were a member as of September 1, 2000, at a school district or educational service district; or

(d) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS membership;

(ii) Separated from your PERS position; and

(iii) Become employed in an eligible SERS position prior to applying for reretirement in PERS.

(2) **What happens to my existing PERS service and account history when I am converted from PERS to**

SERS membership? All of your PERS service and account history with any PERS employer will be moved to SERS.

(3) How many times will my PERS service be moved to SERS? Your PERS service shall be moved to SERS only once pursuant to subsection (1) of this section. After you have been converted from PERS to SERS, subsequent reenrollment(s) into SERS shall not cause any additional conversions of any PERS service. Any future eligible employment in PERS shall be reported into PERS and any future eligible employment in SERS shall be reported into SERS.

Example: Employed in PERS prior to conversion. Joe has 15 years of service in PERS. He has been employed by a school district for the last 5 years. Joe previously was employed by a county for 10 years.

Conversion from PERS to SERS. Since Joe is employed with the school district on September 1, 2000, his PERS service is moved to SERS service. Both his 5 years of service with the school district and his 10 years of service with the county are moved to SERS. Joe's PERS account now has zero service credit and contributions; Joe's SERS account now has 15 years of service credit and contributions.

Return to PERS service. After another year of service with the school district, Joe separates employment with 16 years of credit in SERS and returns to employment with the county. Joe's 16 years of service remains in SERS and he begins to accrue service in PERS, starting from zero, for his new employment with the county.

Return to SERS employment. Joe works for the county for 5 years. He now has 5 years of service credit in PERS and he still has 16 years of service credit in SERS. Joe separates employment from the county and goes back to work in a SERS covered position with an educational service district. Joe's PERS employer will stop reporting him and the educational service district will begin reporting Joe into SERS. He will begin accumulating service in SERS starting at 16 years. The 5 years of service that Joe rendered at the county stays in PERS.

(4) If I am a PERS Plan 2 retiree and become employed in an eligible SERS position, will my service be converted from PERS to SERS? Except as allowed in subsection (1)(c) and (d) of this section, a PERS Plan 2 retiree will not have any of their service, account or retirement history converted to SERS.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-910, filed 12/12/00, effective 1/12/01.]

Chapter 415-111 WAC

PLAN 3—DEFINED CONTRIBUTION PLANS

WAC

ADMINISTRATION

- 415-111-100 Application of chapter.
- 415-111-110 Member and employer responsibility.
- 415-111-111 Monitoring deferral limits.

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INVESTMENT OPTIONS

- 415-111-210 Investment program election.
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- 415-111-230 Self-directed investment program allocation.
- 415-111-310 Defined contribution withdrawal.

ADMINISTRATION

WAC 415-111-100 Application of chapter. This chapter applies only to members of Plan 3 retirement systems created under chapters 41.32 (TRS) and 41.35 (SERS) RCW.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-100, filed 12/12/00, effective 1/12/01.]

WAC 415-111-110 Member and employer responsibility. (1) What am I responsible for as a Plan 3 member? As a Plan 3 member your responsibilities include, but are not limited to:

- (a) Adhering to published time frames;
- (b) Making investment decisions for your defined contribution account;
- (c) Reviewing account information provided on statements, such as quarterly statements, and notifying the correct organization of any errors;
- (d) Filling out the correct form for a requested action;
- (e) Correctly completing the appropriate form for a requested action and submitting the form to the correct organization as directed on each form; and
- (f) Monitoring to ensure contributions do not exceed Internal Revenue Code limits (see WAC 415-111-111).

(2) What can happen if I do not fulfill my responsibilities? If you do not fulfill your responsibilities, the consequences may include, but are not limited to:

- (a) You may not qualify for certain benefits, such as the transfer payment;
- (b) You may have a delay in the correction of errors on your account;
- (c) You may have a delay in the processing of your request for a defined contribution withdrawal; or
- (d) You may have a delay in the investment of your account as directed.

(3) What responsibilities do employers have? Employers' responsibilities include, but are not limited to:

- (a) Adhering to Plan 3 administrative requirements, including the respective roles of employers and employees, communicated to employers by the department in written materials and formal training.
- (b) Maintaining a supply of Plan 3 forms;
- (c) Submitting contributions to the department as soon as possible and at least in accordance with chapter 41.50 RCW;
- (d) Reporting an employee's Plan 3 transfer election as soon as possible after receipt of the appropriate form from the employee;
- (e) Submitting to DRS the form on which the member made their Plan 3 transfer election as soon as possible after receipt of the appropriate form;
- (f) Reporting an employee's contribution rate election as soon as possible after receipt of the appropriate form from the employee;

(g) Reporting an employee's investment program election as soon as possible after receipt of the appropriate form from the employee; and

(h) Monitoring to ensure that a member's contributions do not exceed Internal Revenue Code limits (see WAC 415-111-111).

(4) **What can happen if my employer does not fulfill their responsibilities?** If your employer does not fulfill their responsibilities, the consequences may include, but are not limited to:

(a) Your employer may have to make your member account whole;

(b) Your employer may be subject to penalties assessed by the department; or

(c) Your employer may be subject to penalties assessed by the Internal Revenue Service.

If the department determines that an employer has erred in its administrative role, such that an employee incurs an investment loss, the department will determine the amount of loss and bill the employer.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-110, filed 12/12/00, effective 1/12/01.]

WAC 415-111-111 Monitoring deferral limits. (1) **Can contributions in Plan 3 affect my deferral limits in other tax-deferred plans?** Yes. Contributions to Plan 3 reduce your taxable income; this may affect your deferral limits if you participate in another tax deferred program that has a maximum contribution based on a percentage of your taxable income. You should consult with the Internal Revenue Service, a tax advisor, or a financial advisor regarding all questions of federal or state tax implications arising from participation in Plan 3.

(2) **Who is responsible for ensuring that I do not exceed my tax deferral limits?** Both your employer and you are responsible for ensuring that you do not exceed your tax deferral limits:

(a) Employers are responsible for monitoring to ensure that the contributions you make to your employer-sponsored tax deferred plan(s) do not exceed the limits under the Internal Revenue Code.

(b) You are responsible for monitoring to ensure that the total contributions you make to all of your tax deferred plan(s) do not exceed the limits under the Internal Revenue Code if you participate in a tax deferred program(s) outside of your employer sponsored plan(s).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-111, filed 12/12/00, effective 1/12/01.]

INVESTMENT OPTIONS

WAC 415-111-210 Investment program election. You must choose between two investment programs: The total allocation portfolio, managed by the Washington state investment board, and a self-directed investment program. You may contribute to only one of these programs at a time. However, you may maintain accounts in both investment programs and transfer money between investment programs.

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Pursuant to WAC 415-111-110, you bear the responsibility for completing the correct form for making an investment program election and submitting it to your employer as directed on the form.

(1) **Where do I get the form to make my election?** Your employer must provide the appropriate form to elect an investment program if you are enrolling into Plan 3, transferring from Plan 2 to Plan 3, or changing your investment program.

(2) **When do I have to choose an investment program?** If you are a new member or are reenrolling, you must select one of the investment programs (the total allocation portfolio or the self-directed investment program) within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must select an investment program when you transfer. The ninety-day period does not apply to a member transferring from Plan 2 to Plan 3.

If it is determined you should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date it is discovered, as determined by the department, that you should have been reported.

(3) **What happens if I do not make an investment program election?** You will be assigned to the default investment program described in subsection (4) of this section, if:

(a) You are a new employee or changing your employer and do not make an investment program election within the ninety-day election period described in subsection (2) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not make an investment program election at the time of transfer.

(4) **What is the default investment program?** The default investment program is the total allocation portfolio of the Washington state investment board.

(5) **Can I change my investment program?** Once you have made an initial investment election or been directed into the default program, you may change your investment program at any time by submitting the appropriate form to your employer.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-210, filed 12/12/00, effective 1/12/01.]

WAC 415-111-220 Defined contribution rate election. A Plan 3 member shall contribute from his or her compensation according to one of the rate structures described in RCW 41.34.040.

Pursuant to WAC 415-111-110, you bear the responsibility for completing the correct form for making a contribution rate election and submitting it in a timely manner to your employer as directed on the form.

(1) **Where do I get the form to make my election?** Your employer must provide the appropriate form to elect a contribution rate if you are enrolling into Plan 3 or transferring from Plan 2 to Plan 3.

(2) **When do I have to elect a contribution rate?** You must irrevocably elect a contribution rate within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must elect a contribution rate when you transfer. The ninety-day

period does not apply to a member transferring from Plan 2 to Plan 3.

(a) Once a member elects a contribution rate, contributions will begin the first day of the pay cycle in which the member makes the election.

(b) If it is determined that a member should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date it is discovered, as determined by the department, that the member should have been reported.

(c) A Plan 3 member working in eligible positions for more than one employer may select a different contribution rate with each employer.

(3) What happens if I do not make a contribution rate election? Pursuant to RCW 41.34.040, you will be irrevocably assigned to Option A if:

(a) You are a new employee or changing your employer and do not make a contribution rate election within the ninety-day election period described in subsection (2) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not make a contribution rate election at the time of transfer. Contributions required under subsection (a) or (b) shall begin effective the first day of the pay cycle in which you are assigned to Option A.

(4) Can I change my contribution rate? Once you elect a contribution rate or are defaulted into Option A, you cannot change your contribution rate unless you change employers. Each time you change employers, you will be allowed the ninety-day period described in subsection (2) of this section to elect a new contribution rate. For the purposes of this section, employer is defined as each school district and each educational service district.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-220, filed 12/12/00, effective 1/12/01.]

WAC 415-111-230 Self-directed investment program allocation. This section applies only to members who elect the self-directed investment program pursuant to WAC 415-111-210.

(1) What is an allocation? An allocation is a set of instructions defining which self-directed investment program funds you wish your money to be invested in. The amount you allocate to each fund must be designated as a whole percentage. The sum of the percentages that you allocate must equal one-hundred percent.

Example: Martha has elected the self-directed program as her investment manager and is contributing \$150 per month. Martha decides to invest into three different funds with the following amounts: \$30 invested in fund #1, \$45 invested in fund #2 and \$75 invested in fund #3. To accomplish this she must establish the following allocation:

Allocation to fund #1	20%
Allocation to fund #2	30%
Allocation to fund #3	50%
Total Allocation	100%

(2) How do I establish an allocation? You must establish your allocation by contacting the department's design-

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ated recordkeeper. Once established, you may change your allocation at any time by contacting the department's designated recordkeeper.

(3) What happens if I do not designate an allocation? If you do not provide an allocation prior to any of your investment money being received by the department's designated recordkeeper, or if you provide an allocation where the sum of the allocated portions does not equal one-hundred percent, your investment money will be directed into the default fund such that:

(a) If your total allocations do not equal one-hundred percent, (i) the department will determine the percentage that is unallocated, and (ii) direct the unallocated percentage into the default fund.

Example: Ralph designates the following allocation: 33% fund #1, 33% fund #2, and 33% fund #3. Since the total allocation equals 99%, the unallocated 1% will be directed into the default fund.

(b) If the total allocations exceed one-hundred percent, the entire allocation will be directed into the default fund.

Example: Chris designates the following allocations: 38% into fund #1, 40% into fund #2, and 10% into fund #3 and 15% into fund #4. Since the total allocation equals 103%, all of Chris' investment money will be directed into the default fund.

(c) If no allocation is provided, the entire allocation will be directed into the default fund: Provided, That if the member previously participated in the self-directed investment program, the member's most recent allocation will be used. If that allocation includes a fund or funds that are no longer available, the portion of your investment money allocated to the unavailable fund(s) will be directed into the default fund.

Example: Lew is a new member and elects the self-directed investment program, but does not establish an allocation. All of Lew's investment money will be directed into the default fund.

Example: Linda becomes reemployed in an eligible position and elects to participate in the self-directed investment program again, but does not provide an allocation.

Linda previously participated in the self-directed investment program and had the following allocation:

- 10% in Fund #1
- 10% in Fund #2
- 30% in Fund #3
- 25% in Fund #4
- 25% in Fund #5

Since she did not establish a new allocation, her previous allocation will be used. However, fund #2 is no longer available so that part of her allocation will be directed into the default fund. A new allocation will be established for Linda as follows:

- 10% in Fund #1
- 10% in Default Fund
- 30% in Fund #3

25% in Fund #4
25% in Fund #5

(4) **What is the default fund?** The default fund for the self-directed investment program is the Money Market Fund.

(5) **Can I change my allocation?** Once you have established an allocation or been directed into the default fund, you may change your allocation at any time by contacting the department's designated recordkeeper.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-230, filed 12/12/00, effective 1/12/01.]

WAC 415-111-310 Defined contribution withdrawal.

(1) **How do I withdraw from my defined contribution account?** Except as otherwise allowed by RCW 41.34.070, you must meet the following criteria to withdraw from your defined contribution account:

(a) You must separate from all eligible employment;

(b) Notice of separation must be received by the department from your employer(s) through the retirement transmittal system; and

(c) You must submit the appropriate form for requesting a defined contribution withdrawal. Pursuant to WAC 415-111-110, you bear the responsibility for completing and submitting the form to the department's designated recordkeeper as directed on the form.

(2) **Can I still receive my defined contribution withdrawal if I return to work before receiving my withdrawal?** If you have made a request for payment and meet all of the criteria in subsection (1) of this section, you may return to work in an eligible position and still take payment of the requested defined contribution withdrawal.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-310, filed 12/12/00, effective 1/12/01.]

Chapter 415-112 WAC TEACHERS' RETIREMENT SYSTEM

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- 415-112-561 Administration of early retirement. [Statutory Authority: RCW 41.50.050. 93-20-020, § 415-112-561, filed 9/24/93, effective 10/25/93.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.
- 415-112-720 Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-720, filed 1/7/91, effective 2/7/91.] Repealed by 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.
- 415-112-722 Definitions for purposes of WAC 415-112-720 through 415-112-727. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-722, filed 1/7/91, effective 2/7/91.] Repealed by 93-20-021, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 41.32.345 and 41.50.050.
- 415-112-950 Mandatory selection of investment program. [Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-950, filed 4/21/00, effective 5/22/00.] Repealed by 01-01-059, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-112-010 Description of teachers' retirement system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-010, filed 2/15/78. Formerly WAC 462-04-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-112-0152 Day—Definition. [Statutory Authority: RCW 41.50.050. 97-01-015, § 415-112-0152, filed 12/6/96, effective 1/6/97; 95-16-053, § 415-112-0152, filed 7/25/95, effective 8/25/95.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-112-030 Appeals—Forms and procedures. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-030, filed 2/15/78. Formerly WAC 462-08-010.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-112-110 Teachers' retirement system employees eligible for membership. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-110, filed 2/15/78. Formerly WAC 462-16-020.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-112-410 Earnable compensation for Plan I TRS members. [Statutory Authority: RCW 41.32.010(11). 88-11-031 (Order 88-12), § 415-112-410, filed 5/13/88. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-410, filed 2/15/78. Formerly WAC 462-24-020.] Repealed by 97-03-016, filed 1/6/97, effective 2/6/97. Statutory Authority: RCW 41.50.050.
- 415-112-411 Earnable compensation for Plan II TRS members. [Statutory Authority: RCW 41.32.010(11). 88-11-031 (Order 88-12), § 415-112-411, filed 5/13/88.] Repealed by 97-03-016, filed 1/6/97, effective 2/6/97. Statutory Authority: RCW 41.50.050.
- 415-112-414 Back pay award or settlement—Definition—Allocated by the department for retirement system purposes. [Statutory Authority: RCW 41.32.010(11) and 41.32.160. 87-17-060 (Order DRS 87-07), § 415-112-414, filed 8/19/87.] Repealed by 97-03-016, filed 1/6/97, effective 2/6/97. Statutory Authority: RCW 41.50.050.
- 415-112-420 Determining the earnable compensation. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-420, filed 2/15/78. Formerly WAC 462-24-030.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-112-510 Eligibility for retirement with less than five years of Washington service credit. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-510, filed 2/15/78. Formerly WAC 462-28-010.] Repealed by 00-10-015, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050.
- 415-112-535 Definitions for administering RCW 41.32.570. [Statutory Authority: RCW 41.50.050 and 41.32.570. 91-21-084, § 415-112-535, filed 10/18/91, effective 11/18/91.]

WAC 415-112-015 Definitions. (1) All definitions in RCW 41.32.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: Provided, however, That if an employer authorizes only one type of leave to provide paid leave for vacation and illness, as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-015, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-112-015, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-015, filed 9/24/93, effective 10/25/93.]

WAC 415-112-0151 Contract period—Definition.

"Contract period" means for Plan I members as used in RCW 41.32.345 means the period from July 1 to June 30 of the following year.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0151, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0154 Ineligible position—Definition.

"Ineligible position" means a position which does not qualify as an eligible position under RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0154, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0156 Pension benefit—Definition.

"Pension benefit" means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0156, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0157 Public educational institution—

Definition. "Public educational institution" means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community colleges.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0157, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0158 Public school—Definition. (1)

"Public school," as defined in RCW 41.32.010, includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(2) As applied to other TRS employers, "public school" means an institution employing teachers and whose primary function is to educate students. "Employing teachers" means fifty percent or more of a public school's employees are qualified to teach as defined in WAC 415-112-0159.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0158, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0159 Qualified to teach—Definition.

"Qualified to teach," as used under RCW 41.32.010, means either:

(1) Having the authority to provide instruction at a common school as defined under RCW 28A.150.020 pursuant to:

(a) A valid teaching certificate issued by the office of the superintendent of public instruction under WAC 180-75-055; or

(b) A permit to teach issued by lawful authority of this state under RCW 28A.405.010; or

(2) Being employed under a contract to teach with an institution of higher education as defined in RCW 28A.150.020.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0159, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0160 Reportable compensation—Def-

inition. "Reportable compensation" means earnable compensation as that term is defined in RCW 41.32.010(10).

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-0160, filed 1/6/97, effective 2/6/97.]

WAC 415-112-0161 School year—Definition. (1)

"School year" for Plan I members means the fiscal year running from July 1 to June 30.

(2) "School year" for Plan II members means the twelve-month period from September 1 of one year to August 31 of the following year.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0161, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0162 Service in an administrative or supervisory capacity—Definition. As used under RCW 41.32.010 and in this chapter:

(1) "Service in an administrative or supervisory capacity," means:

(a) Service in a managerial role relating to the administration of a public school; or

[Title 415 WAC—p. 122]

(b) Service involving the exercise of direction over employees of the public school.

(2) The phrase "service in an administrative or supervisory capacity" includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0162, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0163 Service in an instructional capacity—Definition. "Service in an instructional capacity," means a qualified teacher performing services as a classroom teacher.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0163, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0165 Spousal consent—Definition.

"Spousal consent" means written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, when such application is duly executed and filed with the department, shall constitute "spousal consent."

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0165, filed 7/25/95, effective 8/25/95.]

WAC 415-112-0167 System acronyms—Definition.

The acronyms used in this chapter mean:

(1) "PERS" means the Public Employees' Retirement System.

(2) "TRS" means the Teachers' Retirement System.

(3) "SERS" means the School Employees' Retirement System.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-0167, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0167, filed 7/25/95, effective 8/25/95.]

WAC 415-112-020 Public records. See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-020, filed 2/15/78. Formerly WAC 462-05-001.]

WAC 415-112-040 Actuarial tables, schedules, and

factors. This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state teachers' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of teachers' retirement system. The tables, schedules, and factors contained in this chapter govern the retirement allowances only of members retiring on or after January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors

in effect at the time of each member's retirement. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the adoption of such new tables, schedules, and factors.

Teachers Retirement System TRS 1 Optional COLA*		Teachers Retirement System TRS 1 Option 1 Monthly Benefit per \$1.00 of Accumulation	
20	0.6315	20	.0061484
21	0.6330	21	.0061561
22	0.6345	22	.0061643
23	0.6361	23	.0061732
24	0.6378	24	.0061828
25	0.6395	25	.0061930
26	0.6413	26	.0062039
27	0.6432	27	.0062156
28	0.6451	28	.0062281
29	0.6471	29	.0062414
30	0.6491	30	.0062558
31	0.6512	31	.0062711
32	0.6534	32	.0062875
33	0.6556	33	.0063050
34	0.6579	34	.0063238
35	0.6603	35	.0063440
36	0.6628	36	.0063655
37	0.6653	37	.0063886
38	0.6679	38	.0064133
39	0.6706	39	.0064398
40	0.6734	40	.0064682
41	0.6762	41	.0064988
42	0.6792	42	.0065315
43	0.6822	43	.0065666
44	0.6853	44	.0066042
45	0.6885	45	.0066444
46	0.6918	46	.0066874
47	0.6952	47	.0067334
48	0.6986	48	.0067823
49	0.7022	49	.0068345
50	0.7058	50	.0068901
51	0.7095	51	.0069492
52	0.7133	52	.0070122
53	0.7173	53	.0070794
54	0.7213	54	.0071512
55	0.7254	55	.0072280
56	0.7296	56	.0073102
57	0.7339	57	.0073984
58	0.7382	58	.0074931
59	0.7427	59	.0075950
60	0.7473	60	.0077049
61	0.7520	61	.0078235
62	0.7567	62	.0079521
63	0.7615	63	.0080907
64	0.7665	64	.0082407
65	0.7714	65	.0084029
66	0.7765	66	.0085784
67	0.7816	67	.0087680
68	0.7868	68	.0089727
69	0.7920	69	.0091936

Teachers Retirement System TRS 1 Optional COLA*		Teachers Retirement System TRS 1 Option 1 Monthly Benefit per \$1.00 of Accumulation	
70	0.7972	70	.0094312
71	0.8025	71	.0096865
72	0.8078	72	.0099604
73	0.8132	73	.0102542
74	0.8185	74	.0105696
75	0.8239	75	.0109088
76	0.8292	76	.0112739
77	0.8346	77	.0116669
78	0.8399	78	.0120898
79	0.8452	79	.0125439
80	0.8504	80	.0130304
81	0.8557	81	.0135505
82	0.8608	82	.0141057
83	0.8659	83	.0146979
84	0.8710	84	.0153295
85	0.8760	85	.0160001
86	0.8810	86	.0167200
87	0.8859	87	.0174922
88	0.8908	88	.0183233
89	0.8956	89	.0192217
90	0.9003	90	.0201938
91	0.9049	91	.0212433
92	0.9095	92	.0223781
93	0.9140	93	.0236079
94	0.9184	94	.0249403
95	0.9227	95	.0263868
96	0.9269	96	.0279635
97	0.9310	97	.0296927
98	0.9350	98	.0315504
99	0.9390	99	.0335425

* For converting from the normal form Option 0 without a COLA, to Option 0 with a COLA

TEACHERS
RETIREMENT SYSTEM
PLAN 1

Early Retirement Factors
by Year and Month

0	0	1.0000
	1	.9927
	2	.9854
	3	.9780
	4	.9707
	5	.9634
	6	.9561
	7	.9488
	8	.9414
	9	.9341
	10	.9268
	11	.9195
1	0	.9122
	1	.9056
	2	.8990
	3	.8924
	4	.8858
	5	.8792

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	6	.8727		4	.5703
	7	.8661		5	.5663
	8	.8595		6	.5623
	9	.8529		7	.5583
	10	.8463		8	.5543
	11	.8397		9	.5503
2	0	.8331		10	.5463
	1	.8272		11	.5423
	2	.8213	7	0	.5383
	3	.8153		1	.5346
	4	.8094		2	.5310
	5	.8034		3	.5273
	6	.7975		4	.5237
	7	.7916		5	.5201
	8	.7856		6	.5164
	9	.7797		7	.5128
	10	.7737		8	.5092
	11	.7678		9	.5055
3	0	.7619		10	.5019
	1	.7565		11	.4982
	2	.7511	8	0	.4946
	3	.7457		1	.4913
	4	.7404		2	.4880
	5	.7350		3	.4847
	6	.7296		4	.4813
	7	.7243		5	.4780
	8	.7189		6	.4747
	9	.7135		7	.4714
	10	.7082		8	.4681
	11	.7028		9	.4648
4	0	.6974		10	.4615
	1	.6926		11	.4582
	2	.6877	9	0	.4548
	3	.6829		1	.4518
	4	.6780		2	.4488
	5	.6731		3	.4458
	6	.6683		4	.4428
	7	.6634		5	.4397
	8	.6586		6	.4367
	9	.6537		7	.4337
	10	.6489		8	.4307
	11	.6440		9	.4276
5	0	.6391		10	.4246
	1	.6347		11	.4216
	2	.6303	10	0	.4186
	3	.6259		1	.4158
	4	.6215		2	.4131
	5	.6171		3	.4103
	6	.6127		4	.4076
	7	.6083		5	.4048
	8	.6039		6	.4020
	9	.5995		7	.3993
	10	.5951		8	.3965
	11	.5907		9	.3938
6	0	.5863		10	.3910
	1	.5823		11	.3882
	2	.5783	11	0	.3855
	3	.5743		1	.3830

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	2	.3804	16	0	.2577
	3	.3779		1	.2560
	4	.3754		2	.2544
	5	.3729		3	.2528
	6	.3704		4	.2511
	7	.3678		5	.2495
	8	.3653		6	.2479
	9	.3628		7	.2462
	10	.3603		8	.2446
	11	.3578		9	.2430
12	0	.3552		10	.2413
	1	.3529		11	.2397
	2	.3506	17	0	.2381
	3	.3483		1	.2366
	4	.3460		2	.2351
	5	.3437		3	.2336
	6	.3414		4	.2321
	7	.3391		5	.2306
	8	.3368		6	.2291
	9	.3345		7	.2276
	10	.3322		8	.2261
	11	.3299		9	.2246
13	0	.3276		10	.2231
	1	.3254		11	.2216
	2	.3233	18	0	.2201
	3	.3212		1	.2187
	4	.3191		2	.2173
	5	.3170		3	.2159
	6	.3149		4	.2146
	7	.3128		5	.2132
	8	.3107		6	.2118
	9	.3085		7	.2104
	10	.3064		8	.2090
	11	.3043		9	.2077
14	0	.3022		10	.2063
	1	.3003		11	.2049
	2	.2983	19	0	.2035
	3	.2964		1	.2023
	4	.2945		2	.2010
	5	.2925		3	.1997
	6	.2906		4	.1984
	7	.2887		5	.1972
	8	.2867		6	.1959
	9	.2848		7	.1946
	10	.2828		8	.1934
	11	.2809		9	.1921
15	0	.2790		10	.1908
	1	.2772		11	.1896
	2	.2754	20	0	.1883
	3	.2736		1	.1871
	4	.2719		2	.1860
	5	.2701		3	.1848
	6	.2683		4	.1836
	7	.2665		5	.1824
	8	.2648		6	.1813
	9	.2630		7	.1801
	10	.2612		8	.1789
	11	.2594		9	.1778

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	10	.1766		8	.1220
	11	.1754		9	.1212
21	0	.1743		10	.1204
	1	.1732		11	.1196
	2	.1721	26	0	.1188
	3	.1710		1	.1181
	4	.1699		2	.1174
	5	.1689		3	.1167
	6	.1678		4	.1159
	7	.1667		5	.1152
	8	.1656		6	.1145
	9	.1646		7	.1138
	10	.1635		8	.1131
	11	.1624		9	.1123
22	0	.1613		10	.1116
	1	.1603		11	.1109
	2	.1593	27	0	.1102
	3	.1583		1	.1095
	4	.1573		2	.1088
	5	.1563		3	.1082
	6	.1554		4	.1075
	7	.1544		5	.1068
	8	.1534		6	.1062
	9	.1524		7	.1055
	10	.1514		8	.1048
	11	.1504		9	.1041
23	0	.1494		10	.1035
	1	.1485		11	.1028
	2	.1476	28	0	.1021
	3	.1466		1	.1015
	4	.1457		2	.1009
	5	.1448		3	.1003
	6	.1439		4	.0997
	7	.1430		5	.0991
	8	.1421		6	.0984
	9	.1411		7	.0978
	10	.1402		8	.0972
	11	.1393		9	.0966
24	0	.1384		10	.0960
	1	.1375		11	.0953
	2	.1367	29	0	.0947
	3	.1358		1	.0942
	4	.1350		2	.0936
	5	.1341		3	.0930
	6	.1333		4	.0924
	7	.1325		5	.0919
	8	.1316		6	.0913
	9	.1308		7	.0907
	10	.1299		8	.0902
	11	.1291		9	.0896
25	0	.1282		10	.0890
	1	.1274		11	.0884
	2	.1267	30	0	.0879
	3	.1259		1	.0873
	4	.1251		2	.0868
	5	.1243		3	.0863
	6	.1235		4	.0858
	7	.1227		5	.0852

Early Retirement Factors
by Year and Month

Early Retirement Factors
by Year and Month

	6	.0847
	7	.0842
	8	.0836
	9	.0831
	10	.0826
	11	.0820
31	0	.0815
	1	.0810
	2	.0805
	3	.0801
	4	.0796
	5	.0791
	6	.0786
	7	.0781
	8	.0776
	9	.0771
	10	.0766
	11	.0761
32	0	.0756
	1	.0752
	2	.0747
	3	.0743
	4	.0738
	5	.0734
	6	.0729
	7	.0725
	8	.0720
	9	.0716
	10	.0711
	11	.0707
33	0	.0702
	1	.0698
	2	.0694
	3	.0689
	4	.0685
	5	.0681
	6	.0677
	7	.0673
	8	.0668
	9	.0664
	10	.0660
	11	.0656
34	0	.0652
	1	.0648
	2	.0644
	3	.0640
	4	.0636
	5	.0632
	6	.0628
	7	.0624
	8	.0620
	9	.0617
	10	.0613
	11	.0609
35	0	.0605
	1	.0554
	2	.0504
	3	.0454

	4	.0403
	5	.0353
	6	.0302
	7	.0252
	8	.0202
	9	.0151
	10	.0101
	11	.0050

TRS I Survivor Options
Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.956	0.971	0.978
-19	0.955	0.969	0.977
-18	0.952	0.967	0.975
-17	0.950	0.966	0.974
-16	0.947	0.964	0.973
-15	0.944	0.962	0.971
-14	0.942	0.960	0.970
-13	0.939	0.958	0.968
-12	0.936	0.956	0.967
-11	0.933	0.954	0.965
-10	0.929	0.952	0.963
-9	0.927	0.950	0.962
-8	0.923	0.948	0.960
-7	0.920	0.945	0.958
-6	0.917	0.943	0.956
-5	0.913	0.940	0.955
-4	0.910	0.938	0.953
-3	0.904	0.934	0.950
-2	0.897	0.929	0.946
-1	0.887	0.922	0.940

Member Older

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.877	0.914	0.934
1	0.867	0.907	0.929
2	0.857	0.900	0.923
3	0.850	0.894	0.919
4	0.844	0.890	0.916
5	0.840	0.887	0.913
6	0.835	0.884	0.910
7	0.831	0.881	0.908
8	0.828	0.878	0.906
9	0.824	0.876	0.904
10	0.821	0.873	0.902
11	0.818	0.871	0.900
12	0.814	0.868	0.898
13	0.811	0.865	0.895
14	0.806	0.862	0.893
15	0.799	0.857	0.888
16	0.795	0.853	0.886
17	0.791	0.850	0.883
18	0.789	0.849	0.882

TRS II Survivor Options

Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.949	0.965	0.974
-19	0.947	0.964	0.974
-18	0.945	0.962	0.973
-17	0.941	0.960	0.972
-16	0.939	0.958	0.972
-15	0.936	0.956	0.971
-14	0.932	0.954	0.971
-13	0.928	0.951	0.969
-12	0.924	0.948	0.968
-11	0.919	0.945	0.966
-10	0.915	0.942	0.965
-9	0.912	0.939	0.962
-8	0.909	0.937	0.960
-7	0.905	0.934	0.956
-6	0.902	0.932	0.954
-5	0.898	0.930	0.951
-4	0.892	0.925	0.947
-3	0.883	0.919	0.941
-2	0.869	0.908	0.931
-1	0.851	0.895	0.920

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
30	0.646	0.732	0.785
31	0.643	0.730	0.783
32	0.640	0.727	0.781
33	0.637	0.725	0.778
34	0.635	0.723	0.777
35	0.632	0.721	0.775
36	0.630	0.719	0.773
37	0.628	0.717	0.772
38	0.626	0.715	0.770
39	0.624	0.714	0.769
40	0.622	0.712	0.767

Age difference = member's age minus beneficiary age

TEACHERS
RETIREMENT SYSTEM
PLAN 2

Early Retirement Factors
by Year and Month

Year	Month	Factor
0	0	1.0000
	1	.9916
	2	.9832
	3	.9748
	4	.9664
	5	.9580
	6	.9495
	7	.9411
	8	.9327
	9	.9243
	10	.9159
	11	.9075
1	0	.8991
	1	.8916
	2	.8842
	3	.8768
	4	.8693
	5	.8619
	6	.8545
	7	.8470
	8	.8396
	9	.8322
	10	.8247
	11	.8173
2	0	.8099
	1	.8033
	2	.7967
	3	.7901
	4	.7835
	5	.7769
	6	.7704
	7	.7638
	8	.7572
	9	.7506
	10	.7440
	11	.7374
3	0	.7308
	1	.7250
	2	.7191
	3	.7133

Member Older

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.832	0.881	0.908
1	0.814	0.868	0.897
2	0.797	0.855	0.887
3	0.784	0.845	0.879
4	0.777	0.839	0.875
5	0.770	0.834	0.870
6	0.763	0.829	0.866
7	0.757	0.824	0.862
8	0.751	0.819	0.858
9	0.746	0.815	0.855
10	0.740	0.810	0.851
11	0.735	0.806	0.847
12	0.729	0.801	0.843
13	0.722	0.795	0.838
14	0.713	0.789	0.833
15	0.706	0.783	0.828
16	0.700	0.778	0.824
17	0.696	0.774	0.821
18	0.691	0.771	0.818
19	0.687	0.767	0.814
20	0.683	0.763	0.811
21	0.679	0.760	0.809
22	0.675	0.757	0.806
23	0.670	0.753	0.802
24	0.666	0.749	0.799
25	0.663	0.747	0.797
26	0.659	0.743	0.794
27	0.655	0.740	0.792
28	0.652	0.738	0.789
29	0.649	0.735	0.787

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	4	.7074		2	.4407
	5	.7016		3	.4374
	6	.6957		4	.4340
	7	.6899		5	.4307
	8	.6840		6	.4273
	9	.6781		7	.4239
	10	.6723		8	.4206
	11	.6664		9	.4172
4	0	.6606		10	.4139
	1	.6554		11	.4105
	2	.6502	9	0	.4072
	3	.6449		1	.4042
	4	.6397		2	.4012
	5	.6345		3	.3981
	6	.6293		4	.3951
	7	.6241		5	.3921
	8	.6189		6	.3891
	9	.6137		7	.3861
	10	.6085		8	.3831
	11	.6032		9	.3800
5	0	.5980		10	.3770
	1	.5934		11	.3740
	2	.5887	10	0	.3710
	3	.5841		1	.3683
	4	.5794		2	.3656
	5	.5748		3	.3628
	6	.5701		4	.3601
	7	.5654		5	.3574
	8	.5608		6	.3547
	9	.5561		7	.3520
	10	.5515		8	.3493
	11	.5468		9	.3465
6	0	.5422		10	.3438
	1	.5380		11	.3411
	2	.5338	11	0	.3384
	3	.5297		1	.3359
	4	.5255		2	.3335
	5	.5214		3	.3310
	6	.5172		4	.3286
	7	.5130		5	.3261
	8	.5089		6	.3237
	9	.5047		7	.3212
	10	.5005		8	.3188
	11	.4964		9	.3163
7	0	.4922		10	.3139
	1	.4885		11	.3114
	2	.4847	12	0	.3089
	3	.4810		1	.3067
	4	.4773		2	.3045
	5	.4735		3	.3023
	6	.4698		4	.3001
	7	.4661		5	.2979
	8	.4623		6	.2956
	9	.4586		7	.2934
	10	.4549		8	.2912
	11	.4511		9	.2890
8	0	.4474		10	.2868
	1	.4441		11	.2846

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
13	0	.2823	18	10	.1849
	1	.2803		11	.1836
	2	.2783		0	.1822
	3	.2763		1	.1810
	4	.2743		2	.1797
	5	.2723		3	.1785
	6	.2703		4	.1772
	7	.2683		5	.1760
	8	.2663		6	.1747
	9	.2643		7	.1735
	10	.2623		8	.1723
14	11	.2603	19	9	.1710
	0	.2582		10	.1698
	1	.2564		11	.1685
	2	.2546		0	.1673
	3	.2528		1	.1662
	4	.2510		2	.1650
	5	.2491		3	.1639
	6	.2473		4	.1628
	7	.2455		5	.1616
	8	.2437		6	.1605
	9	.2419		7	.1594
15	10	.2400	20	8	.1582
	11	.2382		9	.1571
	0	.2364		10	.1560
	1	.2348		11	.1548
	2	.2331		0	.1537
	3	.2315		1	.1527
	4	.2298		2	.1516
	5	.2282		3	.1506
	6	.2265		4	.1496
	7	.2248		5	.1485
	8	.2232		6	.1475
16	9	.2215	21	7	.1465
	10	.2199		8	.1454
	11	.2182		9	.1444
	0	.2166		10	.1433
	1	.2151		11	.1423
	2	.2136		0	.1413
	3	.2121		1	.1403
	4	.2106		2	.1394
	5	.2091		3	.1384
	6	.2076		4	.1375
	7	.2061		5	.1366
17	8	.2046	22	6	.1356
	9	.2031		7	.1347
	10	.2016		8	.1337
	11	.2001		9	.1328
	0	.1986		10	.1318
	1	.1972		11	.1309
	2	.1959		0	.1299
	3	.1945		1	.1291
	4	.1931		2	.1282
	5	.1918		3	.1274
	6	.1904		4	.1265
7	.1890	5	.1256		
8	.1877	6	.1248		
9	.1863	7	.1239		

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	8	.1230		6	.0828
	9	.1222		7	.0823
	10	.1213		8	.0817
	11	.1205		9	.0812
23	0	.1196		10	.0806
	1	.1188		11	.0801
	2	.1180	28	0	.0795
	3	.1172		1	.0790
	4	.1164		2	.0785
	5	.1156		3	.0780
	6	.1149		4	.0775
	7	.1141		5	.0769
	8	.1133		6	.0764
	9	.1125		7	.0759
	10	.1117		8	.0754
	11	.1109		9	.0749
24	0	.1101		10	.0744
	1	.1094		11	.0739
	2	.1087	29	0	.0734
	3	.1079		1	.0729
	4	.1072		2	.0724
	5	.1065		3	.0720
	6	.1058		4	.0715
	7	.1051		5	.0710
	8	.1043		6	.0705
	9	.1036		7	.0701
	10	.1029		8	.0696
	11	.1022		9	.0691
25	0	.1014		10	.0687
	1	.1008		11	.0682
	2	.1001	30	0	.0677
	3	.0994		1	.0673
	4	.0988		2	.0669
	5	.0981		3	.0664
	6	.0975		4	.0660
	7	.0968		5	.0656
	8	.0961		6	.0651
	9	.0955		7	.0647
	10	.0948		8	.0643
	11	.0941		9	.0638
26	0	.0935		10	.0634
	1	.0929		11	.0630
	2	.0923	31	0	.0625
	3	.0917		1	.0621
	4	.0911		2	.0617
	5	.0904		3	.0613
	6	.0898		4	.0609
	7	.0892		5	.0605
	8	.0886		6	.0602
	9	.0880		7	.0598
	10	.0874		8	.0594
	11	.0868		9	.0590
27	0	.0862		10	.0586
	1	.0856		11	.0582
	2	.0851	32	0	.0578
	3	.0845		1	.0574
	4	.0840		2	.0570
	5	.0834		3	.0567

Early Retirement Factors
by Year and Month

Early Retirement Factors
by Year and Month

	4	.0563		2	.0385
	5	.0559		3	.0383
	6	.0556		4	.0381
	7	.0552		5	.0378
	8	.0548		6	.0376
	9	.0545		7	.0373
	10	.0541		8	.0371
	11	.0537		9	.0368
33	0	.0534		10	.0366
	1	.0530		11	.0364
	2	.0527	38	0	.0361
	3	.0524		1	.0359
	4	.0520		2	.0357
	5	.0517		3	.0354
	6	.0514		4	.0352
	7	.0510		5	.0350
	8	.0507		6	.0348
	9	.0503		7	.0345
	10	.0500		8	.0343
	11	.0497		9	.0341
34	0	.0493		10	.0339
	1	.0490		11	.0336
	2	.0487	39	0	.0334
	3	.0484		1	.0332
	4	.0481		2	.0330
	5	.0478		3	.0328
	6	.0475		4	.0326
	7	.0472		5	.0324
	8	.0469		6	.0322
	9	.0465		7	.0320
	10	.0462		8	.0318
	11	.0459		9	.0316
35	0	.0456		10	.0313
	1	.0453		11	.0311
	2	.0450	40	0	.0309
	3	.0448		1	.0307
	4	.0445		2	.0306
	5	.0442		3	.0304
	6	.0439		4	.0302
	7	.0436		5	.0300
	8	.0433		6	.0298
	9	.0430		7	.0296
	10	.0428		8	.0294
	11	.0425		9	.0292
36	0	.0422		10	.0290
	1	.0419		11	.0288
	2	.0417	41	0	.0286
	3	.0414		1	.0285
	4	.0411		2	.0283
	5	.0409		3	.0281
	6	.0406		4	.0279
	7	.0403		5	.0278
	8	.0401		6	.0276
	9	.0398		7	.0274
	10	.0396		8	.0272
	11	.0393		9	.0271
37	0	.0390		10	.0269
	1	.0388		11	.0267

Early Retirement Factors
by Year and Month

42	0	.0265
	1	.0264
	2	.0262
	3	.0260
	4	.0259
	5	.0257
	6	.0255
	7	.0254
	8	.0252
	9	.0251
	10	.0249
43	11	.0247
	0	.0246
	1	.0244
	2	.0243
	3	.0241
	4	.0240
	5	.0238
	6	.0237
	7	.0235
	8	.0234
	9	.0232
44	10	.0231
	11	.0229
	0	.0228
	1	.0226
	2	.0225
	3	.0223
	4	.0222
	5	.0221
	6	.0219
	7	.0218
	8	.0216
45 or more	9	.0215
	10	.0214
	11	.0212
	0	.0211

[Statutory Authority: RCW 41.50.050. 96-03-100, § 415-112-040, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050 and 41.32.140. 91-19-065, § 415-112-040, filed 9/16/91, effective 10/17/91; 91-02-020, § 415-112-040, filed 12/21/90, effective 1/21/91.]

MEMBERSHIP

WAC 415-112-100 Minimum requirement for membership. With respect to members of TRS Plan 1 only, ninety

calendar days of employment within a fiscal year as a full-time teacher, or the equivalent of ninety days of service within a fiscal year as a teacher employed on a part-time, occasional, hourly, or daily basis, shall be required, together with necessary contributions, before membership in the teachers' retirement system is established and before the director may approve an application for cancellation of exemption, for the granting of additional credit for previous service, or for the payment of any benefit.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-100, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-100, filed 2/15/78. Formerly WAC 462-16-010.]

WAC 415-112-119 Purpose and scope of eligibility rules. WAC 415-112-120 through 415-112-155 codifies the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in TRS 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. 95-16-053, § 415-112-119, filed 7/25/95, effective 8/25/95.]

WAC 415-112-120 Am I eligible to establish membership? (1) **You must be a teacher.** You are eligible to establish membership as provided under WAC 415-112-125 only if you work as a teacher. You are a teacher if you are qualified to teach and work for a public school in an instructional, administrative or supervisory capacity.

(2) **Nonteaching positions.** Positions which do not require service in an instructional, administrative or supervisory capacity include, but are not limited to, the following: Custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, and payroll clerk.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-120, filed 7/25/95, effective 8/25/95.]

WAC 415-112-125 If I am eligible, how can I establish membership? (1) **If you met the conditions in the following table, you established TRS membership.** Your plan status depends upon the date you established membership, as indicated in the following table:

Period of Service	Type of Employment	Plan
Prior to 10/01/77 ¹¹	If you were contracted to teach full-time you were mandated into membership.	Plan 1
	If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days ²¹ during a fiscal year.	

10/01/77 through 06/06/90	<p>If you were contracted to teach full-time you were required to be a member.</p> <p>If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days² during a school year, provided 1 month had at least 90 hours.</p>	Plan 2
6/07/90 through 08/31/91	<p>You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during a school year).</p> <p>For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.</p>	Plan 2
9/01/91 forward	<p>You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during a school year).</p> <p>For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.</p>	Plan 2
7/01/96	<p>You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during the school year).</p> <p>For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.</p>	Plan 3

¹ If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.

² "Ninety days of employment," under RCW 41.32.240 and this section means either:

- (a) Ninety full-time calendar days, or the equivalent, during a school year if you were employed as a teacher under a contract; or
- (b) Ninety full-time days of actual, compensated service, or the equivalent, during a school year if you were employed as a substitute teacher.
- (c) The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

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

- (a) "Member" - RCW 41.32.010.
- (b) "Eligible position" - RCW 41.32.010.
- (c) "Employer" - RCW 41.32.010.
- (d) "Full-time" - RCW 41.32.240
- (e) "Service" - RCW 41.32.010.
- (f) "Substitute teacher" - RCW 41.32.010.
- (g) "Teacher" - RCW 41.32.010.
- (h) "School year" - WAC 415-112-0161.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-125, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-125, filed 7/25/95, effective 8/25/95.]

WAC 415-112-130 If I separate from, and then reenter employment, can I continue to participate in TRS? (1) If you are a TRS Plan 1 member, you will participate in TRS Plan 1 if you become reemployed with a TRS employer. If you are a Plan 1 member and have separated from service without withdrawing contributions, you will participate in the system again if you become reemployed with a TRS employer, even if you are not working as a teacher.

(2) If you terminate TRS Plan 1 membership, you will not reenter TRS Plan 1 unless you requalify for membership or repay withdrawn contributions as a dual member. If you were a Plan 1 member and have terminated your mem-

bership, you can reestablish your membership and be eligible to participate in the system again only if you:

- (a) Become reemployed as a teacher in a position or positions meeting the membership eligibility criteria under RCW 41.32.240 and WAC 415-112-125(1); or
- (b) Repaid withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).

(3) If you have service credit in TRS Plan 2, you will only reestablish membership if you work as a teacher in an eligible position. If you were a Plan 2 member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:

- (a) Become reemployed as a teacher; and
- (b) Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).

(4) If you have service credit in TRS Plan 3, you will only reestablish membership if you work as a teacher in an eligible position. If you were a Plan 3 member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:

- (a) Become reemployed as a teacher; and
- (b) Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).

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

- (a) "Dual member" - RCW 41.54.010 and WAC 415-113-041.
- (b) "Eligible position" - RCW 41.32.010.
- (c) "Employer" - RCW 41.32.010.
- (d) "Member" - RCW 41.32.010.
- (e) "Service" - RCW 41.32.010.
- (f) "Service in an administrative or supervisory capacity" - WAC 415-112-0162.
- (g) "Service in an instructional capacity" - WAC 415-112-0163.
- (h) "Teacher" - RCW 41.32.010.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-130, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-130, filed 7/25/95, effective 8/25/95.]

WAC 415-112-135 Can I be a member if I work as an educational staff associate? (1) You are eligible for membership if you are certificated and employed as an educational staff associate. You are a teacher for purposes of TRS membership if you:

- (a) Possess a valid educational staff associate certificate issued by the office of the superintendent of public instruction under WAC 180-75-055(3); and
 - (b) Serve in an educational staff associate position.
- (2) Positions which qualify as an educational staff associate.** "Educational staff associate," includes but is not limited to a person employed by a public school in any of the following positions: Communications disorder specialist, occupational therapist, physical therapist, reading resource technician, school counselor, school nurse, school psychologist, school social worker and school librarian.

(3) If you were enrolled in PERS before June 7, 1984, based on your employment as an educational staff associate, you may remain in PERS. If you were enrolled in the PERS prior to June 7, 1984, based on employment as an educational staff associate, you will remain in PERS unless you choose either to:

- (a) Transfer your membership to TRS within the time limits established in RCW 41.32.032; or
- (b) Terminate your membership in PERS by withdrawing your accumulated contributions.

(4) If you were enrolled in PERS prior to June 7, 1984, based on employment as an educational staff associate and converted to SERS you may maintain your SERS membership. If you were enrolled in the PERS prior to June 7, 1984, based on employment as an educational staff associate, and were converted to SERS membership under RCW 41.40.750, you will remain in SERS unless you choose either to:

- (a) Transfer your membership to TRS within the time limits established in RCW 41.32.032; or
- (b) Terminate your membership in SERS Plan 2 by withdrawing your accumulated contributions.

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

- (a) "Member" - RCW 41.32.010.
- (b) "Employer" - RCW 41.32.010.
- (c) "Public school" - RCW 41.32.010 and WAC 415-112-0158.

- (d) "Service" - RCW 41.32.010.
- (e) "Teacher" - RCW 41.32.010.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-135, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-135, filed 7/25/95, effective 8/25/95.]

WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher? (1) You may apply for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria.

(a) TRS Plan 1.

(i) If you are a former Plan 1 member, you may apply to reestablish Plan 1 membership if you work ninety or more full-time days during a school year as a teacher.

(ii) If you are a Plan 1 member, you may apply to the department for service credit in Plan 1 as a substitute teacher if you work a minimum of twenty full-time days during a school year.

(b) TRS Plan 2.

(i) You may apply to the department for membership in Plan 2 if you:

(A) Work at least seventy hours for five or more months during a school year; or

(B) Worked at least ninety hours for two consecutive months during the school year of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan 2 and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher during a school year.

(c) TRS Plan 3.

(i) You may apply to the department for membership in Plan 3 if you:

(A) Began employment after July 1, 1996; and

(B) Work at least seventy hours for five or more months during a school year.

(ii) If you have established membership in Plan 3, either by transferring from Plan 2 or establishing membership after July 1, 1996, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher during a school year.

(2) To apply, you must submit your employer's quarterly reports to the department at the end of a year.

(a) To apply for membership and service credit as a substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:

(i) June 30 of the year for which you are applying for Plan 1 service credit; or

(ii) August 31 of the year for which you are applying for Plan 2 or Plan 3 service credit.

(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.

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

- (a) "Member" - RCW 41.32.010.

- (b) "Service" - RCW 41.32.010.
- (c) "Substitute teacher" - RCW 41.32.010.
- (d) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-140, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-140, filed 7/25/95, effective 8/25/95.]

WAC 415-112-145 Can I terminate my status as a member? (1) If you are a TRS Plan 1 member, you will remain a member until you:

- (a) Die;
- (b) Retire for service or disability; or
- (c) Withdraw your accumulated contributions.

(2) If you are a TRS Plan 2 member, you will remain a member until you:

- (a) Die;
- (b) Retire for service or disability; or
- (c) Separate from service as a teacher in an eligible position.

(3) If you are a TRS Plan 3 member, you will remain a member until you:

- (a) Die; or
- (b) Retire for service or disability.

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

- (a) "Eligible position" - RCW 41.32.010.
- (b) "Member" - RCW 41.32.010.
- (c) "Service" - RCW 41.32.010.
- (d) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-145, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-145, filed 7/25/95, effective 8/25/95.]

WAC 415-112-155 If I work in both a TRS position and PERS position during the same school year, which system will I be in? (1) If you work in both a TRS and PERS position during the same school year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS or PERS according to the following tables:

Former TRS Plan 1 Members ¹

Type of Employment ²	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, you must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

TRS Plan 1 Members

Type of Employment ^{2L}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

TRS Plan 2 Members

Type of Employment ^{2L}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. ^{2L}
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

PERS Members

Type of Employment ^{2L}	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125 (1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Neither TRS Nor PERS Member

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

^{1/} "Former TRS 1 member", as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same school year.

^{3/} EXAMPLE: A TRS 2 member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS 2.

EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

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

(a) "Eligible position" - RCW 41.32.010 (TRS); RCW 41.40.010 (PERS).

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Full time" - RCW 41.32.240.

(d) "Ineligible position" - WAC 415-112-0154 (TRS); RCW 41.40.010 (PERS).

(e) "Member" - RCW 41.40.010.

(f) "Membership" - RCW 41.40.023.

(g) "Report" - WAC 415-108-0104.

(h) "Service" - RCW 41.40.010.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-155, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-155, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-155, filed 7/25/95, effective 8/25/95.]

WAC 415-112-156 If I work in both a TRS position and SERS position during the same school year, which system will I be in? (1) If you work in both a TRS and SERS position during the same year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS and SERS according to the following table:

Former TRS Plan 1 Members ^{1/}

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a SERS-eligible position	Same SERS employer	SERS - for both positions.
	Separate SERS employers	SERS - for SERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.
A full-time teaching position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

TRS Plan 1 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

TRS Plan 1 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

TRS Plan 2 or 3 Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for TRS position only; your ineligible SERS position is not reported.
An eligible TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions. ^{3/}

SERS Members

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An eligible SERS position and an ineligible TRS or substitute position	Same employer	SERS - for both positions.
	Separate SERS employers	SERS - for the SERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125 (1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.

Neither TRS Nor SERS Member

Type of Employment ^{2/}	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible SERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate SERS employers	Neither position reported.
A substitute teaching position and an ineligible SERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate SERS employers	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

^{1/} "Former TRS 1 member," as used here, means you terminate your membership by withdrawing your contributions.

^{2/} Means during the same school year.

^{3/} EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible SERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the SERS position to the department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in SERS for the SERS position.

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

(a) "Eligible position" - RCW 41.35.010(SERS); RCW 41.32.010 (TRS).

(b) "Employer" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(c) "Ineligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(d) "Member" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(e) "Membership" - RCW 41.35.030 (SERS).

(f) "Report" - WAC 415-110-0104.

(g) "Service" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-156, filed 12/12/00, effective 1/12/01.]

SERVICE CREDIT

WAC 415-112-200 Establishing credit for previous service. (1) Additional credit for previous creditable service may be established or reestablished only by a member of the teachers' retirement system. If a member interrupts Washington public school service but does not terminate his member-

ship in the teachers' retirement system, and subsequently renders creditable service such as military service, professional preparation, or other creditable service for which service credit is not established with the teachers' retirement system, he must return to Washington public school service for twenty or more days within a fiscal year in order to establish additional credit for any such creditable service.

(2) Once a member becomes eligible to establish or reestablish additional credit for previous service, he retains the right to establish or reestablish such additional credit while his membership is in effect and whether or not he is continuously employed in Washington public school service, provided he applies to the department, submits satisfactory proof of his service, and makes the required initial payment within the time limit established by law.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-200, filed 2/15/78. Formerly WAC 462-20-005.]

WAC 415-112-210 Withdrawal before final date for establishing additional credit. Any member who withdraws from the teachers' retirement system within the period provided by law for establishing additional service credit may, upon returning to membership, have another opportunity to establish credit for previous creditable service, subject to the laws in effect when his membership is reestablished.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-210, filed 2/15/78. Formerly WAC 462-20-010.]

WAC 415-112-220 Withdrawal before making final payment to establish additional credit. A member who has completed arrangements to establish or reestablish additional credit for previous service, but who withdraws before the final payment is due and before making the final payment may, upon returning to membership, have another opportunity to establish such additional credit, subject to the laws in effect when he returns to membership.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-220, filed 2/15/78. Formerly WAC 462-20-015.]

WAC 415-112-230 Failure to make final payment to establish credit. When a member enters into an arrangement to establish or reestablish additional credit for previous service and fails to make the final payment within the time limit established by law, such arrangement is terminated, and any payments made for such service credit shall be returned to the member.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-230, filed 2/15/78. Formerly WAC 462-20-020.]

WAC 415-112-240 Service credit to be retroactive. Service rendered during the ninety days of employment or the ninety days of service required to establish membership after July 1, 1964, shall qualify as creditable service after membership has been established, except as to Plan II members.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-240, filed 2/15/78. Formerly WAC 462-20-025.]

(2001 Ed.)

WAC 415-112-250 Credit allowed for leave with pay. If a Plan I member is otherwise eligible, service credit shall be allowed for any time subsequent to July 1, 1960, during which a member is on official leave from his position, provided he is still listed as employed by his employer and is receiving compensation for the time of his leave.

Plan II members may receive such credit in accordance with chapter 295, Laws of 1977 ex. sess. as now or hereafter amended.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-250, filed 2/15/78. Formerly WAC 462-20-030.]

WAC 415-112-260 Credit for service in higher institutions. Service credit for teaching in public higher educational institutions shall be evaluated under the same rules and regulations as apply to service credit in public common schools.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-260, filed 2/15/78. Formerly WAC 462-20-035.]

WAC 415-112-270 Evaluating credit for professional preparation. If a TRS Plan 1 member is otherwise eligible, professional preparation credit may be allowed for additional study at an institution of higher learning, or at a commercial or technical school where the courses supplement the member's professional preparation. Thirty-six quarter hours of credit, or the equivalent, shall be considered a year's work. Any less credits shall be evaluated as a fractional part of a year.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-270, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-270, filed 2/15/78. Formerly WAC 462-20-040.]

WAC 415-112-280 Credit for teaching United States military personnel. A member who accepts teaching or educational employment involving service to United States military personnel may be allowed service credit for the same upon application after his return to Washington public school employment and payment of annuity fund contributions within the time limit provided by law, but the service for which credit is requested must be supervised and/or paid for by a public educational institution, and such service rendered for an employer located outside the state of Washington shall be subject to the limitations which govern the granting of credit for out-of-state service.

Military service credits for Plan II members will be governed by the provisions of chapter 293, Laws of 1977 ex. sess.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-280, filed 2/15/78. Formerly WAC 462-20-045.]

WAC 415-112-290 Credit for out-of-state service. (1) A TRS Plan 1 member who leaves Washington public school service and terminates his membership in the teachers' retirement system by lapsation or withdrawal and who subsequently returns to service and membership may establish or reestablish only such credit for out-of-state service as may be credited under the laws in effect at the time when he reestablishes membership.

(2) Effective July 1, 1964, a new or former TRS Plan 1 member who returns to membership after his former membership was cancelled by lapsation or withdrawal may not establish or reestablish out-of-state prior service credit of any kind, including out-of-state prior service credit for teaching, professional preparation, or military service.

(3) Out-of-state membership service credit, regardless of when the service was rendered, may be established or reestablished after July 1, 1964, within the limitations of existing law, only if the out-of-state service was rendered while the member was on official leave of absence granted by a state of Washington employer.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-290, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-290, filed 2/15/78. Formerly WAC 462-20-055.]

WAC 415-112-300 Red Cross service. Service credit shall not be allowed for service with the National Red Cross organization.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-300, filed 2/15/78. Formerly WAC 462-20-060.]

WAC 415-112-310 Civilian Conservation Corps service. Service credit shall not be allowed for service as a teacher or educational advisor in the Civilian Conservation Corps camps.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-310, filed 2/15/78. Formerly WAC 462-20-065.]

WAC 415-112-320 Service as a Peace Corps volunteer. A member of the teachers' retirement system who serves as a Peace Corps volunteer shall not be considered as employed in public school teaching service and shall, therefore, not be eligible under RCW 41.32.300 and 41.32.320 to establish out-of-state service credit for service rendered as a Peace Corps volunteer.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-320, filed 2/15/78. Formerly WAC 462-20-070.]

WAC 415-112-330 Calculating service credit for Plan 1 K-12 employees. For Plan 1 members who are employed by a school district, a school year will consist of one hundred eighty days. One year of service credit will be granted to a Plan 1 member who is employed as a classroom teacher for one hundred forty-four or more days during a school year. A fractional year of credit will be granted to a Plan 1 member who is employed for at least twenty days but less than one hundred forty-four days during a school year. The fraction will use days employed as the numerator and one hundred eighty as the denominator.

(1) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, a Plan 1 classroom teacher will be granted one day of credit for every seven hours of compensated employment.

(2) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, Plan 1 K-12 employees other than school district classroom teachers will earn one day of credit for every eight hours of compensated employment.

[Title 415 WAC—p. 142]

[Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-330, filed 4/21/00, effective 5/22/00; 97-09-037, § 415-112-330, filed 4/14/97, effective 5/15/97. Statutory Authority: RCW 41.50.050 and 41.32.570, 91-21-084, § 415-112-330, filed 10/18/91, effective 11/18/91. Statutory Authority: RCW 41.32.270 and 41.32.010 (11)(a)(ii), 88-17-052 (Order 88-13), § 415-112-330, filed 8/17/88.]

WAC 415-112-335 Calculating service credit for part-time community and technical college employees.

Most community and technical colleges employ academic employees under contracts expressed in terms of a certain number of contact hours, which are usually limited to actual time spent in the classroom. Most academic positions require more time to be spent providing services to the college than are reflected in the contact hours. However, actual hours worked are not submitted by the academic employees nor recorded by the college. This subsection adopts a method for estimating hours of work in order to determine membership eligibility and service credit in plan I and plan II. This estimate is to be used solely for that purpose. The estimate is not a representation by the department of actual hours worked and is not to be used as a basis for calculating other benefits or salary for technical college and community college academic employees.

(1) **Plan I.** In order to estimate the number of days worked by a TRS I technical college or community college faculty academic employee for a particular month, the college will:

(a) Determine the number of working days in the month as defined by the college's adopted academic calendar;

(b) Determine the part-time workload for the employee. The part-time workload is the percentage of the part-time employees' weekly in-class teaching hours to the weekly in-class teaching hours required of a full-time instructor in that employee's discipline at the college; and

(c) Multiply the number of working days in the month by the academic employee's part-time workload.

The resulting number is an estimate of days worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan I service credit and/or membership eligibility.

(2) **Plan II.** Determining service credit for plan II requires the college to estimate hours worked rather than days worked. To estimate hours worked, the college uses the steps described in subsection (1) of this section and takes two additional steps:

(a) Determine the number of hours in a full-time work day. In the absence of a definition of the number of hours in a full-time work day in the collective bargaining agreement or elsewhere, the college will use seven hours;

(b) Multiply the estimated days worked as determined in subsection (1) of this section by the number of hours in a full-time work day.

The resulting number is an estimate of hours worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan II service credit and/or membership eligibility.

(3) **Definitions.** "In-class teaching hours" means contact classroom and lab hours in which full-time or part-time academic employees are performing contractually assigned teaching duties. The in-class teaching hours shall not include

any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

[Statutory Authority: RCW 41.50.050. 97-09-037, § 415-112-335, filed 4/14/97, effective 5/15/97.]

EARNABLE COMPENSATION—MEMBER CONTRIBUTIONS

WAC 415-112-400 Salary deductions required by employer. When does the employer deduct salary for retirement contributions? If the teacher or member is entitled to have salary deducted for retirement contributions, the employer must make the deductions when the teacher or member starts work.

(1) Plan 1.

(a) The employer must deduct salary for retirement contributions for a teacher who has not been a member if:

(i) They are employed full time (at least four-fifths of a school day or full time assignment); and

(ii) Their employment contract calls for at least ninety days of employment in a school year.

(b) The employer must also deduct the salary of each teacher who is a member employed full time if their employment contract calls for at least twenty days of employment in a school year.

(c) If a teacher who is not a member is employed for less than ninety days in a school year, they will fail to establish membership. The employer must refund their salary deductions for retirement when they terminate employment as a teacher. The nonmember must file a refund application with the department before they can receive the refund.

(d) If a member is employed by an employer for less than twenty days in a school year, the employer must refund all salary deductions for retirement based on service during that year at the time the member terminates for the year. The nonmember must file a refund application with the department before they can receive the refund.

(2) Plan 2.

(a) The employer must deduct salary for retirement contributions for a teacher if:

(i) They work at least eight hundred ten hours for nine or more months between September and August of the following year; and

(ii) Their employment contract calls for at least ninety days of employment in a school year.

(b) If a teacher who is not a member is employed for less than ninety days in a school year, they will fail to establish membership. The employer must refund their salary deductions for retirement when they terminate employment as a teacher. The nonmember must file a refund application with the department before they can receive the refund.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-400, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6). 79-10-024 (Order 79-02), § 415-112-400, filed 9/10/79. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-400, filed 2/15/78. Formerly WAC 462-24-010.]

WAC 415-112-412 Nonmoney maintenance compensation. Are payments from my employer in any form other than money considered compensation earnable?

(2001 Ed.)

(1) TRS Plan I members.

(a) If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not earnable compensation.

(i) The value of employer-provided materials is not earnable compensation if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities:

Example: An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not earnable compensation.

(b) The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses. Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not earnable compensation.

(c) If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.

(i) "Nonmoney maintenance compensation" means the fair market value of materials legally furnished by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance compensation does not include any form of compensation other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as earnable compensation. If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value of the materials exceeds the amount of your payment;

(2) **TRS Plan II members.** If you are a TRS Plan II member, you are not entitled to count any of the value of an employer-provided vehicle as earnable compensation.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-112-413, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.32.010(11) and 41.32.160, 87-17-060 (Order DRS 87-07), § 415-112-413, filed 8/19/87.]

WAC 415-112-41301 Vehicle allowances—Are vehicle allowances earnable compensation? (1) **If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not earnable compensation.** Your vehicle allowance does not qualify as earnable compensation if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes.

(2) **The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not earnable compensation.** If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) **Your vehicle allowance may qualify as earnable compensation to the extent that it exceeds your actual expenses.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is earnable compensation. Your employer must maintain monthly contemporaneous records documenting the following:

(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;

(b) The miles you drove the vehicle on each of these trips; and

(c) Your itinerary for each of these trips.

(4) **How to determine what amount of your vehicle allowance, if any, is reportable as earnable compensation.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as earnable compensation:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

(b) "IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(5) **Your vehicle allowance qualifies as earnable compensation if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes.** If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for

business purposes, your vehicle allowance is earnable compensation.

(6) **Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation.** If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-41301, filed 6/24/99, effective 7/25/99; 95-22-006, § 415-112-41301, filed 10/18/95, effective 11/18/95.]

WAC 415-112-415 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions. (1) Cash compensation in lieu of unused annual leave may be considered earnable compensation for Plan I members subject to the provisions of RCW 41.32.010 (10)(a) and WAC 415-112-4605. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual leave as compensation earnable in conflict with RCW 41.32.010 (10)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.32.010 (10)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned and when or whether the leave was used or cashed out, unless the employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-112-015, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer of one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

[Statutory Authority: RCW 41.50.050 and 41.32.010(10). 00-13-001, § 415-112-415, filed 6/7/00, effective 7/8/00. Statutory Authority: RCW 41.50.050. 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). 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. 87-17-060 (Order DRS 87-07), § 415-112-415, filed 8/19/87.]

WAC 415-112-430 Computing the average earnable compensation. In computing a member's average earnable compensation, the computations shall include only the service during which a member was employed for salary or wages by a state of Washington employer and for which he established Washington membership service credit with the teachers' retirement system. This excludes out-of-state service, military service and professional preparation or other service for which credit may have been established but for which no salary or wages were paid to the member by a state of Washington employer. Contributions based on sabbatical leave, paid sick leave, or other leave paid for by a state of Washington employer and for which credit has been established with the teachers' retirement system shall be included in computing the earnable compensation.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-430, filed 2/15/78. Formerly WAC 462-24-040.]

WAC 415-112-440 Withdrawal of contributions. (1) A member who is employed in the public schools of this state for consecutive school years shall be considered as employed

during the summer months and, therefore, may not qualify for withdrawal of his accumulated contributions. Termination of Washington public school employment at the close of a school year with one employer to accept employment with another Washington public school employer for the ensuing school year shall not qualify a member for withdrawal of his accumulated contributions.

(2) A member who is on official leave of absence from a Washington public school employer shall not be considered to have terminated his employment and, therefore, shall not be eligible to qualify for withdrawal of his accumulated contributions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-440, filed 2/15/78. Formerly WAC 462-24-050.]

WAC 415-112-444 Purpose and scope of earnable compensation rules. WAC 415-112-445 through 415-112-491 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as earnable compensation in TRS Plan I, TRS Plan II and TRS Plan III. 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. 97-03-016, § 415-112-444, filed 1/6/97, effective 2/6/97.]

WAC 415-112-445 Reportable compensation table. The following table is provided as a quick reference guide to help you characterize payments under Plan I, Plan II and Plan III. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines earnable compensation based upon the nature of the payment, not the name applied to it, see WAC 415-112-450.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-4605	No - WAC 415-112-4605
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 ¹	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482
Employer Provided Vehicle	No - WAC 415-112-413 ²	No - WAC 415-112-413
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Employer taxes/contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Fringe Benefits	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Nonmoney Maintenance	Yes - WAC 415-112-412 ³	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487
Payments in Lieu of Excluded Items	No - WAC 415-112-470	No - WAC 415-112-470
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607

¹ A portion of the value of an employer car allowance may be reportable in Plan I only, see WAC 415-112-41301.

² A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-112-413.

³ A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-112-412.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-491	No - WAC 415-112-491
Sick Leave Cash Outs	No - WAC 415-112-4605	No - WAC 415-112-4605
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601 ⁴
Time Off with Pay	Yes - WAC 415-112-473 WAC 415-112-4605	Yes - WAC 415-112-473 WAC 415-112-4605
Union Leave ⁵	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Worker's Compensation	No - WAC 415-112-483	No - WAC 415-112-483

⁴ Reportable only if member is employed in an eligible position.

⁵ Only specific types of union leave are reportable, see WAC 415-112-475.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-112-445, filed 4/17/98, effective 5/18/98; 97-03-016, § 415-112-445, filed 1/6/97, effective 2/6/97.]

WAC 415-112-450 What compensation can be reported? In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of earnable compensation in RCW 41.32.010(10).

(1) **Payments for services rendered.** To determine whether a payment meets this definition and can be reported, ask the following questions:

(a) Was the payment earned as a salary or wage for services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).

(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, you may report the payment.

(2) **Payments included that are not for services rendered.** The legislature has included certain specific payments within the definition of earnable compensation even though those payments are not for services rendered by the employee to the employer. (See WAC 415-112-472 through 415-112-477.)

(3) **Reportable compensation is earned when the service is rendered, rather than when payment is made.**

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

(4) **Salary characterizations are based upon the nature of the payment.** A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines

whether a payment is reportable compensation by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of earnable compensation.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

(5) **Differences in reportable compensation between plans.** WAC 415-112-450 through 415-112-491 define reportable compensation for each of the three TRS plans.

(a) "Earnable compensation" is defined in very similar terms for both TRS Plan I and TRS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-112-450 through 415-112-491 is the same for both TRS Plan I and TRS Plan II except as specifically noted.

(b) "Earnable compensation" is defined identically for TRS Plan II and TRS Plan III. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-112-450 through 415-112-491 is the same for both TRS Plan II and TRS Plan III.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-450, filed 1/6/97, effective 2/6/97.]

WAC 415-112-460 Payments for services rendered. WAC 415-112-4601 through 415-112-4609 discuss types of payments for services rendered. Each of the payment types are reportable compensation for TRS Plan 1. Certain types of payments for services rendered are excepted from reportable

compensation for TRS Plan 2 and Plan 3, see WAC 415-112-4605.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-460, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-460, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4601 Contract salary payments. (1)

Base contract. The base contract establishes the payment for teaching or administrative services provided during each day of the district's school year. For classroom teachers, the base contract authorizes the salary for providing basic education services per RCW 28A.405.200. For administrators and principals, other items may be included. Because services are rendered in exchange for this payment, it is reportable compensation. This does not mean that a payment is reportable compensation solely because it is authorized in an employee's base contract. Rather than relying on the name of a payment or the document where it is authorized, you must evaluate whether services were rendered in exchange for the payment.

(2) **Evening or summer school contracts.** Evening or summer school payments are for additional time worked. These payments are often authorized in a supplemental contract. These payments are for services rendered and are reportable compensation.

(3) **Supplemental or TRI contracts under RCW 28A.400.200.** A school district may compensate an employee for additional time, responsibility or incentives with a supplemental contract.

(a) If the payment is for additional time, then it is for services rendered and qualifies as reportable compensation.

(b) If the payment is for additional responsibility (i.e., additional service which does not specifically require more time) within the regularly scheduled working day, then it is also for services rendered and is reportable. Examples of additional responsibility include payments linked to extra enrollment or additional duties outside the scope of the base contract.

(c) If the payment is made as an incentive, then it is also for services rendered and is reportable compensation. Incentive payments include payments for meeting performance goals specified by the employer.

(4) **Longevity or educational attainment.** Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.

(a) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is reportable compensation.

(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4601, filed 1/6/97, effective 2/6/97.]

[Title 415 WAC—p. 148]

WAC 415-112-4603 Performance bonuses. Bonuses that are based upon meeting certain performance goals or having to work under unusual conditions, such as over enrollment, are earned for services rendered and are reportable compensation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4603, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4604 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 reportable compensation if the employee has an absolute right to receive cash or deferred cash 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 reportable compensation, 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 reportable compensation, see WAC 415-112-480.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4604, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4605 Leave payments earned over time.

(1) **Sick, annual, and personal leave usage.** Sick leave, annual leave, and personal leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave was accumulated. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave and personal leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered.

(a) Plan 1. Annual leave and personal leave cash outs are reportable for TRS Plan 1.

(b) Plan 2 and Plan 3. Although the payments are for services rendered, annual leave and personal leave cash outs are excluded from the definition of reportable compensation in TRS Plan 2 and TRS Plan 3, see RCW 41.32.010 (10)(b).

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered. However, these payments are statutorily excluded from reportable compensation for all TRS Plans. See RCW 41.32.010(10), 41.04.340, 28A.400.210 and 28A.310.490.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-4605, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-4605, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4607 Retroactive salary increases. A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in

place of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-112-477.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency; or

(c) A collective bargaining agreement.

(2) The payments will be deemed earned in the period in which the work was done.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4607, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4608 Severance pay earned over time.

(1) **Plan 1.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan 1. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain amount of severance pay will be earned in the coming year in consideration for services rendered.

Example: Mr. Jones is a TRS Plan 1 member employed as a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his TRS Plan 1 retirement calculation.

(2) **Plans 2 and 3.** All forms of severance pay are excluded from earnable compensation for Plans 2 and 3 by RCW 41.32.010(10).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan 1, 2, or 3, see WAC 415-112-491.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-4608, filed 4/21/00, effective 5/22/00; 98-09-059, § 415-112-4608, filed 4/17/98, effective 5/18/98; 97-03-016, § 415-112-4608, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4609 Payroll deductions. Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.

(1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-112-480.

(2001 Ed.)

(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as 403(b) plan contributions or other authorized deductions, are reportable.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-112-4609, filed 4/17/98, effective 5/18/98; 97-03-016, § 415-112-4609, filed 1/6/97, effective 2/6/97.]

WAC 415-112-470 Payments not for services rendered. In general, payments cannot be reported to the retirement system unless they are for services rendered. However, the legislature has identified some types of compensation (in RCW 41.32.010 and 41.32.267) which are reportable even though they are not for services rendered.

(1) WAC 415-112-472 through 415-112-477 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-112-480 through 415-112-491 discuss some payments that are not for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-112-472 through 415-112-477 is not reportable compensation even if it is not listed in WAC 415-112-480 through 415-112-491.

(3) A payment made in lieu of a payment that is not for services rendered (such as a payment made in lieu of a car allowance) will be treated in the same way that the original payment was treated. Such a payment is not for services rendered and is not reportable.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-470, filed 1/6/97, effective 2/6/97.]

WAC 415-112-471 Legislative leave. If an employee takes a leave without pay to serve in the legislature, the member is entitled to service and reportable compensation credit for the period.

(1) **Plan 1.** The salary the employee would have earned is reportable compensation if the employee serves at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) **Plan 2 and Plan 3.** The employee may choose between:

(a) The reportable compensation he or she would have earned had the member not served in the legislature; or

(b) The actual reportable compensation received for teaching plus the legislative reportable compensation.

If the employee selects option (a), he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-471, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-471, filed 1/6/97, effective 2/6/97.]

WAC 415-112-473 Paid leave not earned over time. If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not cur-

rently rendering services in exchange for the payment. However, RCW 41.32.267, 41.32.810 and 41.32.865 identify payments received from the employer while on paid leave as reportable for TRS. Contributions are due on these payments to the extent they meet the following conditions:

(1) The payment is equal to the salary for the position that the person is on leave from;

(2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.32.267 (Plan 1), 41.32.810 (Plan 2), 41.32.865 (Plan 3), and WAC 415-112-475.

[Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-473, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-473, filed 1/6/97, effective 2/6/97.]

WAC 415-112-475 Union leave. If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.32.267 (Plan 1), RCW 41.32.810 (Plan 2), or RCW 41.32.865 (Plan 3), as appropriate, are met.

[Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-475, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-475, filed 1/6/97, effective 2/6/97.]

WAC 415-112-477 Reinstatement or payment instead of reinstatement. (1) Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.32.010(10) specifically designates these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law following a hearing.

[Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-477, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-477, filed 1/6/97, effective 2/6/97.]

WAC 415-112-480 Fringe benefits. Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-112-4604) and employer retirement contributions.

[Title 415 WAC—p. 150]

[Statutory Authority: RCW 41.50.050, 97-03-016, § 415-112-480, filed 1/6/97, effective 2/6/97.]

WAC 415-112-482 Disability insurance. Disability insurance payments are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they are not reportable compensation. This is true whether the payments come directly from the employer or from an insurance company.

[Statutory Authority: RCW 41.50.050, 97-03-016, § 415-112-482, filed 1/6/97, effective 2/6/97.]

WAC 415-112-483 Workers' compensation. Workers' compensation is paid to persons for periods when they are unable to work. Workers' compensation payments, like disability insurance, are not payments for services rendered and are not reportable compensation.

Example: Some employees on unpaid disability leave submit their workers' compensation payments to their employer who then issues the employee a check for the same amount through the payroll system. This exchange of payments does not change the character of the workers' compensation payment. Whether the payments come from the department of labor and industries, a self-insured employer, or have the appearance of coming from the employer, workers' compensation payments are not payments for services rendered and do not qualify as reportable compensation.

[Statutory Authority: RCW 41.50.050, 97-03-016, § 415-112-483, filed 1/6/97, effective 2/6/97.]

WAC 415-112-485 Illegal payments. Payments made by an employer in excess of the employer's legal authority are not reportable.

Example: School districts are prohibited from increasing an employee's salary to include a payment in lieu of a fringe benefit per RCW 28A.400.220. If a district increased a person's salary instead of providing a district car, the payment would be illegal and could not be reported.

[Statutory Authority: RCW 41.50.050, 97-03-016, § 415-112-485, filed 1/6/97, effective 2/6/97.]

WAC 415-112-487 Optional payments. If an employee can receive an additional payment only on the condition of taking an action other than providing service to the employer, the payment is not for services rendered and is not reportable compensation.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to have a portion of his or her salary deferred. Because the employee does not have a right to receive the contribution based solely on the rendering of service, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050, 97-03-016, § 415-112-487, filed 1/6/97, effective 2/6/97.]

WAC 415-112-489 Reimbursements for expenses.

Reimbursements are not earned for services rendered and thus are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, see WAC 415-112-41301, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-489, filed 1/6/97, effective 2/6/97.]

WAC 415-112-490 Retirement bonus or incentive.

A payment made to an employee as a bonus or incentive when retiring or terminating is not a payment for services rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive is not reportable compensation.

Example: A collective bargaining agreement authorizes a school district to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire. Because the payment is in exchange for the agreement to retire and not for services, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-490, filed 1/6/97, effective 2/6/97.]

WAC 415-112-491 Severance pay not earned over time—Contract buy out. Severance pay that is not earned over time is not earned for services rendered and is not reportable. An example of severance pay not earned over time is a payment negotiated as part of termination agreement.

Example: At the time of an administrator's termination, the school district agrees to pay him a lump sum payment equal to two months salary. The school district identifies this payment as "severance pay." Because the payment was not earned for services rendered, it is not reportable compensation and will not be included in his retirement calculation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-491, filed 1/6/97, effective 2/6/97.]

SERVICE RETIREMENT

WAC 415-112-500 Minimum service required for retirement. In qualifying a member for a retirement allowance the minimum service requirement of "five years of credit for public school service in this state" as set forth in RCW 41.32.470 shall not include credit for professional preparation or credit for military service, but shall be limited to credit for Washington public school service.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-500, filed 2/15/78. Formerly WAC 462-28-005.]

WAC 415-112-515 When a member of the teacher's retirement system Plan 1 enters retirement status. A member of the teacher's retirement system Plan 1 enters retirement status when he or she:

- (1) Has terminated all public school employment in the state of Washington;
- (2) Has no written agreement to return to public school employment; and
- (3) Has made application, the accrual date has been determined, and the benefit begins to accrue.

Example: A member who is eligible for retirement on July 1st submits an application on June 1st with a July 1st retirement date. They terminate all employment on June 30th and do not have an agreement to return to work.

Their benefit will begin to accrue on July 1st and they will receive their first retirement allowance payment at the end of July. The member is a "retiree" beginning July 1st because that is when the benefit begins to accrue.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-515, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050 and 41.32.570. 91-21-084, § 415-112-515, filed 10/18/91, effective 11/18/91.]

WAC 415-112-520 Date from which service retirement allowance accrues. When does my retirement allowance become payable?

(1) The department must receive proof and payment to establish membership or additional service credit before your retirement allowance will be payable. After the department receives the necessary proof and payment and approves your application for service retirement, your retirement allowance is payable on:

(a) July 1 following your final year of service if you established a full year of Washington service credit for the year in which you retired; or

(b) The first of the month following the month that you terminated public school service.

(2) If you terminate public school employment before you are eligible for a service retirement allowance, you may later qualify for a deferred retirement allowance based on your age if you are not employed in public education. If you qualify, your retirement allowance is payable on the date you reach the minimum age required to start receiving payments.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-520, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-520, filed 2/15/78. Formerly WAC 462-28-020.]

WAC 415-112-530 Balance of monthly payment due on date of death. In the event of death between allowance payment dates of an individual receiving a monthly retirement allowance, the proportionate amount accrued to and including the date of death shall be paid to the designated beneficiary or to the decedent's estate.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-530, filed 2/15/78. Formerly WAC 462-28-035.]

WAC 415-112-540 How will returning to work affect my TRS Plan 1 monthly pension? This section implements RCW 41.32.570 which limits employment for TRS Plan 1 retirees with public educational institutions to five hundred twenty-five hours regardless of the nature of service. In certain circumstances RCW 41.32.570 (3), (4) and (5) allow

additional service without suspension of your TRS Plan 1 pension. Those limitations are discussed in WAC 415-112-545.

(1) You may return to any type of service with a public educational institution for up to five hundred twenty-five hours per school year without affecting your TRS Plan 1 monthly pension under RCW 41.32.570.

(a) Your employer must notify the department when you return to work. Your employer must notify the department if you work more than five hundred twenty-five hours for a public educational institution during a school year, unless you qualify for additional service under RCW 41.32.570 (3), (4) or (5), see WAC 415-112-545.

(b) If you are a TRS Plan 1 retiree, you may elect to return to membership if you are employed by a public school. If you return to membership, the department will suspend your monthly pension effective from the first of the month during which you return to employment.

(c) If you are a TRS Plan 1 retiree working for a public educational institution as a bona fide independent contractor as determined under WAC 415-02-110, you are not considered an employee of the institution and are not subject to the work limitations of RCW 41.32.570.

(2) If you work for more than five hundred twenty-five hours during a school year the department will suspend your monthly pension. In some cases you may be able to work an additional three hundred fifteen hours, see WAC 415-112-545.

(a) If you return to any type of service with a public educational institution under a written contract or continuing employment relationship, and you work for more than five hundred twenty-five hours during a school year, the department will suspend your monthly pension beginning with the five hundred twenty-sixth hour of employment.

(b) If you serve as an on-call substitute teacher for more than five hundred twenty-five hours during a school year, the department will reduce your monthly pension by five percent for each day you work beyond the five hundred twenty-five hour limit until your monthly pension is reduced to zero.

(3) You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section or WAC 415-112-545.

(4) The department will reinstate your pension at the end of the school year or after you terminate your employment. If the department suspends or reduces your monthly pension due to your reemployment, the department will reinstate the original amount of your pension, less deductions to recover any overpayment, effective the day following your termination of employment, or at the end of the school year, whichever comes first.

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

(a) "Public educational institution" - WAC 415-112-0157.

(b) "School year" - WAC 415-112-0161.

(c) "Substitute teacher" - RCW 41.32.010(36).

[Statutory Authority: RCW 41.50.050, 00-11-053, § 415-112-540, filed 5/12/00, effective 6/12/00; 97-01-015, § 415-112-540, filed 12/6/96, effective 1/6/97. Statutory Authority: RCW 41.50.050 and 41.32.570, 91-21-084,

§ 415-112-540, filed 10/18/91, effective 11/18/91. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-540, filed 2/15/78. Formerly WAC 462-28-040.]

WAC 415-112-545 How can I qualify for an additional three hundred fifteen hours of service without having my TRS Plan 1 monthly pension reduced? In addition to the five hundred twenty-five hours of service permitted for TRS Plan 1 retirees under RCW 41.32.570(2), you are eligible to also serve for up to three hundred fifteen more hours as an on-call substitute teacher or substitute principal without affecting your pension if you meet each of the following criteria: See RCW 41.32.570 (3) and (5).

(1) You must be employed by a school district. The option for TRS Plan 1 retirees to work an additional three hundred fifteen hours during a school year without affecting their pension is only available to school district employees. An employee of a school district participating in a multidistrict substitute cooperative is also covered. An employee of an educational service district, the State Schools For the Deaf or Blind, or an institution of higher education is not covered.

(2) You must be employed as a substitute teacher or substitute principal.

The term "substitute teacher" as used in RCW 41.32.570 (3) is limited to classroom teachers serving on an on-call basis. A person working under a contract with a guaranteed number of hours or days does not qualify as a substitute teacher, see RCW 41.32.010(36).

Example 1: A school district employs a retiree as a substitute teacher under a contract for ninety days. Because the retiree is employed under a contract and not on an on-call basis, she may not serve for more than five hundred twenty-five hours as a substitute teacher without having her monthly pension suspended.

(3)(a) You may be employed as a substitute administrator other than a principal for an additional one hundred five hours of service in addition to the five hundred twenty-five hours, see RCW 41.32.570(4).

(b) A substitute administrator is a person who fills in for an absent administrator on a temporary basis. A substitute administrator can be employed under a contract with a guaranteed number of hours. Substitute administrator positions include but are not limited to:

- (i) Principal and assistant principal;
- (ii) Superintendent and assistant superintendent;
- (iii) Personnel manager;
- (iv) Business manager; and
- (v) School librarian.

(4) Your school district employer must adopt a resolution. Before a school district can employ a TRS Plan 1 retiree for additional hours in a school year without affecting the retiree's TRS Plan 1 pension, the district must adopt a resolution establishing the need for the additional employment. Each resolution is valid only for the school year in which it is adopted. The resolution authorizes additional employment only on or after the date it has been adopted and cannot be applied retroactively.

(a) Authorizing additional hours for substitute teachers: To authorize a TRS Plan 1 retiree to work an additional three hundred fifteen hours in a school year as a substitute teacher, a school district must adopt a resolution stating that it has exhausted or can reasonably anticipate exhausting its list of qualified and available substitutes, and therefore, the services of retired teachers or administrators are necessary to address that shortage.

(i) If a school district is a member of a multidistrict cooperative, the board of each school district in the cooperative must adopt such a resolution.

(ii) After a resolution has been adopted, a school district may employ a TRS Plan 1 retiree as a substitute teacher for up to an additional three hundred fifteen hours once its list of other qualified and available substitutes has been exhausted.

(b) Authorizing additional hours for substitute administrators: To authorize a TRS Plan 1 retiree to work an additional one hundred five hours in a school year as a substitute administrator, a school district must adopt a resolution stating that an emergency exists and the services of a retired administrator or retired teacher are required because the school district cannot find a replacement administrator to fill a vacancy.

(c) Authorizing additional hours for substitute principals: To authorize a TRS Plan 1 retiree to work an additional two hundred ten hours above the additional one hundred five hours in a school year as a substitute principal, a school district must adopt a resolution stating that an emergency exists and the services of a retired principal or retired teacher are required because the school district cannot find a replacement principal to fill the vacancy.

(5) Your school district must provide information to the department. If your school district employer is not a member of a multidistrict substitute cooperative, the district must:

(a) Within thirty days after a resolution is adopted:

(i) Send a copy of the resolution; and

(ii) If the resolution is for substitute teaching, send a list of all TRS Plan 1 retirees working for the school district as substitute teachers.

(b) During the school year:

(i) Send a copy of any amendments to the resolution or to the list of TRS Plan 1 retirees working as substitutes;

(ii) Send written notice immediately if any TRS Plan 1 retiree works beyond eight hundred forty hours.

(c) At the end of the school year: Send a letter indicating the total number of hours worked by each TRS Plan 1 retiree that exceeded the eight hundred forty hours.

(6) If your employer is a member of a multidistrict substitute cooperative, the cooperative must provide the information.

If you are employed by a school district which is a member of a multidistrict substitute cooperative, the cooperative must provide the information specified in subsection (5) of this section on behalf of each participating school district.

(7) If you serve as a substitute teacher or substitute administrator for the additional hours but you are not eligible to do so, the department will reduce your monthly pension.

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(a) If you and your school district employer do not meet each of the criteria under this section, you are not eligible to serve as a substitute teacher for the additional three hundred fifteen hours under RCW 41.32.570(3).

(b) If you or your school district employer do not meet each of the criteria under this section, you are not eligible to serve as:

(i) A substitute administrator for an additional one hundred five hours under RCW 41.32.570(4); or

(ii) As a substitute principal for an additional two hundred ten hours for a total of three hundred fifteen hours under RCW 41.32.570(5).

(c) If you are not eligible to work additional hours, and you serve for more than five hundred twenty-five hours during a school year, the department will reduce your monthly pension as provided under WAC 415-112-540.

Example 2: Sarah is a TRS 1 retiree who has worked as both a principal and classroom teacher. The local school district hires her as an on-call substitute classroom teacher for the 1999-2000 school year. She can work up to five hundred twenty-five hours in this capacity per school year under WAC 415-112-540. Sarah works up to this hour limit as a substitute teacher.

However, the school district still needs her services. They adopt a resolution establishing the need for the additional employment of substitute teachers.

In the middle of the school year, a neighboring school district needs to recruit a principal on an emergency basis. The district adopts a resolution demonstrating this need, stating that they need Sarah's services to fill the position because they cannot otherwise fill the vacancy.

Sarah can work three hundred fifteen hours total under WAC 415-112-545 in addition to five hundred twenty-five hours per school year under WAC 415-112-540. For example, she can work an additional one hundred five hours as a substitute teacher, plus two hundred ten hours as a substitute principal. Sarah can work up to eight hundred forty hours during this school year without affecting her retirement benefit. She could also work up to a total of eight hundred forty hours as a substitute teacher.

She may not work an additional two hundred hours as a substitute teacher and two hundred ten additional hours as a substitute principal without affecting her retirement benefit, since the total hours combined would exceed the three hundred fifteen-hour limit for additional hours under WAC 415-112-545.

NOTE:

- **It is not the position that you retired from but the position you are filling as a retiree that determines how many additional hours, if any, you can work.**
- The school district resolutions are only good for one school year. If Sarah's services as a substitute principal are still needed the following school year, the district will need to adopt a new resolution.

Example 3: Pete is a TRS I retiree who has worked as a school administrator and principal. The local school district hires him as a substitute administrator for the 1999-2000 school year. He can work up to a total of five hundred twenty-five hours in this capacity under WAC 415-112-540. During the year in question, Pete works up to this hour limit.

However, the school district still needs his services. They adopt a resolution establishing the need for the additional employment of substitute administrators.

Pete can work as a substitute administrator for up to one hundred five hours under WAC 415-112-545 in addition to five hundred twenty-five hours under WAC 415-112-540 during this school year without affecting his retirement benefit.

The only way he can work an additional two hundred ten hours is if he is hired as a substitute principal after the school district adopts a resolution. The resolution must demonstrate the need for a substitute principal, and state that the district needs Pete's services to fill the position because they cannot otherwise fill the vacancy. The resolution does not apply retroactively.

NOTE:

- **It is not the position that you retired from but the position you are filling as a retiree that determines how many additional hours, if any, you can work.**
- The school district resolutions are only good for one school year. If Pete's services as a substitute principal are still needed the following school year, the district will need to adopt a new resolution.

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

- (a) "School year" - WAC 415-112-0161.
- (b) "Substitute teacher" - RCW 41.32.010(36).

[Statutory Authority: RCW 41.50.050, 00-11-053, § 415-112-545, filed 5/12/00, effective 6/12/00; 97-01-015, § 415-112-545, filed 12/6/96, effective 1/6/97.]

WAC 415-112-550 Peace Corps volunteers not employed in public education. In administering the provisions of RCW 41.32.570, retired teachers who serve as volunteers in the Peace Corps of the United States shall not be considered as employed in a public educational institution and shall, therefore, continue to receive pension payments while engaged as Peace Corps volunteers.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-550, filed 2/15/78. Formerly WAC 462-28-045.]

DISABILITY BENEFITS

WAC 415-112-600 Eligibility for temporary disability benefits. A member of the teachers' retirement system shall be covered for benefits under the temporary disability program only while employed on a full-time basis. Full-time employment during one school year shall afford disability

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protection until the beginning of the regular school term of the following school year.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-600, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-600, filed 2/15/78. Formerly WAC 462-32-010.]

WAC 415-112-610 Payment of temporary disability benefits due upon death of a member. Any disability benefits which have accrued and are payable upon the death of a member who had applied for or who had qualified for a temporary disability allowance, shall be paid to the deceased member's designated beneficiary as recorded and filed with the department in connection with his application for temporary disability benefits, or to his estate.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-610, filed 2/15/78. Formerly WAC 462-32-020.]

WAC 415-112-620 Date from which disability retirement allowances accrue. (1) A member who qualifies directly for a disability retirement allowance without first qualifying for temporary disability benefits shall receive a retirement allowance to be effective in accordance with WAC 415-112-520 governing service retirement.

(2) If a member qualifies for a disability retirement allowance after having first qualified for temporary disability benefits, the effective date of his disability retirement allowance shall be the first of the month following termination of his temporary disability allowance, and shall otherwise be consistent with WAC 415-112-520 which governs service retirement.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-620, filed 2/15/78. Formerly WAC 462-32-050.]

WAC 415-112-630 Employment of persons retired for disability. The provisions of RCW 41.32.570 with regard to service in public education by a retired teacher shall apply equally to teachers retired for disability.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-630, filed 2/15/78. Formerly WAC 462-32-060.]

SURVIVOR BENEFITS

WAC 415-112-700 Determining dependency under RCW 41.32.520. To qualify as a dependent of a deceased member under the authority of RCW 41.32.520 the individual must provide proof of the following conditions:

(1) The beneficiary must receive one-half or more of their financial support from the deceased member. Such support must have been continuous prior to death and in effect at the time of the member's death.

(2) The term "financial support" shall include the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-700, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-700, filed 2/15/78. Formerly WAC 462-36-010.]

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WAC 415-112-705 Designation of beneficiaries—Death benefit if a member dies before retirement. (1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) A trust in existence at the time of death. Before making distribution to any trust the department must receive:

(i) A copy of the trust document;

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

(iii) The tax identification number;

(d) A trust to be established under your last will.

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

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

Subject to applicable statute, at John's death, the department will consider both the Barbara Trust and daughter Ann as primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the trust and other information specified in this rule before distribution to the trust.

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 (no trust name is provided). He checks the box labeled "primary beneficiary." John misunderstands the form and rather than

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provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.

Result

At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-705, filed 4/21/00, effective 5/22/00.]

WAC 415-112-710 When are survivor benefits payable? (1) If there is a named beneficiary, monthly survivor benefits under RCW 41.32.520(1) are payable on the later of the following two dates:

(a) The day after the member's death; or

(b) The beneficiary's fiftieth birthday.

(2) If there is no named beneficiary, the survivor retirement allowance under RCW 41.32.520(2) is payable on:

(a) July 1st of the first fiscal year after the member's death if the deceased established a full year of service credit for their final year of service; or

(b) The day after the death of a member eligible for retirement.

In all cases the rate of the annuity benefit will be computed as of the day after the member's death.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-710, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-710, filed 2/15/78. Formerly WAC 462-36-020.]

WAC 415-112-725 Married member's benefit selection—Spousal consent required. (1) A member, if married, must provide the spouse's written consent to the option selected under WAC 415-112-727. If a married member does not provide spousal consent, the department will pay the retired member a joint and fifty percent survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.32.530(2) and 41.32.785(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 constitutes spousal consent.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-725, filed 6/24/99, effective 7/25/99. 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. 96-01-047, § 415-112-725, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-725, filed 1/7/91, effective 2/7/91.]

WAC 415-112-727 Retirement benefit options. RCW 41.32.530 (Plan 1), RCW 41.32.785 (Plan 2) and RCW 41.32.851 (Plan 3) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan 1 members may select the COLA (cost-of-living

adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement.

(1) Benefit options without survivor feature.

(a) Maximum benefit allowance. Plan 1 retirees may elect to receive the maximum benefit possible which is based on a single life annuity. The maximum benefit allowance does not include a survivor allowance or beneficiary payment. When the retiree dies, all benefits cease. Any remaining balance in employee contributions is retained by the retirement system.

(b) Option One (standard allowance). The department pays a monthly retirement allowance based on a reduced single life annuity of the member, as provided in RCW 41.32.480 (Plan 1 - Service), RCW 41.32.550 (Plan 1 - Disability), RCW 41.32.765 (Plan 2 - Service), RCW 41.32.790 (Plan 2 - Disability), RCW 41.32.875 (Plan 3 - Service), or RCW 41.32.880 (Plan 3 - Disability). Except for Plan 3, when the retiree dies, all benefits cease. Any remaining balance of the member's accumulated contributions will be paid to:

- (i) The retiree's designated beneficiary; or if none, to
- (ii) The retiree's surviving spouse; or if none, to
- (iii) The retiree's legal representative.

A member selecting Option One must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) Benefit options with a survivor feature. A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a retirement allowance equal to the gross monthly allowance received by the retiree.

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allow-

Plan One:

Lucinda retires from TRS Plan 1 in 1996 (Year 0) with \$55,000 in accumulated contributions. As a TRS 1 member she is allowed to withdraw some or all of her contributions when she retires. She decides to withdraw \$5,000 so she and Garth, her husband, can take a cruise. This will actuarially reduce Lucinda's maximum benefit from \$2,000 per month to \$1,963.86. Lucinda would also like Garth to receive a monthly allowance after she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is further actuarially reduced from \$1,963.86 to \$1,846.03. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$1,963.86, the amount she would have received had she chosen the maximum benefit (after reduction for her withdrawals). If Lucinda selected the COLA option or if she has otherwise become eligible for a COLA, the accumulated COLAs (based on the prior benefit allowance) will be added to the \$1,963.86*.

Plan Two:

Agnes retires from TRS Plan 2 in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up"

ance equal to one-half of the retiree's gross monthly retirement allowance.

(c) Option Four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement benefit allowance.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) Supplemental COLA option for Plan 1 members.

Retiring Plan 1 members may select an annual cost-of-living adjustment (COLA) option in addition to their choice of retirement benefit options listed above in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(5) Benefit increases when survivor predeceases retiree (pop-up provision).

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) Plan 1 members. If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen the maximum benefit, minus;

(ii) Any reduction in the maximum allowance resulting from a withdrawal of contributions, plus;

(iii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Plan 2 and Plan 3 members. If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen the standard allowance; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(d) Pop-up recalculation example.

provision, Agnes' monthly benefit will increase to the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allowance)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount		+ Total COLA's		= New Benefit Amount
\$2000		+ \$191.05		= \$2,191.05*

*In the future (i.e., 2001 or Year 5), COLAs will be based on the increased benefit amount.

(e) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(6) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death. The retiree is not required to apply for the increased benefit provided in this subsection.

The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.32.530 (3)(c) for Plan 1 retirees or RCW 41.32.785 (3)(c) for Plan 2 retirees.

(7) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-112-727, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-727, filed 6/24/99, effective 7/25/99. 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, 96-01-047, § 415-112-727, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-016, § 415-112-727, filed 1/7/91, effective 2/7/91.]

WAC 415-112-800 Scope. WAC 415-112-800 through 415-112-820 govern the application of RCW 41.32.010 (10)(a)(ii), as amended by section 1, chapter 265, Laws of 1987 and by section 2, chapter 265, Laws of 1987, and shall apply only to persons who became members prior to October 1, 1977.

[Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-800, filed 6/24/99, effective 7/25/99. Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265, 87-20-082 (Order 87-09), § 415-112-800, filed 10/7/87.]

WAC 415-112-810 Bona fide employee. The purpose of WAC 415-112-800 through 415-112-830 is to implement (2001 Ed.)

the intent of the legislature that section 2, chapter 265, Laws of 1987 not be used to unfairly inflate a member's retirement allowance. The department shall apply section 2, chapter 265, Laws of 1987 only to members who are bona fide part-time employees. A member will be deemed a bona fide part-time employee only if the member has received less than one year of service credit and only as necessary to ensure that a member who receives fractional years of service credit receives benefits proportional to those received by members who have received full time service credit.

[Statutory Authority: RCW 41.32.345 and 41.50.050, 93-20-021, § 415-112-810, filed 9/24/93, effective 10/25/93. Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265, 87-20-082 (Order 87-09), § 415-112-810, filed 10/7/87.]

WAC 415-112-820 Bona fide part-time position—How determined. (1) In order for a Plan I member to be considered a bona fide part-time employee for two consecutive fiscal years and to elect to have his or her earnable compensation adjusted under RCW 41.32.345, the Plan I member must be employed for each of the two consecutive fiscal years:

(a) Under contract for an entire school year if the member is employed by a school district, or an educational service district;

(b) Under contract during three academic quarters of a fiscal year if the member is employed by an institution of higher education, the state school for the deaf or the state school for the blind;

(c) By one or more employers for at least twenty days but less than one hundred forty-four days during the fiscal year;

(d) In an instructional position, which is a position in which more than seventy-five percent of the member's time, including office hours, is spent as a classroom instructor, a librarian, or a counselor.

(2) In addition to the factors listed in subsection (1) of this section, in the case of a member who elects to have earnable compensation defined as provided in section 2, chapter 265, Laws of 1987, the department will determine whether the member held a bona fide part-time position during the years used to compute benefits, and what earnable compensation the member would have received if employed on a regular full-time basis in the same position under section 2, chapter 265, Laws of 1987. The department may consider, but not be limited to considering, the following factors:

(a) The salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district by which the member was employed;

(b) The salary schedule, workload provisions, or related documents, used by the community college district by which the member was employed, including salary schedules or workload provisions contained in a collective bargaining agreement negotiated pursuant to chapter 28B.52 RCW;

(c) Whether the member's position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement, and whether the member's position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, provisions, or collective bargaining agreement;

(d) When the member's position was created, and how long the position was held by the member;

(e) Whether the member has previously retired under the provisions of chapter 41.32 RCW.

(3) Upon the department's request, employers shall provide to the department information addressing the factors listed in subsection (1) of this section and such further information as the department may request.

(4) If a member is employed by more than one employer, all of the member's employment will be combined for purposes of determining whether the member has met the criteria of subsection (1) of this section.

[Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-820, filed 9/24/93, effective 10/25/93. Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265. 87-20-082 (Order 87-09), § 415-112-820, filed 10/7/87.]

WAC 415-112-830 Adjusting earnable compensation earned in a bona fide part-time position. The department will use the following method to determine earnable compensation for members of Plan I employed in a bona fide part-time positions as determined under WAC 415-112-820, who elect to have their earnable compensation determined under RCW 41.32.345. The purpose of the calculation is to determine what a member would have earned in his or her position if employed on a regular full-time basis for the same contract period under their same classification.

(1) The member's employer or employers will provide written verification of the following:

(a) The number of hours in a full school day for the member's employer. In the absence of an indication in employment contracts or elsewhere concerning what constitutes one day of employment, the department will designate seven hours as the length of a school day;

(b) The number of work days in a school year under a regular full-time contract. As provided in RCW 41.32.345 (3)(a), only work days identified in contracts adopted pursuant to RCW 28A.405.200 shall be counted under this subsection. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a regular full-time contract;

(c) The number of hours in a school year ((a) of this subsection multiplied by (b) of this subsection).

(d) If a bona fide part-time employee was employed by more than one employer during the school year in question,

the department will average the number of hours in a full school day and the number of school days in a year in order to determine the average number of hours in a school year for purposes of applying this section.

(2) The member's employer will provide the following written information regarding the bona fide part-time employment of the Plan I member during each of the two consecutive years for which the member elects to have his or her compensation adjusted under RCW 41.32.345:

(a) Total hours worked by the employee under all employment contracts;

(b) Total earnable compensation earned under all employment contracts entered into by the employee;

(c) If applicable, the percent or portion of a full-time contract worked by the employee; and

(d) Net average hourly wage earned by the employee ((b) of this subsection divided by (a) of this subsection).

(3) To determine the member's adjusted earnable compensation under RCW 41.32.345 the department will multiply the member's average hourly wage as determined in subsection (2) of this section by the number of hours in a school year as determined by subsection (1) of this section. The product equals the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

[Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-830, filed 9/24/93, effective 10/25/93.]

WAC 415-112-840 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.32.800 as follows:

(a) If the member first retired before age sixty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.32.760 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement

allowance pursuant to RCW 41.32.800 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.32.800 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

[Statutory Authority: RCW 41.50.050, 94-09-040, § 415-112-840, filed 4/19/94, effective 5/20/94.]

WAC 415-112-850 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. Based upon estimates of the retiree's compensation and earned service credit through the date of retirement, the department shall compute an interim retirement allowance made payable to the member in the interim between the member's date of retirement and 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 shall, subject to later correction, consider both the amount of salary projected by the member for periods of employment through the date of the member's retirement and the amount of salary as previously reported by the employer.

(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, the department shall complete a final computation of the member's retirement allowance. In computing the final computation of the member's retirement allowance, the department may also require the employer to provide the department with leave cash out information for Plan I retirees, earnings history, and copies of the employment contract or contracts and employer compensation policies. The department's final computation may either increase or

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decrease the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may subsequently 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 earnable compensation to a member in the member's retirement allowance computation, or excluding earnable compensation not reported by an employer;

(d) Benefit overpayments and underpayments;

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

[Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-112-850, filed 5/5/94, effective 6/5/94.]

WAC 415-112-920 TRS Plan 3 defined benefit retirement eligibility. (1) Definition: Qualified service credit. Members may use only qualified service credit to receive a retirement benefit from the TRS Plan 3 defined benefit plan. The following types of service credit may be used to qualify for retirement:

(a) TRS Plan 3 service credit;

(b) Service credit earned in a dual member system, but only in combination with TRS Plan 3 service credit under chapter 41.54 RCW;

(c) Up to forty-five days of sick leave under RCW 41.32.010;

(d) Service earned in an out-of-state retirement system that covers public school teachers under RCW 41.32.065.

(2) Members must be age sixty-five to retire with an unreduced defined benefit if they have earned the following amounts of qualified service credit:

(a) Ten service credit years; or

(b) Five service credit years which must include twelve service credit months after attaining age fifty-four; or

(c) Five service credit years by July 1, 1996, earned as a TRS Plan 2 member.

(3) Members may retire at age fifty-five with an actuarially reduced defined benefit under RCW 41.32.875 if they have accumulated at least ten years of qualified service credit.

(4) TRS Plan 3 retirement application.

A member must:

(a) Meet the above-stated age and service credit requirements; and

(b) Submit a complete, signed and notarized TRS Plan 3 retirement application; and

(c) Terminate employment with all retirement system employers from which they are claiming service credit. Termination from non-TRS system employers is required if a

member is using dual membership rules to qualify for retirement under chapter 41.54 RCW.

[Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-920, filed 4/21/00, effective 5/22/00.]

Chapter 415-113 WAC PORTABILITY OF PUBLIC EMPLOYMENT BENEFITS

WAC

415-113-005	Purpose and scope.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-113-010	Background and purpose. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-010, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-020	Authority to assess costs of portability. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-020, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-040	Additional costs. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-040, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-050	Election to participate. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-050, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
415-113-060	Reimbursement of additional costs. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-060, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.

WAC 415-113-005 Purpose and scope. (1) Purpose. The rules adopted in this chapter further define and clarify the application of the portability statutes, chapter 41.54 RCW. Chapter 41.54 RCW allows:

(a) Service in dual member systems to be combined to determine service retirement eligibility; and

(b) Compensation earned in one dual member system to be used to calculate a retirement allowance in another designated system.

(2) **Scope.** This chapter shall apply to the retirement systems listed in RCW 41.50.030, except for LEOFF Plan 1. This chapter must be read to be consistent with the statutory provisions of chapter 41.54 RCW and the statutory provisions governing the dual member systems. These rules may be used by the first class city retirement systems but do not mandatorily apply to them. These rules do apply to all dual member benefits calculated and paid by the department, even if one of the member's systems is a first class city retirement system.

[Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-005, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-005, filed 1/4/95, effective 2/4/95.]

DEFINITIONS

WAC 415-113-030 Definitions for purposes of WAC 415-113-035 through 415-113-200. All definitions in RCW 41.54.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are defined in this chapter at WAC 415-113-0301 through 415-113-0310.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-030, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-030, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-030, filed 11/1/90, effective 12/2/90.]

WAC 415-113-0301 Accumulated contributions—
Definition. "Accumulated contributions" means all member contributions to a system plus interest as determined by the director.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0301, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0302 Average compensation—
Definition. "Average compensation" means the compensation used by a particular retirement system to calculate a dual member's service retirement allowance. The actual meaning of the term varies depending upon the retirement system. With respect to each dual member system, "average compensation" means:

(1) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;

(2) **Statewide cities retirement systems:** Final compensation as defined in 41.44.030(14);

(3) **TRS:**

(a) Plan 1: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;

(b) Plans 2 and 3: Average final compensation as defined in RCW 41.32.010(30);

(4) **PERS:** Average final compensation as defined in RCW 41.40.010(17);

(5) **LEOFF Plan 2:** Final average salary as defined in RCW 41.26.030 (12)(b);

(6) **WSPRS:** Average final salary as defined in RCW 43.43.120; and

(7) **SERS:** Average final compensation as defined in RCW 41.35.010(14).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-0302, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0302, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0302, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0303 Dual member system—Definition. "Dual member system" means the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems are:

- (1) PERS Plans 1 and 2;
- (2) TRS Plans 1, 2 and 3;
- (3) LEOFF Plan 2;
- (4) WSPRS;
- (5) Statewide city employees' retirement system;
- (6) The first class city retirement systems; and
- (7) SERS Plans 2 and 3.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-0303, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0303, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0303, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0304 First class city retirement systems—Definition. "First class city retirement systems" means the retirement systems for the non-LEOFF member employees of the cities of Seattle, Spokane and Tacoma authorized by chapter 41.28 RCW.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0304, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0305 Member participant—Definition. (1) For all dual member systems administered by the department other than TRS Plan 1 "member participant" means a person who is employed for compensation in a dual member system qualifying position and is admitted into the membership of the system.

(2) For TRS Plan 1, "member participant" includes persons meeting the definition of subsection (1) of this section and also means a member who is not employed for compensation but has accumulated contributions standing to his or her credit with TRS.

(3) For the first class city systems, this definition may not apply, see WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

[Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0305, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0305, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0306 Multiple system benefit—Definition. "Multiple system benefit" means retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

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[Statutory Authority: RCW 41.50.050. 96-20-004, § 415-113-0306, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-0306, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0307 Multiple system participant—Definition. "Multiple system participant" means a person who is a participant in two or more dual member systems.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0307, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0308 Multiple system retiree—Definition. "Multiple system retiree" means a person who elects to retire under the provisions of chapter 41.54 RCW.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0308, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0309 Nonmember participant—Definition. (1) "Nonmember participant," means a person who is no longer employed in a dual member system qualifying position but has not withdrawn his or her accumulated employee contributions.

(2) This definition does not apply to TRS Plan 1. A TRS Plan 1 member who meets the criteria of subsection (1) of this section is a member participant, see WAC 415-113-0307.

(3) This section applies only to the retirement systems listed in RCW 41.50.030.

[Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0309, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0309, filed 1/4/95, effective 2/4/95.]

WAC 415-113-0310 System acronyms—Definition. The acronyms used in this chapter mean:

(1) "LEOFF Plan 2" means Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2.

(2) "PERS Plan 1" means Public Employees' Retirement System Plan 1.

(3) "PERS Plan 2" means Public Employees' Retirement System Plan 2.

(4) "TRS Plan 1" means Teachers' Retirement System Plan 1.

(5) "TRS Plan 2" means Teachers' Retirement System Plan 2.

(6) "TRS Plan 3" means Teachers' Retirement System Plan 3.

(7) "WSPRS" means Washington State Patrol Retirement System.

(8) "SERS Plan 2" means School Employees' Retirement System Plan 2.

(9) "SERS Plan 3" means School Employees' Retirement System Plan 3.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-0310, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0310, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0310, filed 1/4/95, effective 2/4/95.]

ELIGIBILITY FOR DUAL MEMBER BENEFITS

WAC 415-113-041 Am I a dual member? You must meet all of the following criteria to be a dual member:

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(1) **You must be a member of a dual member system.** You must be a current member participant in at least one dual member system to be a dual member. You may have established dual member status if you are or were a member participant of a dual member system on or after:

(a) July 1, 1988, for current or former members of PERS, SERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan 2; or

(c) January 1, 1994, for current or former members of a first class city retirement system;

(2) **You must be a former or current member of another dual member system.**

(3) **You must not have been retired for service from a retirement system.** You are not a dual member if you have ever been retired for service from any retirement system administered by the department of retirement systems or a first class city retirement system.

(4) **You must not be in receipt of a disability benefit from a dual member system.** If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan 1, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan 2, SERS Plan 2 or 3, TRS Plan 2 or 3 or LEOFF Plan 2 you are in receipt of a disability benefit unless the department has found that you are no longer disabled.

(b) You are not receiving a disability retirement allowance or disability leave benefits if you:

(i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or

(ii) Retired for disability from service from WSPRS.

Example 1: A former PERS Plan 1 member who has never been retired and becomes a member participant in TRS Plan 2 through employment with a TRS employer becomes a dual member.

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

(a) "Dual member" - RCW 41.54.010(4).

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-041, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-041, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-041, filed 1/4/95, effective 2/4/95.]

WAC 415-113-042 Can I terminate my status as a dual member? Termination of dual member status—Reestablishing dual member status. (1) **If you are not a member, you are not a dual member.** If you are no longer a member participant in any dual member system, you are no longer a dual member. If you later become a member of a dual member system, you again become a dual member.

Example 2: Upon separation from TRS Plan 2 eligible employment, the person in Example 1 in WAC 415-113-041 is no longer a member of TRS Plan 2 nor a dual member.

(2) **If you retire, you are no longer a dual member.** Upon retirement from any or all dual member systems, a person is no longer a dual member except for the purpose of receiving a deferred retirement allowance under RCW 41.54.030(3) and WAC 415-113-070.

(3) **If you are not a dual member, you may still be eligible for a multiple system benefit.** If you are no longer a dual member you may still be able to receive a multiple system benefit if otherwise eligible. The accrual date of your retirement allowance will vary depending upon the provisions of the particular system. You can find the accrual dates of different dual member systems in the following provisions:

(a) **PERS 1:** RCW 41.40.193;

(b) **PERS 2:** RCW 41.40.680;

(c) **TRS 1:** WAC 415-112-520;

(d) **TRS 2:** RCW 41.32.795;

(e) **TRS 3:** RCW 41.32.855;

(f) **LEOFF 2:** RCW 41.26.490;

(g) **SERS 2:** RCW 41.35.450;

(h) **SERS 3:** RCW 41.35.640.

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

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

(d) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-042, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-042, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-042, filed 1/4/95, effective 2/4/95.]

WAC 415-113-045 Can I reestablish service credit in a prior system? (1) You may reestablish service credit terminated by a withdrawal of contributions from a prior system. If you repay contributions you withdrew from a prior dual member system plus interest from the date of withdrawal you will recover the service terminated by the withdrawal. To qualify, you must repay the contributions plus interest within twenty-four consecutive months from the date you became a dual member.

(a) The twenty-four-month restoration period continues to run even if you terminate dual member status.

(b) If you terminate your dual member status but later become a dual member again, you have twenty-four consecutive months from the date you regain dual member status to repay withdrawn contributions.

Example 3: A person becomes a dual member on January 1, 1994. She has until December 31, 1995, to restore any previously withdrawn contributions for service credit in a prior system regardless of whether she subsequently loses her status as a dual member.

Example 4: A person becomes a dual member on January 1, 1994, separates from membership on January 1, 1995, and then reenters membership on January 1, 1996. He has until December 31, 1997, twenty-four consecutive months from the date

he regained dual member status, to restore withdrawn contributions in any prior system.

(c) If you have previous service in LEOFF Plan 2 or a first class city system:

(i) If you were a dual member on July 25, 1993, and you used to be a member of LEOFF Plan 2, you have until July 24, 1995, to repay your withdrawn contributions.

(ii) If you were a dual member on January 1, 1994, and you used to be a member of a first class city retirement system, you have until December 31, 1995, to repay your withdrawn contributions.

Example 5: A person is a member participant in PERS Plan 2 and has previous service in LEOFF Plan 2. LEOFF Plan 2 was newly admitted to participate under the portability provisions of chapter 41.54 RCW on July 25, 1993. Therefore, the person has until July 24, 1995, to restore her prior LEOFF Plan 2 service.

(2) **You may reestablish TRS Plan 1 membership.** If a PERS member restores withdrawn TRS Plan 1 contributions under this section he or she:

(a) Reestablishes membership in TRS Plan 1; and

(b) Will participate prospectively in TRS Plan 1 if employed by a state agency, school district or other TRS employer.

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

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Dual member system" - WAC 415-113-0303.

(c) "First class city retirement system" - WAC 415-113-0304.

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-045, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-045, filed 1/4/95, effective 2/4/95.]

WAC 415-113-055 Am I eligible for a multiple system benefit? To be eligible for a multiple system benefit, you must meet the criteria listed in this section.

(1) **You may retire for service or disability.** You may retire with a multiple system benefit if you retire from all systems for service. You may also retire with a disability retirement from your current system, other than a benefit provided by RCW 41.40.220 or WSPRS, and a service retirement from your prior system.

(2) **You must retire from all systems.** You may only retire with a multiple system benefit if you retire from all dual member systems that you participate in.

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

(a) "Accumulated contributions" - WAC 415-113-0301.

(b) "Dual member system" - WAC 415-113-0303.

(c) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050, 96-20-004, § 415-113-055, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-055, filed 1/4/95, effective 2/4/95.]

WAC 415-113-057 Am I required to retire with a multiple system benefit? You are not required to retire

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with a multiple system benefit. You may elect to retire from a system or systems without the benefits or restrictions of chapter 41.54 RCW. If you choose to retire from more than one system without receiving a multiple system benefit, you are not subject to the maximum benefit limitation of RCW 41.54.070 and WAC 415-113-090(1).

(1) **Waiver of benefits.** If you decide not to receive a multiple system benefit, you waive the right to:

(a) Substitute your base salary between retirement systems for purposes of calculating a retirement allowance; or

(b) Combining your service from each system for purposes of determining retirement eligibility.

(2) **You are not required to retire with a multiple system benefit even if you repaid contributions as a dual member.** If you repaid previously withdrawn contributions from a prior dual member system under RCW 41.54.020, you may still elect to retire from one or more systems without receiving a multiple system benefit.

(3) **If you decline a multiple system benefit, you may withdraw your contributions.** If you elect to retire without receiving a multiple system benefit, you may withdraw your accumulated contributions from a system in lieu of receiving a retirement allowance, provided that withdrawal is otherwise permissible under the systems' provisions.

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

(a) "Accumulated contributions" - WAC 415-113-0301.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member" - RCW 41.54.010(4), WAC 415-113-0303.

(d) "Dual member system" - WAC 415-113-0303.

(e) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-057, filed 1/4/95, effective 2/4/95.]

CALCULATING YOUR DUAL MEMBER BENEFIT

WAC 415-113-059 Can I combine service from different systems to qualify for increased benefits? (1) You may combine service to determine retirement eligibility. You may combine your service in all systems for the sole purpose of determining your eligibility for a disability or service retirement allowance from your current system and a service retirement allowance from your prior system.

(2) **You may not combine service for any other purpose.** You may not combine your service in all systems to qualify for additional benefits offered by a particular system. Those additional benefits include but are not limited to:

(a) PERS Plan 1 military service. You may not combine service from other systems to qualify for military service credit in PERS Plan 1 under RCW 41.40.170.

(b) LEOFF Plan 2 post-separation benefits. You may not combine your accrued service under both systems for purposes of qualifying for:

(i) A LEOFF Plan 2 indexed retirement allowance under RCW 41.26.530(2); or

(ii) A refund of one hundred fifty percent of the LEOFF Plan 2 member's accumulated contributions under RCW 41.26.540.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "System" - RCW 41.54.010(6).

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-059, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-059, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-059, filed 1/4/95, effective 2/4/95.]

WAC 415-113-065 Can I substitute salary from one system to another? (1) You can substitute base salary between systems.

(a) If you elect to retire with a multiple system benefit, you may substitute your base salary under one dual member system for your includable compensation in a second dual member system for purposes of computing a retirement allowance from the second system. Using the substituted salary, the department will compute your average compensation under each system's own requirements.

Example 6: At retirement, a person is a member participant in PERS Plan 2 and has prior creditable service in TRS Plan 1. Assume the multiple system retiree earned her highest compensation during her PERS Plan 2 service. The retiree's PERS Plan 2 retirement allowance will be based on her PERS Plan 2 average compensation. For purposes of computing her TRS average compensation and retirement allowance, she may substitute her PERS Plan 2 base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

Example 7: At retirement, a person is a member participant in TRS Plan 1 and has prior creditable service in PERS Plan 1. Assume the multiple system retiree earned his highest compensation during his membership in TRS Plan 1. The retiree may substitute his base salary earned while a member in TRS Plan 1 for his PERS Plan 1 compensation earnable. However, because he may substitute only his base salary from TRS Plan 1 for his compensation earnable in PERS, his PERS average compensation will not include any cashout payments from his TRS employer.

(b) If you do not have sufficient service credit months in one dual member system to complete an average compensation period under that system, the department will substitute the appropriate number of months of base salary from another system to complete the average compensation period.

Example 8: A person who has creditable service in TRS Plan 1 and PERS Plan 2 retires at age sixty-five having accrued twenty-four months of service in PERS Plan 2. Under PERS Plan 2, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute the multiple system retiree's PERS Plan 2 retirement allowance, the department will substitute her highest consecutive thirty-six service credit months of TRS base salary to complete the PERS sixty-month average compensation period.

(2) **Adjusted full-time salary is not base salary.** A multiple system retiree's adjusted full-time salary under

[Title 415 WAC—p. 164]

RCW 41.32.345 shall not constitute base salary for purposes of computing the retiree's multiple system benefit.

(3) **Includable compensation defined.** For purposes of this chapter, "includable compensation" means:

(a) Earnable compensation under TRS Plan 1, 2 or 3 as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan 1 or 2 as defined in RCW 41.40.010(8);

(c) Basic salary under LEOFF Plan 2 as defined in RCW 41.26.030 (13)(b);

(d) Monthly salary under WSPRS as used in RCW 43.43.120(15); and

(e) Compensation earnable under SERS Plan 2 or 3 as defined in RCW 41.35.010(6).

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

(a) "Average compensation" - WAC 415-113-0302.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member system" - WAC 415-113-0303.

(d) "Member participant" - WAC 415-113-0305.

(e) "Multiple system benefit" - WAC 415-113-0306.

(f) "Multiple system retiree" - WAC 415-113-0308.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-065, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-065, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-065, filed 1/4/95, effective 2/4/95.]

WAC 415-113-070 Can I defer my retirement allowance from a system if I retire with a multiple system benefit? (1) You may defer receipt of your retirement allowance. If, by combining creditable service, you qualify to retire in one system but not in a second system, you must either:

(a) Receive an actuarially reduced retirement allowance from the second system; or

(b) Defer retirement in the second system until a later date of your choice. If you choose to begin receiving a retirement allowance from your second system before you are fully eligible, the benefit will be actuarially reduced.

(i) If you elect to defer retirement in the second system, you retain dual member status for the sole purpose of receiving a deferred multiple system benefit;

(ii) If you retire from all systems but elect to defer retirement in one dual member system under RCW 41.54.030(3), you may not subsequently withdraw accumulated contributions from that system.

(c) An actuarial reduction under (a) or (b) of this subsection, if applicable, will account for the difference between your age at the time you begin receiving the retirement allowance and the earliest age where you would be fully eligible based upon your combined service. "Fully eligible" means a person who has enough combined service to qualify for a retirement allowance from a dual member system without receiving a reduction for:

(i) Early retirement from a Plan 2 or Plan 3 system under RCW 41.40.630(2), 41.35.420(2), 41.35.680(2), 41.32.765(2), 41.32.875(2), 41.26.430(2); or

(ii) Early retirement from a Plan 3 system under RCW 41.32.875(2); or

(iii) Retirement as a nonmember participant from WSPRS under RCW 43.43.280(2).

(2) **If you defer your retirement allowance and later reenter membership, you are no longer a dual member.** If, after deferring retirement, you enter membership in a dual member system, your dual member status terminates. Once your dual member status terminates:

(a) You may only retire under the deferred system if eligible based solely upon that system's retirement eligibility criteria; and

(b) Your retirement allowance under the deferred system will be based solely upon service actually established in that system.

Example 9: A sixty-two year old dual member of PERS Plan 1 and TRS Plan 2 retires. He elects to receive PERS Plan 1 benefits but defer receipt of a TRS Plan 2 retirement allowance. If he becomes reemployed in a TRS Plan 2 eligible position, he will reenter TRS Plan 2 membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan 1 retirement allowance until he works more than the work-limit in a calendar year under WAC 415-108-710. The member's eligibility to retire from TRS Plan 2 will be based solely on his accrued service credit in TRS Plan 2 and his TRS Plan 2 retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan 2.

Example 10: Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan 2 position. He could work in this position up to the work-limit in a calendar year under WAC 415-108-710 without having his PERS retirement allowance suspended. If the retiree works over the work-limit:

- The department would suspend his retirement allowance until the next calendar year. He would remain a dual member. He would be able to retire in TRS 2 if otherwise eligible;
- The retiree could elect to reenter PERS Plan 1 membership at any time, if otherwise eligible, and terminate his dual member status. His election for membership is not retroactive. The effect on the person's right to a TRS Plan 2 benefit is the same as in Example 9. See WAC 415-108-710.

(3) **If you defer your retirement allowance and die before you begin receiving the allowance, your survivor may receive a continuing benefit.** If you defer receipt of your retirement allowance from a system and die before you elect to begin receiving the allowance:

(a) Your surviving spouse, if any, must elect to receive either:

(i) A joint and one hundred percent survivor option from the deferred system. If your surviving spouse selects this option, your base salary under one system may be substituted for your includable compensation in the deferred system to compute the survivor retirement allowance from the deferred system; or

(ii) A refund of your accumulated contributions from the deferred system.

(b) If you do not have a surviving spouse, the department will pay your accumulated contributions from the deferred system to:

(i) Your designated beneficiary or beneficiaries; or

(ii) Your estate, if there are no living beneficiaries.

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

(a) "Dual member system" - RCW 41.32.010(4), WAC 415-113-041.

(b) "Member participant" - WAC 415-113-0305.

(c) "Includable compensation" - WAC 415-113-065(3)

(d) "Multiple system participant" - WAC 415-113-0307.

(e) "Nonmember participant" - WAC 415-113-0309.

(f) "System" - RCW 41.54.010(6).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-070, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-070, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-070, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-070, filed 1/4/95, effective 2/4/95.]

WAC 415-113-080 Can I retire retroactively? You may retire retroactively. If you retire from all dual member systems, your retirement allowance from a prior system will be retroactive back to your accrual date under the prior system.

(1) **Accrual date determined.** The department will determine your accrual date in each system by combining your total service and applying the statute or rule designating accrual dates in the particular system. Your accrual date for purposes of this section is the date that your combined service first makes you eligible for an unreduced benefit.

Example 11: A person is a fifty-five year old member participant in PERS Plan 2 and a nonmember participant in LEOFF Plan 2. The person decides not to retire from LEOFF Plan 2 until he is eligible to retire with full benefits from PERS Plan 2 at age sixty-five. Upon retirement, he will be entitled to a LEOFF Plan 2 retirement allowance effective on his accrual date under LEOFF Plan 2 (i.e., age fifty-five).

Example 12: A person with twenty years of prior service in TRS Plan 1 becomes a member participant in PERS Plan 2 on her fifty-fourth birthday. By combining her service in both systems under chapter 41.54 RCW, she will become eligible to retire under TRS Plan 1 at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty-five. Her TRS Plan 1 retirement allowance will be effective back to the date it accrued under TRS Plan 1 (i.e., the first of month following the month she turns fifty-nine).

(2) **You cannot use salary earned after your accrual date in calculating your retroactive benefit.** If you retire retroactively from a prior system, the department will not use any of the salary you earned after your accrual date to compute your benefit from the prior system.

Example 13: A PERS Plan 1 member receives a salary of \$3,000 per month. She has 30 years of service credit at age 50 and is eligible to retire with an unreduced (full) benefit.

Subsequently, she is offered a TRS Plan 3 covered position at a monthly salary of \$3,500. If she accepts the TRS Plan 3 position, will she be able to use its higher monthly salary of \$3,500 as base salary to calculate her PERS Plan 1 retirement benefit when she does retire? **No, she will not.** The TRS Plan 3 salary would have been earned after the PERS Plan 1 accrual date: The date that she first became eligible to retire with an unreduced benefit under PERS Plan 1 rules.

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

(a) "Dual member system" - WAC 415-113-0303.

(b) "Member participant" - WAC 415-113-0305.

(c) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-080, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-080, filed 1/4/95, effective 2/4/95.]

WAC 415-113-082 Could retroactive retirement cancel my membership in a subsequent system? (1) If you retire retroactively from a prior system, you could cancel your membership in a subsequent system. If your membership in a subsequent system would have been prohibited under RCW 41.04.270 but for your status as a dual member, and you retire retroactively from a prior system, the department will cancel your membership and refund your contributions in the subsequent system under RCW 41.54.020(1). Your retroactive retirement from a prior system may cancel your membership in a subsequent system according to the following table:

How much service did you earn in your prior system?	Were you eligible to retire in the prior system before you became a member of your subsequent system?	Will retroactive retirement from your prior system cancel your membership in subsequent system?
15 years or more	No	No (See Example 13)
15 years or more	Yes	Yes, unless you retire from both the prior and subsequent system under RCW 41.54.030(2). (See Example 14)
Less than 15 years	No	No (See Example 15)
Less than 15 years	Yes	No (See Example 15)

See RCW 41.54.020(1) and RCW 41.04.270.

Example 14: A nonmember participant in LEOFF Plan 2 who has accrued sixteen years of service in LEOFF Plan 2 became a member of PERS Plan 2 at age fifty-four. Because she became a member participant of PERS Plan 2 at age fifty-four, prior to attaining retirement eligibility under LEOFF Plan 2 (i.e., age fifty-five), she may later retire retroactively from LEOFF Plan 2, subject to LEOFF Plan 2 criteria, while continuing membership in PERS Plan 2.

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

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Member participant" - WAC 415-113-0305.

(c) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-082, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-082, filed 1/4/95, effective 2/4/95.]

Example 15: A nonmember participant in LEOFF Plan 2 with sixteen years of accrued service became a member of PERS Plan 2 at age fifty-five. If he attempts to retire from LEOFF Plan 2 while continuing membership in PERS Plan 2, the department will cancel his PERS Plan 2 membership and refund his PERS contributions. However, if he retires from both systems, he is entitled to retain the benefits of his PERS Plan 2 membership.

WAC 415-113-084 How will my benefit be computed if I retire retroactively from LEOFF Plan 2? (1) Computation of your retroactive LEOFF Plan 2 retirement allowance. If you retire with a multiple system benefit and one of your retirement allowances is a retroactive LEOFF Plan 2 allowance, the department will compute your LEOFF Plan 2 allowance based upon the greater of:

(a) Your LEOFF Plan 2 final average salary, substituting some or all of your base salary under the second system which you earned prior to the date your LEOFF Plan 2 retirement allowance began to accrue (i.e., age fifty-five); or

(b) An indexed retirement allowance under RCW 41.26.530(2) using your LEOFF Plan 2 average compensation.

Example 16: Assume either of the retirees in Examples 13 and 14 above had accrued less than fifteen years of service in LEOFF Plan 2. In this case, RCW 41.04.270 would not apply to prevent the retirees from establishing PERS Plan 2 membership. Either person could retire retroactively from the LEOFF Plan 2 without canceling membership and participation in PERS Plan 2.

Example 17: A person who is a nonmember participant of LEOFF Plan 2 and a member participant of PERS Plan 2 retires from both systems at age sixty-five. If he had accrued twenty-one years of creditable service in LEOFF Plan 2, the

multiple system retiree's LEOFF Plan 2 retirement allowance may be based upon either: His substituted PERS Plan 2 base salary which he earned prior to attaining retirement eligibility in LEOFF at age fifty-five; or the LEOFF Plan 2 indexed retirement allowance under RCW 41.26.530(2) using his LEOFF Plan 2 average compensation. The department will use the method which results in the largest retirement allowance.

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

- (a) "Member participant" - WAC 415-113-0305.
- (b) "Multiple system benefit" - WAC 415-113-0306.
- (c) "Multiple system retiree" - WAC 415-113-0308.
- (d) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-084, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-084, filed 1/4/95, effective 2/4/95.]

WAC 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW? (1) Your benefit may not exceed the highest benefit limit under any one system. Your multiple system benefit may not exceed the highest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring. See RCW 41.54.070.

(2) **The department will compute your maximum multiple system benefit in the following order:**

(a) **Calculate the maximum benefit you could receive under each system.** The department will compute your maximum benefit according to the benefit limitation provisions of each system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under each system, the department will:

- (i) Apply the provisions of each system governing the calculation of your average compensation in that system; and
- (ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

Example 18: A multiple system retiree retires from TRS Plan 1 state employment with prior creditable PERS Plan 1 service. His state employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either his PERS Plan 1 or TRS Plan 1 maximum benefit.

Example 19: A multiple system retiree retires from PERS Plan 1 local government employment and receives a sick leave cashout. Because a sick leave cashout from a local government employer may be included as earnable compensation, the department will include the sick leave cashout to compute the retiree's maximum benefits under both PERS Plan 1 and TRS Plan 1.

(b) **Determine your retirement allowances from each system.** After computing your maximum benefit, the department will determine the retirement allowances which you are entitled to from each system under chapter 41.54 RCW before making any reduction under RCW 41.54.070. If applicable, the department will then reduce the amount of your retirement allowances provided by either of the dual member systems for:

- (i) Your status as a nonmember participant of WSPRS pursuant to RCW 43.43.280(2); or
- (ii) Your election to retire early from a Plan 2 system under RCW 41.40.630(2), 41.32.765(2), and 41.26.430(2) or Plan 3 system under RCW 41.32.875(2).

(c) **Compute your total multiple system benefit.** Upon computing your retirement allowances from each system and making any applicable reductions under (b) of this subsection, the department will add the systems' allowances to compute your total multiple system benefit.

(d) **Compare your total multiple system benefit with your maximum benefit and, if necessary, proportionately reduce your retirement allowances.** The department will then compare your total multiple system benefit with your maximum benefit calculated in (a) of this subsection. If your total multiple system benefit exceeds your maximum benefit, the department will proportionately reduce your retirement allowances provided by each system as follows:

- (i) Calculate what proportion your total multiple system benefit is provided by each system separately;
- (ii) Proportionately reduce the benefit provided by each system to account for the excess of your total multiple system benefit over your maximum benefit.

Example 20: A person with twenty-nine years of prior service in TRS Plan 1 and one year of subsequent service in PERS Plan 2 retires from both systems at age sixty-five. The retiree's TRS Plan 1 average compensation is thirty thousand dollars. The TRS Plan 1 maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. The retiree's PERS Plan 2 average compensation is twenty-eight thousand dollars. The retiree's maximum PERS 2 benefit is sixteen thousand eight hundred dollars or one thousand four hundred dollars per month. The retiree's maximum benefit is the higher of the two amounts, one thousand five hundred dollars per month.

Assume the retiree's accrued service is such that her actual TRS Plan 1 monthly benefit is one thousand four hundred fifty dollars and her PERS Plan 2 monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan 1 and PERS Plan 2 benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would proportionately reduce her TRS Plan 1 and PERS Plan 2 benefits. Her TRS Plan 1 benefit is 29/30 of her total service or

ninety-seven percent, and her PERS Plan 2 benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan 1 benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x.97) and her PERS Plan 2 benefit by three percent of the overage, or one dollar and fifty cents (50 x.03).

(3) **If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate.** After making any applicable maximum benefit reductions, the department will further reduce your benefit if you elect:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan 1;

(b) A survivor benefit option; or

(c) A cost-of-living adjustment (COLA) option.

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

(a) "Average compensation" - WAC 415-113-0302.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-0303.

(d) "First class city system" - WAC 415-113-0304.

(e) "Member participant" - WAC 415-113-0305.

(f) "Multiple system benefit" - WAC 415-113-0306.

(g) "Multiple system retiree" - WAC 415-113-0308.

(h) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-090, filed 10/29/99, effective 11/29/99; 96-20-004, § 415-113-090, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-090, filed 1/4/95, effective 2/4/95.]

WAC 415-113-100 Am I eligible for a lump sum retirement allowance? (1) If you retire with a multiple system benefit and one of your retirement allowances is less than fifty dollars per month, you may receive a lump sum payment as allowed under RCW 41.54.090.

(2) Unless you are retiring from TRS Plan 1, the department will use your standard retirement allowance to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(3) If you are retiring from TRS Plan 1, the department will use your maximum retirement allowance under TRS Plan 1 to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050, 99-22-043, § 415-113-100, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-100, filed 1/4/95, effective 2/4/95.]

WAC 415-113-200 SERS and PERS concurrent employment. For the purposes of this section and pursuant to RCW 41.35.005, 41.35.010, 41.40.010, and 41.54.100, "concurrent employment" refers to an individual who is employed simultaneously in an eligible SERS Plan 2 or Plan 3 position and an eligible PERS Plan 2 position.

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If a member has been concurrently employed at any time, this section governs the calculation of service credit, average final compensation, and retirement benefits attributable to all periods of PERS employment, SERS employment, and concurrent employment.

(1) **Can I participate in SERS and PERS at the same time?** Yes, you may participate in SERS and PERS at the same time when employed concurrently in a PERS eligible position and a SERS eligible position. Your SERS employer will report your SERS eligible service in SERS. Your PERS employer will report your PERS eligible service in PERS.

(2) **Will the factors used to calculate my defined benefit be different because of concurrent employment in SERS and PERS?** No, the department will calculate your service credit and average final compensation as if all of your employment was reported in one system. These two factors are used to calculate your defined benefit.

(3) **Will the amount of my benefit be different because of concurrent employment?**

(a) If you are concurrently employed in SERS Plan 2 and PERS Plan 2, the amount of your benefit from SERS and PERS combined will be the same as if all of your service had been reported and you received a benefit in one system, because:

(i) SERS Plan 2 and PERS Plan 2 both use identical two-percent benefit formulas; and

(ii) Your total service credit and average final compensation will not be different than if all of your service had been reported in one system pursuant to subsection (2) of this section.

(b) If you are concurrently employed in SERS Plan 3 and PERS Plan 2, the amount of your benefit may be greater or less than if all of your service had been reported in one system:

(i) SERS Plan 3 uses a one-percent defined benefit formula and has a defined contribution component. You are responsible for the investment of your defined contribution component, which is subject to investment gains or losses; therefore, the dollar value of your total benefit may be greater or less than what you would have received if all of your service had been reported in one defined benefit system.

(ii) The allocation of your service credit while concurrently employed, as described in subsection (4) of this section, may also affect the dollar value of your benefit.

(4) **How is my service credit granted while concurrently employed?** As a concurrently employed member, you are entitled to exactly the same amount of service credit for your SERS and PERS service combined that you would have received had all of your service been reported in one system.

To calculate your service credit the department will:

(a) Combine your SERS and PERS service to determine the amount of service credit you would have earned had all of your service been reported in one system.

(b) Calculate and grant service credit in SERS based only on your reported SERS service.

(c) Calculate and grant service credit in PERS by subtracting the amount of service credit granted for SERS in (b) of this subsection from the amount of service credit calculated in (a) of this subsection that you would have earned had

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all of your service been reported in one system (see example 1):

(i) For any month that you receive one month of service credit in SERS for a calendar month of employment, you will not receive any PERS service credit in that month.

(ii) The combined service credit in SERS and PERS may not exceed one month of service for a calendar month of employment.

(d) Adjust the SERS service credit at the conclusion of each school year in accordance with the provisions of RCW 41.35.180. This adjustment may cause changes in the combined SERS/PERS service credit and/or changes in the PERS service credit. (See example 2).

Example 1: Monthly computation of concurrent employment service credit.

Part-time SERS and part-time PERS.

(a) During a month, a member works 80 hours at a school district and 100 hours at a county. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .5 service credit in SERS based on the 80 hours of service reported in SERS and will receive .5 service credit in PERS based on subtracting the .50 service credit in SERS from the maximum of 1.00 service credit.

(b) During a month, a member works 65 hours at a school district and 30 hours at a county. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .25 service credit in SERS based on the 65 hours of service reported in SERS and will receive .75 service credit in PERS based on subtracting the .25 service credit in SERS from the maximum of 1.00 service credit.

Full-time SERS and part-time PERS.

During a month, a member works 172 hours for an educational service district and works 30 hours for a state agency. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted one month of service credit in SERS based on the 172 hours of service reported in SERS and will receive 0.0 service credit in PERS (even though they worked 30 hours) based on subtracting the 1.00 service credit in SERS from the maximum of 1.00 service credit.

Part-time SERS and full-time PERS.

During a month, a member works 40 hours for a school district and 180 hours for a city. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .25 service credit in SERS based on the 40 hours of service reported in SERS and will receive .75 service credit in PERS based on subtracting the .25 service credit in SERS from the maximum of 1.00 service credit.

Example 2: Application of the educational service credit rules and the effects on concurrent employment service credit computation.

During September, October, and November a member works 60 hours, 30 hours, and 70 hours in SERS and works 90 hours, 30 hours, and 60 hours in PERS, respectively. Based on these hours, the member would have been granted .25, .25, and .50 service credits in SERS and .75, 0.0, and .50 in PERS. The member's service credit calculated on a monthly basis through November is shown in Table 1 below.

At the end of the school year, the educational service credit rules (RCW 41.35.180) are applied. The application of these rules may cause one or more months of SERS service credit to change. A change in the SERS service credit for any given month may cause the combined SERS/PERS service credit to change. See Table 2, second line. The PERS service credit would then need to be recalculated for any month that the SERS service credit changed.

The members service for the entire school year is shown in Table 2 below. Applying the educational service credit rules, the member is now entitled to six service credit months in SERS for the school year (.50 in each month of September through August) based on working a total of 750 hours for the year. Thus, the service credit in September would be changed to .50 service credit in SERS and .50 credit in PERS. The service credit in October would be changed to .50 service credit in SERS and would remain at 0.0 service credit in PERS. November's service credit calculation is not affected by the application of the educational service credit rules.

Table 1: Month by Month Determination

	HOURS			SERVICE CREDIT		
	Combined PERS/SERS	SERS	PERS	Combined PERS/SERS	SERS	PERS
Sept	150	60	90	1	0.25	0.75
Oct	60	30	30	.25	.25	0.00
Nov	130	70	60	1	0.50	0.50

Table 2: After RCW 41.35.180 Adjustment

	HOURS			SERVICE CREDIT		
	Combined PERS/SERS	SERS	PERS	Combined PERS/SERS	SERS	PERS
Sept	150	60	90	1	0.5	0.5
Oct	60	30	30	0.5	0.5	0
Nov	130	70	60	1	0.5	0.5
Dec	120	60	60	1	0.5	0.5
Jan	140	70	70	1	0.5	0.5
Feb	160	90	70	1	0.5	0.5
Mar	130	60	70	1	0.5	0.5
Apr	140	70	70	1	0.5	0.5
May	130	70	60	1	0.5	0.5
Jun	130	70	60	1	0.5	0.5
Jul	80	40	40	0.5	0.5	0
Aug	120	60	60	1	0.5	0.5
		750		11	6	5

(5) **How is my average final compensation calculated if I have been concurrently employed?** Your average final compensation will be calculated by combining all compensation earnable and service credit from all periods of SERS employment, PERS employment, and concurrent employment and then determining your highest consecutive sixty service credit months prior to your retirement, termination, or death. If an authorized leave occurs during the highest consecutive sixty service credit months, amounts earned during the period of leave will not be used in the calculation of average final compensation, except under RCW 41.40.710(2), 41.35.470(2) or 41.35.650(2).

(6) **How is my defined benefit in each system calculated?** A retirement allowance will be calculated using the appropriate formula for each system and plan as described in chapters 41.40 and 41.35 RCW, except that:

(a) The PERS service credit granted under subsection (4) of this section will be used in the PERS calculation and the SERS service credit granted under subsection (4) of this section will be used in the SERS calculation; and

(b) The average final compensation calculated under subsection (5) of this section will be used as the average final compensation for both PERS and SERS.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-200, filed 12/12/00, effective 1/12/01.]

Chapter 415-114 WAC

ASSESSMENT OF INTEREST CHARGES ON OVERDUE RECEIVABLES

WAC

- 415-114-100 Purpose.
- 415-114-200 Definitions.
- 415-114-400 Assessment of interest charge.
- 415-114-700 Erroneous charges of interest.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-114-010 Purpose. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-010, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-010, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.

- 415-114-020 Definitions. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-020, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-020, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-030 What is considered an overdue payment of an obligation owed to the department. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-030, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-030, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-040 Assessment of interest charge. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-040, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-040, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-050 Assessment of interest charge on accrued obligations. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-050, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-050, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-055 Assessment of interest charge on debit balance forward. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-055, filed 6/14/91, effective 7/15/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-060 Billing of interest charges. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-060, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-060, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-070 Erroneous charges of interest. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120. 91-13-049, § 415-114-070, filed 6/14/91, effective 7/15/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
- 415-114-300 What is considered an overdue payment of an obligation owed to the department. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-300, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.
- 415-114-500 Assessment of interest charge on accrued obligations. [Statutory Authority: RCW 41.50.050, 41.50.120 and

- chapter 34.05 RCW. 91-19-062, § 415-114-500, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.
- 415-114-550 Assessment of interest charge on debit balance forward. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-550, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.
- 415-114-600 Billing of interest charges. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-600, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.

WAC 415-114-100 Purpose. These rules relate to the implementation of RCW 41.50.120 and 41.50.125 which provide the department of retirement systems the authority to assess interest on the overdue unpaid balance of a receivable owed to the department. These rules are intended to encourage payment in a timely manner.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-100, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-100, filed 9/16/91, effective 10/17/91.]

WAC 415-114-200 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

- (1) "Department" - refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended;
- (2) "Receivable" - refers to an amount owed to DRS, where there is a legal obligation to pay DRS and DRS has a legal obligation to collect the amount owed. That includes, but is not limited to, amounts owed to trust funds administered by the department of retirement systems;
- (3) "Close of business day" - refers to 5:00 p.m. of a business day;
- (4) "Overdue receivable" - refers to a receivable with an unpaid balance at the close of business three business days after the due date;
- (5) "Employer receivable" - refers to a receivable which is owed by any one of the employers within the retirement systems and programs administered by the department as defined in RCW 41.50.030;
- (6) "Member receivable" - refers to a receivable which is owed by any one of the current or previous members of the retirement systems and programs administered by the department as defined in RCW 41.50.030, or is owed by a member's beneficiary, legal owner payee, or other agent in conjunction with the member's account;
- (7) "Administrative receivable" - refers to any receivable owed the department which is not considered an employer receivable or a member receivable.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-200, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-200, filed 9/16/91, effective 10/17/91.]

WAC 415-114-400 Assessment of interest charge. The first calendar day that the receivable is overdue, interest will be charged, based on the due date.

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A 1% per month simple interest charge will be assessed against an employer's overdue balance. Interest charges for other receivables will be determined by the director of the department of retirement systems. For member receivables, interest will be based on the long-term investment return assumption adopted under RCW 41.45.030. These rates approximate interest lost to trust funds because the receivables have not been paid in a timely manner.

Assessed interest will appear on the monthly accounts receivable statement issued by the department.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-400, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-400, filed 9/16/91, effective 10/17/91.]

WAC 415-114-700 Erroneous charges of interest. If the department erroneously charges interest, the department will credit the account within sixty days of the date that the erroneous bill is corrected. The credit will equal all erroneous interest charged. Those who believe they have been charged interest in error must submit written justification of their claim within ninety days of the interest charge.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-700, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-700, filed 9/16/91, effective 10/17/91.]

Chapter 415-115 WAC

ASSESSMENT OF AN ADDITIONAL ADMINISTRATIVE FEE

WAC

- 415-115-010 Purpose.
- 415-115-020 Definitions.
- 415-115-030 Assessment of additional administrative fee.
- 415-115-040 What is considered an untimely report.
- 415-115-050 What is considered an inaccurate report.
- 415-115-060 Deficiencies in reporting.
- 415-115-080 Determination of additional administrative fee.
- 415-115-090 Maximum additional administrative fee allowable for the public employees', teachers', and law enforcement officers' and fire fighters' retirement systems.
- 415-115-100 Maximum additional administrative fee allowable for the judges, judicial, and Washington state patrol retirement systems.
- 415-115-120 Reconsideration of additional administrative fee billing.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-115-070 Evaluation of reports and assessment of additional administrative fee. [Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-070, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-070, filed 6/12/91, effective 7/13/91.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.
- 415-115-110 Billing of the additional administrative fee. [Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-110, filed 6/12/91, effective 7/13/91.] Repealed by 93-16-032, filed 7/29/92, effective 8/29/92. Statutory Authority: RCW 41.50.050 and 41.50.110(3).

WAC 415-115-010 Purpose. These rules relate to the implementation of RCW 41.50.110(3) which provides the department of retirement systems the authority to assess addi-

tional administrative fees related to increased costs incurred by the department in processing deficient reports. These rules are intended to encourage employers to report timely and accurate member information.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-010, filed 6/12/91, effective 7/13/91.]

WAC 415-115-020 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Department" refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended.

(2) "Employers" refers to all employers within the retirement systems administered by the department, as defined in RCW 41.50.030.

(3) "Reports" refers to the department of retirement systems transmittal report sent each month by employers to the department.

(4) "Close of business" refers to 5:00 p.m. of a business day.

(5) "Standard administrative fee" for employers in the public employees', school employees', teachers', and law enforcement officers' and fire fighters' retirement systems refers to the administrative fee provided for under RCW 41.50.110; for employers in the judges, judicial, and Washington state patrol retirement systems refers to the biennial appropriation that the department receives for administering each system.

(6) "Additional administrative fee" refers to the fee provided for under RCW 41.50.110(3) which is related to increased costs incurred by the department in processing deficient reports.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-115-020, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-020, filed 6/12/91, effective 7/13/91.]

WAC 415-115-030 Assessment of additional administrative fee. (1) An employer who fails to submit timely and accurate reports to the department will be assessed an additional fee related to the increased costs incurred by the department to process the deficient reports.

(2) Every month, the department will determine the amount of the fee to be assessed by evaluating the timeliness and accuracy of the reports submitted by employers in the preceding month. If those reports are either untimely or inaccurate, the department will assess an additional administrative fee. This additional administrative fee will not exceed fifty percent of the standard administrative fee.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-030, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-030, filed 6/12/91, effective 7/13/91.]

WAC 415-115-040 What is considered an untimely report. Reports for a calendar month, or any portion thereof, are due on or before the 15th day of the following calendar month. Reports are considered overdue if not received by the close of business on the third business day after the 15th of the following calendar month.

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[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-040, filed 6/12/91, effective 7/13/91.]

WAC 415-115-050 What is considered an inaccurate report. Reports are inaccurate if they cannot be processed or if they contain errors.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-050, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-050, filed 6/12/91, effective 7/13/91.]

WAC 415-115-060 Deficiencies in reporting. Any report which is overdue or which is inaccurate is considered a deficient report. Each day a report is late, each report which cannot be processed, or each error contained in a report constitutes a single deficiency in reporting. Employers are notified of reporting deficiencies each month through the department of retirement systems transmittal edit report.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-060, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-060, filed 6/12/91, effective 7/13/91.]

WAC 415-115-080 Determination of additional administrative fee. The department will determine the additional administrative fee that may be assessed to employers who have submitted untimely or inaccurate reports. This fee will be determined as follows:

(1) The department will base the additional administrative fee on costs incurred for processing late or inaccurate reports. Costs related to processing deficient data may include, but are not limited to, costs of personnel, equipment, services and facilities.

(2) The department will determine the total number of deficiencies reported by all employers during each month.

(3) Based upon the costs identified in subsection (1) of this section, the department will determine the additional administrative fee to be charged per deficiency.

(4) The department will determine the additional administrative fee to charge each employer. The total fee shall be an amount equal to the per deficiency fee determined under subsection (3) of this section multiplied by the deficiencies reported by an employer.

(5) From time to time, the department may review and adjust the charge calculated under subsection (3) of this section.

(6) Additional administrative fees are due and payable the 15th day of the calendar month following the month that the statement is dated.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-080, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 41.50.050 and 41.50.110(3). 92-16-032 § 415-115-080, filed 7/29/92, effective 8/29/92. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-080, filed 6/12/91, effective 7/13/91.]

WAC 415-115-090 Maximum additional administrative fee allowable for the public employees', teachers', and law enforcement officers' and fire fighters' retirement systems. The maximum additional administrative fee that may be charged to employers in the public employees' retire-

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ment system, the school employees' retirement system, the teachers' retirement system, and the law enforcement officers' and fire fighters' retirement system for any six-month period shall not exceed fifty percent of the standard administrative fee due for that six-month period. In instances where the standard administrative fee rate changes during the six-month period, the new standard administrative fee rate will be applied beginning with the month in which the new rate becomes effective. The maximum additional administrative fee that may be assessed is determined as follows:

(1) If the additional administrative fee as determined in accordance with WAC 415-115-080 is less than fifty percent of the standard administrative fee, the additional administrative fee is the maximum fee allowable.

(2) If the additional administrative fee as determined in accordance with WAC 415-115-080 is greater than or equal to fifty percent of the standard administrative fee, fifty percent of the standard administrative fee is the maximum fee allowable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-115-090, filed 12/12/00, effective 1/12/01. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-090, filed 6/12/91, effective 7/13/91.]

WAC 415-115-100 Maximum additional administrative fee allowable for the judges, judicial, and Washington state patrol retirement systems. The standard administrative fee for employers in the judges retirement system, the judicial retirement system, and the Washington state patrol retirement system for a six-month period is one-fourth of the biennial appropriation the department receives for administering each system. The maximum additional administrative fee that may be charged to employers in the judges, judicial, and Washington state patrol retirement systems for any six-month period shall not exceed fifty percent of the standard administrative fee due for that six-month period. The maximum additional administrative fee that may be assessed is determined as follows:

1) If the additional administrative fee as determined in accordance with WAC 415-115-080 is less than fifty percent of the standard administrative fee, the additional administrative fee is the maximum fee allowable.

2) If the additional administrative fee as determined in accordance with WAC 415-115-080 is greater than or equal to fifty percent of the standard administrative fee, fifty percent of the standard administrative fee is the maximum fee allowable.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-100, filed 6/12/91, effective 7/13/91.]

WAC 415-115-120 Reconsideration of additional administrative fee billing. (1) An employer who has received a billing for untimely or inaccurate reporting under this chapter may request a reconsideration of the billing. The employer must request reconsideration within six months of the date that the billing was issued by the department. The employer must state the reason why, and present evidence that, the specific assessment was not untimely or inaccurate.

(2) In instances where an additional administrative fee has been assessed incorrectly, the department will credit the

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employer's account in the amount of the incorrect assessment. An employer must provide suitable verification of the incorrectness of the assessment. An employer will be credited only for those reporting deficiencies charged to the employer for which the employer is not responsible.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-120, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-120, filed 6/12/91, effective 7/13/91.]

Chapter 415-200 WAC

EMPLOYEE RETIREMENT BENEFITS BOARD

WAC

415-200-020	Regular board meetings.
415-200-030	Plan 3 external administrators.
415-200-040	Self-directed investment—Expenses paid by members.
415-200-050	Recusal of board members—Beneficial interest in transaction.
415-200-060	Recusal of board members—Beneficial interest in entity engaged in transaction with the board.
415-200-070	Recusal of board members—Disclosure of reason for recusal.

WAC 415-200-020 Regular board meetings. The regular meetings of the employee retirement benefits board are held on the fourth Tuesday of each month beginning at 9:00 a.m. at the offices of the State Investment Board, 2424 Heritage Court S.W., Olympia, Washington 98504-0916.

[Statutory Authority: RCW 41.50.086 and 41.50.050. 96-23-025, § 415-200-020, filed 11/13/96, effective 12/14/96.]

WAC 415-200-030 Plan 3 external administrators. The employee retirement benefits board may obtain external investment management services to assist with the provision of self-direct investment options. External administrator and investment management services will be obtained through competitive procurement processes to ensure teachers' retirement system plan 3 and school employees' retirement system plan 3 members receive quality services and competitive pricing. The department of retirement systems may select external administrators to assist with the administration of the defined contribution portion of the teachers' retirement system plan III established under chapter 41.34 RCW and the school employees' retirement system plan 3 established under chapter 41.35 RCW.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-200-030, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.088 and 41.32.060. 97-16-039, § 415-200-030, filed 7/30/97, effective 7/30/97.]

WAC 415-200-040 Self-directed investment—Expenses paid by members. RCW 41.34.060 allows members of the teachers' retirement system plan 3 and school employees' retirement system plan 3 to elect to self-direct their investments. Members electing to self-direct their investments must pay the expenses caused by the self-directed investment program.

(1) **Assessment of member expenses for self-directed investment.** Each month, the third-party administrator will allocate self-directed investment expenses to each participant.

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ing member. The expenses allocated to members shall include:

- (a) External third party administrator costs;
- (b) External investment manager and consultant costs; and
- (c) State investment board investment management operating expenses, in the case of investment options provided through the state investment board.

Each category of expense shall be expressed in terms of basis points. A basis point is equal to one-hundredth of one percent. The administrator will determine the participating member's monthly fee by multiplying the average monthly value of each participating member's self-directed account assets by the basis points for each expense category.

(2) **Adoption of expense charge.** The expense charges used to calculate self-directed investment fees for participating members shall be established in a memorandum of understanding, interagency agreement, and/or contract. Each expense charge shall be reviewed and approved at a regularly scheduled meeting of the employee retirement benefits board, with opportunity for public testimony. No expense charge may be included in a memorandum of understanding, interagency agreement, and/or contract until such charge has been approved by the employee retirement benefits board. No expense charge which has been approved may be changed unless such change has been approved by the board.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-200-040, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.088 and 41.32.060. 97-16-039, § 415-200-040, filed 7/30/97, effective 7/30/97.]

WAC 415-200-050 Recusal of board members—Beneficial interest in transaction. (1) When a member of the board is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase or grant that may be made by, through, or is under the supervision of the board, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the member shall:

- (a) Recuse him or herself from the board discussion regarding the specific contract, sale, lease, purchase or grant;
- (b) Recuse him or herself from the board vote on the specific contract, sale, lease, purchase or grant; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific contract, sale, lease, purchase or grant.

(2) The prohibition against discussion set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3) Under subsection (1) of this section, "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.

Example: The board is composed in part of individuals who are employed by companies which provide investment options to retirement plans. The board is in the process of selecting invest-

ment options for the defined contribution portion of the Teachers' Retirement System Plan 3. A company which employs one of the board members has bid on the contract. The board member who is employed by the bidding company may use his general expertise to educate and provide general information to the board regarding investments and defined contribution retirement plans in general. The member is prohibited from participating in the board discussion and analysis implementing the criteria for selecting an investment company, and is prohibited from participating in the board vote to select the company.

Example: The board has a contract with an investment company to provide investment options for the defined contribution portion of Teachers' Retirement System Plan 3 (TRS Plan 3). The board's contract with the investment company is almost expired, and the board must seek proposals from investment companies for the next contract period. The board issues a request for proposal to various investment companies, including Investment Company "A." Approximately one year ago, a board member worked for Investment Company "A" and received compensation from that company. The board member subsequently retired. The board member is not required to recuse herself from selecting the investment company for TRS Plan 3. Investment Company "A" did not have a beneficial interest in the board's contract until it bid on the contract. Therefore, Investment Company "A" was not beneficially interested in the contract when the board member received the compensation. However, if the board member received compensation from Investment Company "A" after it bid on the contract, the board member would be required to disclose the fact that she received the compensation from the bidder, and to recuse herself from the board's specific discussion and the vote awarding the contract.

[Statutory Authority: RCW 41.50.086. 98-01-109, § 415-200-050, filed 12/17/97, effective 1/17/98.]

WAC 415-200-060 Recusal of board members—Beneficial interest in entity engaged in transaction with the board. (1) When a member of the board either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual which is engaged in a transaction involving the board, the member shall:

- (a) Recuse him or herself from the board discussion regarding the specific transaction;
- (b) Recuse him or herself from the board vote on the specific transaction; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific transaction.

(2) The prohibition against discussion and voting set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3)(a) "Transaction involving the board" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the member in question believes, or has reason to believe:

- (i) Is, or will be, the subject of board action; or
- (ii) Is one to which the board is or will be a party; or
- (iii) Is one in which the board has a direct and substantial proprietary interest.

(b) "Transaction involving the board" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the board that is the basis for the claim, case, or lawsuit. Rule making is not a "transaction involving the board."

(4) "Board action" means any action on the part of the board, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

Example: The board selects investment options for the deferred compensation program. The board currently has a contract with Investment Company "B" which allows program participants to purchase Company "B's" stock. The board is in the process of determining whether to renew Company "B's" contract. One of the board members owns fifty shares of Company "B" stock. That board member must recuse herself from the board's discussion and vote regarding whether to renew Company "B's" contract. The board member also must refrain from attempting to influence the remaining board members in their discussion and vote regarding the contract renewal.

Example: The board selects investment options for the deferred compensation program. The board is in the process of obtaining proposals from mutual fund companies to provide mutual fund options to program participants. Mutual Fund Company "C" bids on the contract. A board member owns one hundred shares of Mutual Fund "C," but does not have any management powers in the mutual fund company. The board member does not have a beneficial interest in Mutual Fund Company "C." RCW 42.52.010(4). The board member thus is not required to recuse himself from the board's discussion and vote on the mutual fund contract.

[Statutory Authority: RCW 41.50.086. 98-01-109, § 415-200-060, filed 12/17/97, effective 1/17/98.]

WAC 415-200-070 Recusal of board members—Disclosure of reason for recusal. If recusal occurs pursuant to WAC 415-200-050 or 415-200-060, the member of the board shall disclose to the public the reasons for his or her recusal

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from any board action whenever recusal occurs. The board staff shall record each recusal and the basis for the recusal.

[Statutory Authority: RCW 41.50.086. 98-01-109, § 415-200-070, filed 12/17/97, effective 1/17/98.]

**Chapter 415-501 WAC
DEFERRED COMPENSATION PLAN**

WAC

PLAN ESTABLISHED

- 415-501-010 Plan established.
- 415-501-020 Separate plan.

DEFINITIONS

- 415-501-110 Accumulated deferrals.
- 415-501-120 Beneficiary.
- 415-501-130 Compensation.
- 415-501-140 Deferred compensation.
- 415-501-150 Department.
- 415-501-160 Eligible employee.
- 415-501-170 Employee retirement benefits board.
- 415-501-180 Employer.
- 415-501-190 Participant.
- 415-501-200 Participation agreement.
- 415-501-210 Separation from service.
- 415-501-300 Department to adopt rules and regulations.
- 415-501-305 Department to interpret.

ADMINISTRATION

- 415-501-310 Administered by department.
- 415-501-315 Employer responsibility.
- 415-501-320 Tax status not guaranteed.
- 415-501-330 Department to maintain records of accounts.
- 415-501-340 Deferred compensation accounts.
- 415-501-350 Department and employee retirement benefits board actions.

DEPARTMENT POWERS

- 415-501-360 Plan prevails.
- 415-501-370 Decision binding.
- 415-501-380 Department may require court order.
- 415-501-390 Delegation of authority.

PARTICIPATION IN THE PLAN

- 415-501-410 Enrollment.
- 415-501-415 Plan to plan transfers.
- 415-501-420 Deferral limit.
- 415-501-430 Catch-up provision.
- 415-501-440 Department may disallow deferral.
- 415-501-450 Modification of deferral or investment option(s).
- 415-501-470 Suspension and reinstatement of deferrals.
- 415-501-475 Investment options.
- 415-501-480 Designation of beneficiaries.
- 415-501-485 Distribution to participant after separation from service.
- 415-501-486 Distribution in the event of death of participant.
- 415-501-487 Distribution in event of death of beneficiary.
- 415-501-490 Elections regarding distribution.
- 415-501-495 Domestic relations orders.
- 415-501-500 Distribution of deferrals.

UNFORESEEABLE EMERGENCY

- 415-501-510 Unforeseeable emergency.

LEAVE OF ABSENCE

- 415-501-520 Leave of absence.

AMENDMENT OR TERMINATION OF PLAN

- 415-501-530 Termination of plan.
- 415-501-540 Amendment of plan.

RELATIONSHIP TO OTHER PLANS

- 415-501-550 Retirement and Social Security not reduced.

TRANSFER IN LIEU OF CASH

- 415-501-560 Assets in lieu of cash.

NONASSIGNABILITY CLAUSE

415-501-570 Accumulated deferrals not assignable.

ASSETS

415-501-580 Plan assets.

PARTICIPATION BY DEPARTMENT OFFICERS
AND EMPLOYEES AND MEMBERS OF THE
EMPLOYEE RETIREMENT BENEFITS BOARD415-501-590 Participation by department officers and employees and
members of the employee retirement benefits
board.

EMPLOYER PARTICIPATION

415-501-600 Employer contributions.

INVESTMENT RESPONSIBILITY

415-501-610 Investment responsibility.

APPLICABLE LAW

415-501-710 Plan to conform to state law.

415-501-720 Plan to conform to federal law.

PLAN ESTABLISHED

WAC 415-501-010 Plan established. In accordance with the provisions of RCW 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, and as provided in Section 457 of the Internal Revenue Code, the state of Washington hereby establishes the deferred compensation plan for employees of the state of Washington and approved political subdivisions of the state of Washington, hereinafter referred to as the "plan." Nothing contained in this plan shall be deemed to constitute an employment agreement between the participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employment of the employer.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-010, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-501-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-020 Separate plan. The provisions in chapter 415-501 WAC apply only to the deferred compensation plan and not to any other plan administered by the department.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-020, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-501-020, filed 7/29/96, effective 7/29/96.]

DEFINITIONS

WAC 415-501-110 Accumulated deferrals. "Accumulated deferrals" means compensation deferred under the plan, adjusted by income received, increases or decreases in investment value, fees, and any prior distributions made.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-110, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-120 Beneficiary. "Beneficiary" means a beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

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[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-120, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-020, filed 7/29/96, effective 7/29/96.]

WAC 415-501-130 Compensation. "Compensation" means all payments made to a public employee by the employer as remuneration for services rendered.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-130, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-030, filed 7/29/96, effective 7/29/96.]

WAC 415-501-140 Deferred compensation. "Deferred compensation" means the amount of the participant's compensation which the participant and the employer shall mutually agree (prior to the date on which such compensation is earned) will be deferred.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-140, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-040, filed 7/29/96, effective 7/29/96.]

WAC 415-501-150 Department. "Department" means the department of retirement systems created by RCW 41.50.020.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-150, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-050, filed 7/29/96, effective 7/29/96.]

WAC 415-501-160 Eligible employee. "Eligible employee" means any person who is employed by and receives any type of compensation from the employer for whom services are rendered, and who is a full-time, permanent part-time working half-time, or more, or career seasonal employee of the employer, whether or not covered by civil service; an elected or appointed official of the executive branch of the government, including any full-time member of a board, commission, or committee; a justice of the supreme court, or a judge of the court of appeals or of a superior court; or a member of the state legislature.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-160, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-060, filed 7/29/96, effective 7/29/96.]

WAC 415-501-170 Employee retirement benefits board. "Employee retirement benefits board" means the board created by RCW 41.50.086.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-170, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-070, filed 7/29/96, effective 7/29/96.]

WAC 415-501-180 Employer. "Employer" means:

(1) The state of Washington, one of the fifty states of the United States, as described in Section 1.457-2 (c)(1) of the final regulations promulgated under Section 457 of the Internal Revenue Code; and

(2) Approved political subdivisions of the state of Washington.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-180, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-080, filed 7/29/96, effective 7/29/96.]

WAC 415-501-190 Participant. "Participant" means any eligible employee of an employer who executes a participation agreement with the department assenting to the provisions of this plan, once the agreement has been approved by the department or its designee.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-190, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-090, filed 7/29/96, effective 7/29/96.]

WAC 415-501-200 Participation agreement. "Participation agreement" means the agreement executed by an eligible employee pursuant to WAC 415-501-410, in which the eligible employee elects to become a participant in the plan.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-200, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-100, filed 7/29/96, effective 7/29/96.]

WAC 415-501-210 Separation from service. "Separation (or separates) from service" means "separation from service" as that term is interpreted for purposes of Section 402(d)(4)(A)(iii) of the Internal Revenue Code.

For distribution eligibility purposes, separation of service is a participant's last day of employment with his/her employer(s).

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-210, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-110, filed 7/29/96, effective 7/29/96.]

WAC 415-501-300 Department to adopt rules and regulations. The department shall have full power and authority to adopt rules and regulations for the administration of the plan, and to interpret, alter, amend, or revoke any rules and regulations so adopted.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-300, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-020, filed 7/29/96, effective 7/29/96.]

WAC 415-501-305 Department to interpret. The department is authorized to construe this plan and resolve any ambiguity in the plan. The plan and any form or other document used in administering the plan shall be interpreted, and this plan shall be administered, so as to comply with Section 457 of the Internal Revenue Code and the regulations of the treasury department promulgated thereunder.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-305, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-030, filed 7/29/96, effective 7/29/96.]

ADMINISTRATION

WAC 415-501-310 Administered by department. The department shall administer the plan in accordance with Sec-

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tion 457 of the Internal Revenue Code to maintain an eligible deferred compensation plan.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-310, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-315 Employer responsibility. The employer as plan sponsor has responsibilities including, but not limited to, monitoring for deferral limits and determining employees' eligibility to participate.

The department's administration of the plan does not replace the employer's responsibilities as the plan sponsor.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-315, filed 5/18/00, effective 6/18/00.]

WAC 415-501-320 Tax status not guaranteed. The department does not:

(1) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of the participant's participation in this plan;

(2) Assume any liability for a participant's compliance with the Internal Revenue Code.

The participant should consult with his/her own representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in this plan.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-320, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-040, filed 7/29/96, effective 7/29/96.]

WAC 415-501-330 Department to maintain records of accounts. To facilitate an orderly administration of the plan, the department shall maintain or cause to be maintained a deferred compensation ledger account with respect to each participant.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-330, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-040, filed 7/29/96, effective 7/29/96.]

WAC 415-501-340 Deferred compensation accounts. All deferred compensation hereunder shall be paid into a special fund created in the treasury of the state of Washington called the "deferred compensation principal account." All costs of administration and staffing of the plan, expenses of the department, and such other amounts determined by the department and permitted by law, shall be paid as necessary out of the deferred compensation administrative account. Amounts in the deferred compensation principal account may be invested pursuant to RCW 41.50.770. All accumulated deferrals payable to participants or their respective beneficiary or beneficiaries shall be paid from the deferred compensation principal account unless otherwise paid.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-340, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-050, filed 7/29/96, effective 7/29/96.]

[Title 415 WAC—p. 177]

WAC 415-501-350 Department and employee retirement benefits board actions. Every action taken by the department and employee retirement benefits board shall be presumed to be fair and reasonable exercise of the authority vested in or the duties imposed upon it. The department officers and employees and members of the employee retirement benefits board shall be deemed to have exercised reasonable care, diligence, and prudence, and to have acted impartially as to all persons interested, unless the contrary is proven by affirmative evidence.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-350, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-030, filed 7/29/96, effective 7/29/96.]

DEPARTMENT POWERS

WAC 415-501-360 Plan prevails. In the event any form or other document used in administering this plan conflicts with the terms of the plan, the terms of the plan shall prevail.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-360, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-370 Decision binding. The department is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding on the participant and any beneficiary thereof.

A participant or beneficiary may file a petition for review under chapter 415-04 WAC or an application under WAC 415-08-015(2) for review of a decision to deny an application for distribution pursuant to WAC 415-501-510.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-370, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-020, filed 7/29/96, effective 7/29/96.]

WAC 415-501-380 Department may require court order. The department or the employer, if in doubt concerning the correctness of their action in making a distribution of accumulated deferrals, may suspend distribution until satisfied as to the correctness of the distribution or the person to receive the distribution or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the amounts to be paid and the persons to receive them. The department and the employer shall comply with the final orders of the court in any such suit; and the participant, for the participant and the participant's beneficiary or beneficiaries, consents to be bound thereby. Whenever distribution of accumulated deferrals is suspended pursuant to this section, the time for a participant or beneficiary making any election under WAC 415-501-490 shall not begin until amount(s) and person(s) entitled are determined either by a written agreement of all parties concerned or by a court judgment that has become final.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-380, filed 5/18/00, effective

6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-050, filed 7/29/96, effective 7/29/96.]

WAC 415-501-390 Delegation of authority. The department may delegate its functions to be performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-390, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-060, filed 7/29/96, effective 7/29/96.]

PARTICIPATION IN THE PLAN

WAC 415-501-410 Enrollment. (1) An eligible employee may become a participant by executing a participation agreement. Compensation will be deferred for any calendar month only if a participation agreement providing for such deferral is executed by the participant and approved by the department or its designee before the beginning of such month.

(2) In signing the participation agreement, the participant elects to participate in this plan and consents to the employer deferring the amount specified in the participation agreement from the participant's gross compensation for each month. The amount specified shall continue until changed or suspended pursuant to WAC 415-501-450 or 415-501-470 of this plan.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-410, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-415 Plan to plan transfers. The only transfers allowable under Section 457 of the Internal Revenue Code are from one eligible Section 457 plan to another eligible Section 457 plan.

(1) Transfers into the plan following a change in employment. If a participant was formerly a participant in an eligible deferred compensation plan (within the meaning of Section 457 of the Internal Revenue Code and its regulations), which permits the direct transfer of the participant's interest to another plan, then this plan shall accept assets representing the value of such interest. However, the department may require in its sole discretion that some or all of such interest be transferred in cash or its equivalent. Such amount shall be held, accounted for, administered, and otherwise treated in the same manner as compensation deferred by the participant under this plan. Only the amount, if any, transferred to the plan which was deferred under the transferor plan in the taxable year when transfer occurs shall be treated as compensation deferred under the plan in such year.

Transfer of the participant's interest will not be allowed if the participant has made any irrevocable distribution election, with respect to such interest, under the transferor plan.

(2) Transfers out of the plan following a change in employment.

If a participant, prior to making an irrevocable distribution election under WAC 415-501-409, accepts employment with an employer who offers an eligible Section 457 plan, and the participant becomes a participant in that plan, then

accumulated deferrals may, at the election of the participant and after written notice to the department, be transferred to the other plan, provided that plan provides for the acceptance of such transfers.

(3) Transfers by employees of participating political subdivisions. Transfers of funds by an employee of a participating political subdivision are allowed to and from other Section 457 plans of the Internal Revenue Code maintained by the political subdivision, but only if the other plan also allows the proposed transfer and the participant has not made an irrevocable distribution election relating to either plan.

(4) Application for transfer. If the conditions in subsection (1), (2), or (3) of this section are met and the participant wishes to transfer his/her account, the participant shall complete the appropriate form and/or other documents as may be required by the department.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-415, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-015, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-015, filed 7/29/96, effective 7/29/96.]

WAC 415-501-420 Deferral limit. (1) Except as provided in WAC 415-501-430, relating to catch-up, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of eight thousand dollars, adjusted for the calendar year to reflect cost-of-living increases in accordance with Sections 457 (e)(15) and 415(d) of the Internal Revenue Code (dollar deferral limit) or thirty-three and one-third percent of the participant's includible compensation, each reduced:

(a) By any amount excludable from the participant's gross income for that taxable year under Section 403(b) of the Internal Revenue Code; and

(b) By any amount:

(i) Excluded from gross income under Section 402 (e)(3) or 402 (h)(1)(B) of the Internal Revenue Code (relating to a participant's elective deferrals to simplified employee pensions) for that taxable year;

(ii) For which a deduction is allowable for that taxable year by reason of a contribution to an organization described in Section 501 (c)(18) of the Internal Revenue Code (relating to pension trusts created before June 25, 1959, forming part of a plan for payment of benefits under a pension plan funded only by contributions of employees); or

(iii) Which is deferred by a participant under Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangement) during that taxable year; and

(c) By any amount the participant contributes to any other Section 457 of the Internal Revenue Code plan (relating to deferred compensation plan(s)) during the taxable year.

(2) "Includible compensation" for purposes of this section means includible compensation as defined in Section 457 (e)(5) of the Internal Revenue Code and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws. Includible compensation for a taxable year includes only compensation from the employer that is attributable to services performed for the employer and that is includible in the participant's gross income for the taxable

year for federal income tax purposes. Accordingly, a participant's includible compensation for a taxable year does not include an amount payable by the employer that is excludable from the employee's gross income under:

(a) Section 457 of the Internal Revenue Code;

(b) Section 403(b) of the Internal Revenue Code (relating to annuity contracts purchased by Section 501 (c)(3) of the Internal Revenue Code organizations or public schools);

(c) Section 105(d) of the Internal Revenue Code (relating to wage continuation plans);

(d) Section 911 of the Internal Revenue Code (relating to citizens or residents of the United States living abroad);

(e) Section 402 (e)(3) or 402 (h)(1)(B) or 402(k) of the Internal Revenue Code (relating to simplified employee pensions);

(f) Section 501 (c)(18) of the Internal Revenue Code (relating to certain pension trusts); or

(g) Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangements).

(3) In computing includible compensation, total gross compensation as shown on earnings statements must be reduced by:

(a) Section 414(h) of the Internal Revenue Code, before tax contributions to retirement plans (including those described in RCW 41.04.440, 41.04.445, and 41.04.450); and

(b) Any Section 125 of the Internal Revenue Code contributions to cafeteria plans (including those which include such items as dependent care salary reduction plans) before excluding the items listed in subsection (2)(a) through (g) of this section.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-420, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-020, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-020, filed 7/29/96, effective 7/29/96.]

WAC 415-501-430 Catch-up provision. For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of:

(1) Fifteen thousand dollars for the taxable year, reduced in the same manner as the dollar deferral limit is reduced in WAC 415-501-420; or

(2) The sum of:

(a) The limits established for purposes of WAC 415-501-420 of the plan for the taxable year (determined without regard to this section), plus

(b) So much of the limit established under WAC 415-501-420 for taxable years before the taxable year as has not theretofore been used under WAC 415-501-420 or 415-501-430. A prior taxable year shall be taken into account only if:

(i) It begins after December 31, 1978;

(ii) The participant was eligible to participate in the plan during all or any portion of the taxable year, and;

(iii) Compensation deferred (if any) under the plan during the taxable year was subject to a maximum limit (as established under WAC 415-501-420).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity. In no event can the participant elect

to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

"Normal retirement age," as used in chapter 415-501 WAC, means the range of ages:

Ending not later than age seventy and one-half; and

Beginning not earlier than the earliest age at which the participant has the right to retire under an employer authorized pension for which the participant is eligible and under which the participant will receive immediate retirement benefits without actuarial adjustment due to retirement prior to some later specified age in an employer authorized pension plan.

This catch-up provision may not be used in the year in which the participant attains age seventy and one-half, and may not be used in any year thereafter.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-430, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-030, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-030, filed 7/29/96, effective 7/29/96.]

WAC 415-501-440 Department may disallow deferral. The participant acknowledges the right of the department to disallow deferral of compensation under the plan in excess of the limitations in WAC 415-501-420 and 415-501-430. However, the department shall have no duty to assure that amounts deferred are in compliance with such limitations.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-440, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-040, filed 7/29/96, effective 7/29/96.]

WAC 415-501-450 Modification of deferral or investment option(s). Deferral or investment option(s) may be changed. A participant may change his/her deferral or investment option(s) through the methods established by the department. (A beneficiary or beneficiaries entitled to receive accumulated deferrals may also change investment options.) Deferral changes may be made only in:

- (1) Whole dollar increments or;
- (2) Whole percentages if percentage deferrals are allowed for the participant's employer.

A change in the deferral amount shall be effective for any calendar month only if the participant notifies the department or its designee of the change through the methods available, prior to the month for which the change is requested and prior to the established payroll cutoff date, for the participant's employer, for which the change will occur.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-450, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-050, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-050, filed 7/29/96, effective 7/29/96.]

WAC 415-501-470 Suspension and reinstatement of deferrals. Suspension. A participant may at any time, through the methods established by the department, direct that his/her deferrals cease. The direction to cease deferrals must be provided to the department or its designee no later than the last day of the month prior to the month during which the deferrals are to cease; however, accumulated deferrals

shall be paid only as provided in WAC 415-501-480 through 415-501-500.

Reinstatement. A participant may reinstate deferrals at any time, except after having ceased deferrals as part of an unforeseeable emergency distribution request. A participant who has directed the cessation of deferrals as part of an unforeseeable emergency distribution request cannot resume deferrals sooner than six months after his/her deferrals ceased. Deferrals will begin the month immediately following the month that the resumption of deferrals is requested.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-470, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-070, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-070, filed 7/29/96, effective 7/29/96.]

WAC 415-501-475 Investment options. Each participant shall designate on his/her participation agreement the investment option(s) in which the participant wishes to have funds invested. The investment option(s) shall be selected from those options made available for this purpose from time to time by the state investment board after consultation with the employee retirement benefits board.

Nothing in this section shall require the state investment board to invest any amount in the investments selected. The state investment board may open, change or close investment options according to its investment policy, or change investment managers for any investment option. When an investment option is closed or substantially changed, the state investment board may transfer the funds invested in that option to the investment option that, in the board's judgment, most closely represents the investment characteristics of the investment option being closed or changed.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-475, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-075, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-075, filed 7/29/96, effective 7/29/96.]

WAC 415-501-480 Designation of beneficiaries. Each participant shall have the right to designate a beneficiary or beneficiaries to receive accumulated deferrals in the event of the participant's death. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change his/her beneficiary designation at any time by filing the appropriate form with the department.

The participant may name:

(1) A designated organization or person (including without limitation his/her unborn or later adopted children). If unborn or later adopted children are to be included, the designation must so indicate. The date of birth must be furnished for any living person who is named as a beneficiary.

(2) His or her estate.

(3) A trust which is in existence, or which is to be established under the participant's last will. For an existing trust, the participant must provide a copy of the trust document and the name, address, and telephone number of the current trustee, and the tax identification number.

The participant may name contingent beneficiaries in addition to primary beneficiaries.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-480, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-080, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-080, filed 7/29/96, effective 7/29/96.]

WAC 415-501-485 Distribution to participant after separation from service. After separation from service, the participant shall be paid his/her accumulated deferrals in one or more installments as elected by the participant pursuant to WAC 415-501-490.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]

WAC 415-501-486 Distribution in the event of death of participant. Should the participant die at any time, whether before or after separation from service, accumulated deferrals shall be paid to the beneficiary or beneficiaries designated by the participant pursuant to WAC 415-501-480. The accumulated deferrals shall be paid out as provided in WAC 415-501-480 through 415-501-500. If no beneficiary is designated, or if the designated beneficiary does not survive the participant by a period of thirty days, then a lump sum or series of distributions shall be paid, in accordance with WAC 415-501-480 through 415-501-500, to the surviving spouse, or if none, a lump sum shall be paid to the estate of the participant.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-486, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-086, filed 7/29/96, effective 7/29/96.]

WAC 415-501-487 Distribution in event of death of beneficiary. In the event a beneficiary survives the participant by thirty days and becomes entitled to receive accumulated deferrals, accumulated deferrals shall become payable to the beneficiary's estate in the second month following the beneficiary's death, unless benefits are being paid in the form of an annuity, in which case the disposition of the remaining amount shall be determined by the annuity contract. Such annuity contracts shall be issued pursuant to the rules set forth in WAC 415-501-500.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-487, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-087, filed 7/29/96, effective 7/29/96.]

WAC 415-501-490 Elections regarding distribution. Each participant (or in the event of death, each beneficiary other than an organization, an estate, or a trust) shall elect when distribution will begin and the distribution method.

(1) **Election regarding distribution date.** For the purposes of this section, distribution date is the date on which distribution is to begin, disregarding payments to a participant who has an unforeseeable emergency or attains age seventy and one-half, or under the in-service distribution provisions of the plan.

(2001 Ed.)

(a) Distribution date election preconditions. Except as otherwise provided in WAC 415-501-500, the election regarding the distribution date shall be made by the participant when the participant separates from service, or by the beneficiary, when the participant dies having separated from service and having previously elected a distribution date.

(b) Distribution date election irrevocability. Once made, the election regarding distribution date is irrevocable, unless:

(i) The participant or beneficiary as provided in (a) of this subsection, more than thirty days prior to the elected date distribution is to begin, elects to postpone the original date. Only one such postponement is allowed.

Such a participant or beneficiary may elect to postpone his/her original distribution date only if the election to postpone is filed thirty days before the date distribution actually begins and the later distribution date meets the requirements of Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code; or

(ii) The participant, after separating from service is again hired by an employer and, thirty days before the originally elected date distribution is to begin, reenrolls in the plan.

(c) Timing of distribution date election.

(i) A participant who separates from service other than by reason of death must make a distribution date election no later than sixty days after notification of the participant's separation from service has been received by the department from the participant's employer(s). Distribution must begin within the time prescribed by WAC 415-501-500;

(ii) A beneficiary, other than an organization, estate or trust, where the participant was not already receiving distributions, must make a distribution date election no later than sixty days after notification of the participant's death. Distribution must begin within the time prescribed by WAC 415-501-500. The plan will not distribute to a minor beneficiary if the department does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act."

Where a legal guardianship is not obtained, and where the participant has not previously named a custodian under the Washington Uniform Transfers to Minors Act as described above, or if such custodian has been named but dies or is unable or unwilling to serve, the plan may, following the expiration of one hundred eighty days after the participant's death, request a court of competent jurisdiction to establish a custodianship under the Washington Uniform Transfers to Minors Act, chapter 11.114 RCW, irrespective of the amount at issue.

Once a custodianship has been established either by the participant's prior designation or by court order, the plan will transfer the funds in the deceased participant's account to the named custodian.

A transfer may be made for only one minor, and only one person may be the custodian, as set forth in the Washington Uniform Transfers to Minors Act. Written confirmation of

delivery by the custodian constitutes a sufficient receipt and discharge of the plan for the deceased participant's account balance transferred to the custodian.

The custodian will have sixty days after the date of transfer to make an election regarding the distribution period and when the distribution will begin under this section.

(2) **Election regarding distribution method.** For the purposes of this section, distribution method is the period over which accumulated deferrals will be distributed or the amount of accumulated deferrals to be distributed.

(a) **Distribution method election preconditions.** The participant (or beneficiary) who makes a distribution date election may also elect the distribution method. The distribution method election may be made either at the time the participant or beneficiary elects a distribution date or at any time not later than thirty days prior to the distribution date.

(b) **Distribution method election irrevocability.** Once having made the distribution method election, the participant or beneficiary (other than an organization, estate, or trust) may change the distribution method election not later than thirty days prior to the distribution date. The election of a distribution method becomes irrevocable thirty days prior to the date that the participant's distribution is to begin.

A beneficiary may make the distribution method election where the participant was already receiving distributions but, as provided in subsection (1)(c) of this section, the beneficiary must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the distribution method election not later than sixty days after the notification of death of the participant. Distribution will be suspended following the participant's death until the beneficiary either makes a distribution method election or begins receiving distribution as provided in subsection (4) of this section. Provided, if the participant was receiving distribution in the form of an annuity contract, then the beneficiary's right shall be limited by the terms of that contract. The election of a distribution method becomes irrevocable thirty days prior to the date that the beneficiary's distribution is to begin.

(3) **How elections are made.** A participant or beneficiary makes elections allowed under this section by completing and filing the appropriate forms with the department. Only a court-appointed guardian may elect between installments and a lump sum benefit on behalf of a minor.

(4) **Consequences in absence of a timely election regarding distribution date.** Absent a timely election regarding when distribution is to begin:

(a) If the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars, the distribution will be made in a lump sum within thirty days of when the election period ended.

(b) If the accumulated deferrals are twenty-five thousand dollars or more, the distribution to a participant will be made in monthly installments over a period of one hundred twenty months or such lesser period:

(i) As may be necessary under the minimum distribution requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(ii) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

(5) **Consequences in absence of a timely election regarding distribution method.** In the absence of a timely election distribution method, distribution will be made in the manner described in subsection (4) of this section.

(6) **Effects of certain employment changes.** Transfers from the plan are allowed in the circumstances described in WAC 415-501-415.

(7) **Distribution to an organization, estate, or trust.** Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-501-500.

(8) **Distribution date and method cannot change after distribution begins.** Once distribution to the participant or beneficiary begins, the elections made under this section as to the distribution date or distribution method, may not be changed.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-490, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-090, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.780(1) and 41.50.050. 97-05-009, § 415-512-090, filed 2/7/97, effective 3/10/97. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-090, filed 7/29/96, effective 7/29/96.]

WAC 415-501-495 Domestic relations orders. Domestic relations orders establish a right of the (ex) spouse to a portion of a participant's account after the participant separates from service.

(1) **Order requirements.** The department may, at its discretion, honor a court ordered or court approved decree of dissolution, decree of legal separation, or property settlement agreement incident to a court decree of dissolution or legal separation. In order for the department to honor the court ordered or court approved document, it must:

(a) Direct disbursement to (ex) spouse as a specified portion of the proceeds expressed as a current dollar amount or as a percentage of the value of the participant's deferred compensation account as of a specific date; and

(b) Require the participant to begin receiving distribution of proceeds from the plan not later than the April 1st immediately following the close of the year in which the participant separates from service; and

(c) Specify whether or not the participant, if he/she goes to work for another employer who offers an eligible Section 457 plan, shall have the right to transfer funds to the employer's Section 457 plan; and

(d) Be from a court of competent jurisdiction, be certified, and be personally served upon the department in a manner provided by the civil rules of superior court or applicable statute; and

(e) Provide a limitation, expressed as a cumulative dollar amount, above which the participant may not request and receive hardship withdrawals.

(2) A separate account for the (ex) spouse will be established for an order that is in compliance with subsection (1) of this section and honored by the department. Such an

account will be established with the amount specified in subsection (1)(a) of this section.

(3) Distribution. If a participant has separated from service and makes an irrevocable distribution date election, distribution to the (ex) spouse will be made when distribution begins to the participant. The (ex) spouse may choose the method of distribution as provided in WAC 415-501-500.

(4) The department cannot honor an order directing immediate distribution into court, or to the spouse of an employee-participant.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-495, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-095, filed 9/30/98, effective 10/31/98.]

WAC 415-501-500 Distribution of deferrals. (1) General rule. Once a timely distribution date election has been made pursuant to WAC 415-501-490, distribution(s) will be made in at least annual, substantially nonincreasing amounts. Distributions are also subject to the limitations in subsections (2) through (8) of this section.

(2) Distribution to participant. A participant must either:

(a) Receive his/her entire value of accumulated deferrals prior to the later of:

(i) The April 1st immediately following the close of the calendar year in which the participant attains age seventy and one-half; or

(ii) The April 1st immediately following the close of the calendar year in which the participant separates from service with the employer; or

(b) Begin receiving the value of his/her accumulated deferrals not later than the time specified in (a) of this subsection and receive it over a period not longer than one of the following:

(i) The life of the participant;

(ii) The life of the participant and a beneficiary designated by the participant;

(iii) The life expectancy of the participant; or

(iv) The life expectancy of the participant and the life expectancy of the participant's spouse.

Distribution must be sufficiently rapid to satisfy the requirements of Section 457 (d)(2)(B)(i)(I) and Section 401 (a)(9)(G) of the Internal Revenue Code.

Once distributions to a participant begin, distribution may not be changed except in the event of an unforeseeable emergency (and subject to the provisions of WAC 415-501-510 regarding such emergencies).

(3) Distribution to beneficiaries.

(a) When distribution begins prior to the participant's death, then distribution must be made at least as rapidly as it was being made to the participant. When the beneficiary is an organization, estate or trust, then distribution will be payable in a lump sum in the second month following the participant's death.

(b) When distribution does not begin prior to the participant's death, and is to be made:

(i) To an organization, estate or trust, then distribution will be payable in a lump sum in the second month following the participant's death;

(ii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, not to begin within one year of the participant's death, then distribution must be made over a period ending no later than five years after the participant's death. The plan will not distribute to a minor beneficiary if the department does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-501-490;

(iii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, beginning within one year of the participant's death, then distribution must be made over a period ending no later than fifteen years after the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-501-490;

(iv) To the participant's surviving spouse, whether as designated beneficiary, or by default, then distribution must begin prior to the April 1st immediately following the close of the plan year in which the participant would have attained age seventy and one-half or, if later, the year in which the participant separated from service. Distribution may be made over the lifetime of the surviving spouse or over a period not longer than the life expectancy of the surviving spouse.

(4) For purposes of this section, life expectancies will be computed by use of the expected return multiples in Treasury Department Regulation 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company.

(5) Except as provided in subsection (6) of this section, periodic distributions made by the department must be at least fifty dollars per month if paid monthly, and six hundred dollars per year, if paid annually.

(6) An annuity may be purchased from an insurance company that has a contract with the department or its designee. The minimum amount to purchase a monthly annuity is one hundred thousand dollars. The minimum amount for an annuity paid quarterly is twenty-five thousand dollars.

(7) Notwithstanding anything in this plan to the contrary, distributions from the plan will be made in compliance with the minimum distribution rules of Section 457 (d)(2) of the Internal Revenue Code, and in compliance with Treasury Department Regulations issued under Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code.

(8) Voluntary in-service distribution: A participant who is an active employee of an eligible employer shall receive a distribution of the total amount payable to the participant under the plan if the following requirements are met:

(a) The total amount payable to the participant under the plan does not exceed five thousand dollars (or the dollar limit under Section 411 (a)(11) of the Internal Revenue Code, if greater);

(b) The participant has not previously received an in-service distribution of the total amount payable to the participant under the plan;

(c) No amount has been deferred under the plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

(d) The participant elects to receive the distribution.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-500, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-110, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-110, filed 7/29/96, effective 7/29/96.]

UNFORESEEABLE EMERGENCY

WAC 415-501-510 Unforeseeable emergency. (1)

Distribution request. Notwithstanding any other provisions in plan chapter 415-501 WAC, in the event of an unforeseeable emergency, a participant may request the department to distribute all or a portion of accumulated deferrals. If the request is approved by the department, distribution will be made within sixty days following such an approval. The amount paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

(a) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,

(b) Loss of the participant's property due to casualty, or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, distribution shall not be made to the extent that such hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

A divorce does not constitute an "unforeseeable emergency" or "severe financial hardship."

(2) Applications for review. All applications for review of decisions on requests for distribution of accumulated deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

(3) Mandatory suspension. Unforeseeable emergency requests received by the department, whether approved or denied, will cause a mandatory suspension of the participant as established in WAC 415-501-470.

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(4) Pursuant to WAC 415-501-500, once distributions to a participant begin, the distributions may not be changed except in the event of an unforeseeable emergency and subject to the provisions of this section.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-510, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-524-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-524-010, filed 7/29/96, effective 7/29/96.]

LEAVE OF ABSENCE

WAC 415-501-520 Leave of absence. If a participant is on an approved leave of absence from the employer, participation in this plan shall continue.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-520, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-528-010, filed 7/29/96, effective 7/29/96.]

AMENDMENT OR TERMINATION OF PLAN

WAC 415-501-530 Termination of plan. The employer or the department may at any time terminate this plan. Upon such termination, accumulated deferrals will be paid pursuant to WAC 415-501-410 through 415-501-500 of the plan. The participants' deferrals will cease.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-530, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-532-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-540 Amendment of plan. The department may amend the provisions of this plan at any time: Provided, however, That no amendment shall affect the rights of participants or their beneficiaries regarding accumulated deferrals at the time of the amendment.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-540, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-532-020, filed 7/29/96, effective 7/29/96.]

RELATIONSHIP TO OTHER PLANS

WAC 415-501-550 Retirement and Social Security not reduced. It is intended that, pursuant to Section 457 of the Internal Revenue Code, the amount of deferred compensation will not be considered as current compensation for purposes of federal income taxation. Such amounts will, however, be included as compensation in determining benefits or rights under the employer's group insurance, other retirement plans and FICA. Distributions under this plan will supplement retirement and death benefits payable under the employer's group insurance and other retirement plans.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-550, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-536-010, filed 7/29/96, effective 7/29/96.]

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TRANSFER IN LIEU OF CASH

WAC 415-501-560 Assets in lieu of cash. Upon the occurrence of any event requiring the distribution of accumulated deferrals under this plan, the department may, in its sole discretion, elect to honor a request from the participant to substitute the transfer in kind and assignment of any asset which the employer has acquired, at fair market value.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-560, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-540-010, filed 7/29/96, effective 7/29/96.]

NONASSIGNABILITY CLAUSE

WAC 415-501-570 Accumulated deferrals not assignable. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to sell, assign, transfer, commute, or otherwise convey the right to receive any distributions under the plan. These distributions and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law. In the event of any attempt to assign or transfer, the state investment board and the department will have no liability.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-570, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-544-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-544-010, filed 7/29/96, effective 7/29/96.]

ASSETS

WAC 415-501-580 Plan assets. Despite any contrary provision of the plan, in accordance with Section 457(g) of the Internal Revenue Code, all compensation deferred under the plan, all property and rights purchased with such compensation, and all income attributable to such compensation, property, or rights shall be held in trust for the exclusive benefit of participants and beneficiaries under the plan. Any trust under the plan shall be established under the laws of Washington.

All amounts of compensation deferred under the plan shall be transferred to a trust established under the plan within a period that is not longer than is reasonable for the proper administration of the accounts of participants. Under RCW 41.50.780(4) the state investment board is made trustee of state deferred compensation plan assets.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-580, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-548-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-548-010, filed 7/29/96, effective 7/29/96.]

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PARTICIPATION BY DEPARTMENT OFFICERS AND EMPLOYEES AND MEMBERS OF THE EMPLOYEE RETIREMENT BENEFITS BOARD

WAC 415-501-590 Participation by department officers and employees and members of the employee retirement benefits board. Department officers and employees and members of the employee retirement benefits board, who are otherwise eligible, may participate in the plan under the same terms and conditions as apply to other participants; but such officers, employees, or board members shall not participate in any department or board action uniquely affecting their own participation.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-590, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-552-010, filed 7/29/96, effective 7/29/96.]

EMPLOYER PARTICIPATION

WAC 415-501-600 Employer contributions. The employer may, pursuant to WAC 415-501-450 or 415-501-470, add additional deferred compensation for services to be rendered by the employee to the employer during any calendar month, provided:

(1) The employee has elected to have such additional compensation deferred, invested, and distributed, pursuant to this plan, prior to the calendar month in which the compensation is earned; and

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by WAC 415-501-410 through 415-501-500.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-600, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-556-010, filed 7/29/96, effective 7/29/96.]

INVESTMENT RESPONSIBILITY

WAC 415-501-610 Investment responsibility. Action by the state investment board as plan trustee or by the department as plan administrator will not be considered an endorsement or guarantee of any investment. Such action will not be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-610, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-560-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-560-010, filed 7/29/96, effective 7/29/96.]

APPLICABLE LAW

WAC 415-501-710 Plan to conform to state law. This plan shall be construed under the laws of the state of Washington.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-710, filed 5/18/00, effective 6/18/00. Statutory

Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-568-010, filed 7/29/96, effective 7/29/96.]

WAC 415-501-720 Plan to conform to federal law.

This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code, and Treasury Department Regulation 1.457-2(a), and shall be interpreted accordingly.

[Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-720, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-568-020, filed 7/29/96, effective 7/29/96.]

Chapter 415-610 WAC

DEPENDENT CARE ASSISTANCE SALARY REDUCTION PLAN

WAC

415-610-010	Plan established.
415-610-015	Separate plan.
415-610-020	Interpretation.
415-610-030	General description of plan.

WAC 415-610-010 Plan established. In accordance with the provisions of RCW 41.50.780(7) and 41.04.600 through 41.04.645, and consistent with sections 125 and 129 of the Internal Revenue Code, the state of Washington through the department of retirement systems, establishes a dependent care assistance salary reduction plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-010, filed 7/29/96, effective 7/29/96.]

WAC 415-610-015 Separate plan. The provisions in chapters 415-610 through 415-695 WAC apply only to the dependent care assistance salary reduction plan and not to any other plan administered by the department. The provisions in chapters 415-501 through 415-568 WAC do not apply to the dependent care assistance salary reduction plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-015, filed 7/29/96, effective 7/29/96.]

WAC 415-610-020 Interpretation. This plan is intended to qualify as a dependent care assistance salary reduction plan under sections 125 and 129 of the Internal Revenue Code, as amended from time to time, and is to be interpreted in a manner consistent with the requirements of those sections.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-020, filed 7/29/96, effective 7/29/96.]

WAC 415-610-030 General description of plan. The dependent care assistance salary reduction plan subsidizes the cost of dependent care, enabling employees to be gainfully employed. The plan allows an eligible employee of the state of Washington to set aside a "before tax" portion of the employee's gross salary before federal income and Social Security taxes to be used to reimburse that employee's dependent care expenses.

The amount which may be reduced from salary and excluded from income is subject to annual fixed dollar and earned income limitations. The participant must incur and

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obtain reimbursement in an amount at least equal to the amount of salary reduction for the plan year or the unused portion of the amount excluded is forfeited.

Salary reduced under the plan continues to be included as regular compensation for the purpose of computing state benefits and is only excluded for purposes of computing federal income and Social Security taxes (OASI or FICA).

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-030, filed 7/29/96, effective 7/29/96.]

Chapter 415-620 WAC

DEFINITIONS

WAC

415-620-010	Department.
415-620-015	Dependent care account.
415-620-020	Dependent care expenses.
415-620-025	Eligible employee.
415-620-030	Employer.
415-620-035	Internal Revenue Code.
415-620-040	Participant.
415-620-045	Plan.
415-620-050	Plan year.
415-620-055	Qualifying person(s).

WAC 415-620-010 Department. "Department" means the department of retirement systems.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-010, filed 7/29/96, effective 7/29/96.]

WAC 415-620-015 Dependent care account. "Dependent care account" means a bookkeeping account containing the salary reduction amounts attributable to a participant, less reimbursements of the participant's dependent care expenses.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-015, filed 7/29/96, effective 7/29/96.]

WAC 415-620-020 Dependent care expenses. "Dependent care expenses" means amounts paid for the care of a qualifying person in the participant's home (including amounts paid for related household services) or for care at a dependent care facility which meets all federal requirements, except that the following items shall not be considered dependent care expenses:

(1) Amounts paid to a person with respect to whom the participant or participant's spouse is entitled to claim an exemption for Federal Income Tax purposes;

(2) Amounts paid to a child of the participant who is eighteen years of age or younger;

(3) Amounts paid by an employer of the spouse or by an educational institution where the spouse is an enrolled student.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-020, filed 7/29/96, effective 7/29/96.]

WAC 415-620-025 Eligible employee. "Eligible employee" means any elected official, officer, or employee of the employer.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-025, filed 7/29/96, effective 7/29/96.]

WAC 415-620-030 Employer. "Employer" means the state of Washington.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-030, filed 7/29/96, effective 7/29/96.]

WAC 415-620-035 Internal Revenue Code. "Internal Revenue Code" means the Internal Revenue Code of 1986, Title 26 U.S.C. Reference to a specific provision of the code shall include such provision, any valid regulations promulgated thereunder, and any comparable provision of future legislation that amends, supplements, or supersedes such provision.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-035, filed 7/29/96, effective 7/29/96.]

WAC 415-620-040 Participant. "Participant" means any eligible employee who elects, in lieu of cash compensation, to enter a salary reduction agreement with the department pursuant to this plan for a particular plan year and adheres to the requirements of the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-040, filed 7/29/96, effective 7/29/96.]

WAC 415-620-045 Plan. "Plan" means this dependent care assistance salary reduction plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-045, filed 7/29/96, effective 7/29/96.]

WAC 415-620-050 Plan year. "Plan year" means January 1 through December 31.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-050, filed 7/29/96, effective 7/29/96.]

WAC 415-620-055 Qualifying person(s). "Qualifying person(s)" means:

(1) An individual with respect to whom the participant is entitled to a dependency exemption under Internal Revenue Code section 151(c) and who is:

- (a) Under the age of thirteen; or
- (b) Physically or mentally incapable of self-care (regardless of age); or

(2) The spouse of a participant, if such spouse is physically or mentally incapable of self-care.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-055, filed 7/29/96, effective 7/29/96.]

Chapter 415-630 WAC PARTICIPATION

WAC

415-630-010	Participation in plan.
415-630-020	Salary reduction agreement.
415-630-030	Changes in family status.

WAC 415-630-010 Participation in plan. An eligible employee may elect to become a participant by entering a salary reduction agreement during the open enrollment period or within sixty days of becoming an eligible employee, or at any time as a result of a qualifying change in family status set forth in WAC 415-630-030. The open enrollment period for

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each plan year will be the month of November. A participant may first incur reimbursable dependent care expenses on the first day of the month following completion of the salary reduction agreement. Salary reduction agreement forms are available through the department. The enrollment process shall be deemed complete on the date the department receives a completed salary reduction agreement form from the employee.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-010, filed 7/29/96, effective 7/29/96.]

WAC 415-630-020 Salary reduction agreement. The salary reduction agreement is a contract whereby the employee elects irrevocably to forgo future wage payments from the employer in an amount equal to the maximum elected for the plan year. The reduction will be taken in equal amounts for each pay period during the plan year or, in the case of an employee who becomes eligible during the plan year, the remaining portion of the plan year. The agreement will require a participant to provide the Social Security number of the participant and the names and birth dates of dependents regarding whom reimbursement of dependent care expenses will be sought, and medical, family, and other information deemed necessary by the department for the operation of the plan. Pursuant to federal income tax regulations, once a salary reduction agreement has been entered for a plan year it may not be revoked except in the event of a change in family status as defined in WAC 415-630-030. A participant who separates from service and returns to service with the employer during the same plan year may participate upon return only to the extent allowed by Treasury Department regulations promulgated under sections 125 and 129 of the Internal Revenue Code.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-020, filed 7/29/96, effective 7/29/96.]

WAC 415-630-030 Changes in family status. A participant is permitted to revoke a salary reduction agreement after the period of coverage has commenced and to enter a new salary reduction agreement regarding the remainder of the plan year if both the revocation and new election are on account of and consistent with any of the following changes in family status:

- (1) Marriage;
- (2) Divorce or legal separation;
- (3) Death of a spouse or dependent;
- (4) Birth or adoption of a child or addition of a dependent to the eligible employee's household;
- (5) Termination of employment of a spouse;
- (6) Employment of an unemployed spouse; and
- (7) A change in the eligible employee's or eligible employee's spouse's working hours which significantly alters the need for dependent care; example: A shift from full time to part time, part time to full time, or a change to or from leave without pay status.

(8) Such other events that the department determines will permit a change or revocation of an election during a plan year under regulations and rulings of the Internal Revenue Service.

An eligible employee may also become a participant in the plan on the basis of a change in family status.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-030, filed 7/29/96, effective 7/29/96.]

Chapter 415-640 WAC BENEFITS

WAC

415-640-010	Plan benefits.
415-640-020	Maximum benefits.
415-640-030	Reduction of benefits.

WAC 415-640-010 Plan benefits. Benefits under the plan include and are limited to the reimbursement of dependent care expenses incurred for the care of qualifying persons. Such expenses must be incurred during the plan year. They are deemed to be incurred at the time the services to which the expenses relate are rendered. Only expenses which meet the criteria specified under section 129 of the Internal Revenue Code are eligible for reimbursement. Reimbursement of such expenses is limited to the participant's dependent care account balance.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-010, filed 7/29/96, effective 7/29/96.]

WAC 415-640-020 Maximum benefits. The portion of salary a participant may exclude from gross income for federal income tax purposes is subject to the following maximums set forth in subsections 129 (a) and (b) of the Internal Revenue Code:

(1) The amount excluded from the federal gross income of a participant for any taxable year may not exceed the earned income of the participant, if not married, or if married, the lesser of the "earned income" of the participant or the "earned income" of the participant's spouse. (If the spouse is a full-time student or is physically or mentally incapable of self-care, the spouse is deemed to have earned income of two hundred dollars per month if the participant has one dependent for whom care is provided and four hundred dollars per month if the participant has two or more dependents for whom care is provided.) "Earned income" for these purposes, is defined in section 32 (c)(2) of the Internal Revenue Code as "(i) wages, salaries, tips and other employee compensation, plus (ii) the amount of the taxpayer's net earnings from self-employment for the taxable year"

(2) In no event may the maximum amount excluded from the federal gross income of the participant for any taxable year exceed five thousand dollars (two thousand five hundred dollars in the case of a married participant filing separately).

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-020, filed 7/29/96, effective 7/29/96.]

WAC 415-640-030 Reduction of benefits. The department may reduce the salary reduction amount of participants to the extent necessary to assure the plan does not discriminate in favor of highly-compensated persons who are the subject of a particular nondiscrimination test being applied under section 125 or 129 of the Internal Revenue Code (or any other applicable provision of law). When such reductions are nec-

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essary they shall be made pro rata to the amounts elected by the participants who are members of the participant group which is the subject of the particular nondiscrimination requirement.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-030, filed 7/29/96, effective 7/29/96.]

Chapter 415-650 WAC REIMBURSEMENT OF DEPENDENT CARE EXPENSES

WAC

415-650-010	Submittal of claims.
415-650-020	Payment of claims.
415-650-030	Report to participant.
415-650-040	Deadline for submitting claims.
415-650-050	Forfeiture of unexpended funds.

WAC 415-650-010 Submittal of claims. Claims for dependent care expenses must be submitted on reimbursement claim forms and directed to the department. The reimbursement form shall be completed, signed, and accompanied by bills, invoices, receipts, copies of cancelled checks, or a statement signed by the provider of the services showing the amounts of dependent care expenses for which reimbursement is sought.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-010, filed 7/29/96, effective 7/29/96.]

WAC 415-650-020 Payment of claims. The department will review and reimburse claims each week during the plan year to the extent funds are available in the participant's dependent care account. After all funds in a participant's account are expended, any claims remaining at the plan year end will be cancelled. In no event can these claims be resubmitted the next plan year, nor are any unpaid claims the employer's liability.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-020, filed 7/29/96, effective 7/29/96.]

WAC 415-650-030 Report to participant. On or before January 31 following the end of the plan year, the department shall send each participant a written statement showing the reductions from salary and amounts reimbursed through the end of the plan year.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-030, filed 7/29/96, effective 7/29/96.]

WAC 415-650-040 Deadline for submitting claims. Claims for expenses incurred during a given plan year must be submitted so that they are received by the department not later than March 31 following the end of the plan year.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-040, filed 7/29/96, effective 7/29/96.]

WAC 415-650-050 Forfeiture of unexpended funds. Any funds remaining in a dependent care account after all timely submitted claims have been paid for the plan year will be forfeited. Such balance cannot be carried forward to a subsequent plan year and shall not be available to the participant

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in any form or manner, but shall remain the property of the state.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-050, filed 7/29/96, effective 7/29/96.]

Chapter 415-660 WAC SOURCE OF REIMBURSEMENT

WAC

415-660-010 Salary reduction account.
415-660-020 Rights of participants.

WAC 415-660-010 Salary reduction account. Reimbursement of eligible expenses under this plan shall be from the salary reduction account in the state treasury. A participant shall have no rights to any particular assets of the employer, or to any assets except as provided by the plan. A participant's right to reimbursement under the plan shall be limited to the amount of salary reduction of the participant under the plan as reflected in the participant's dependent care account.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-660-010, filed 7/29/96, effective 7/29/96.]

WAC 415-660-020 Rights of participants. The establishment of any account hereunder or of any other administrative practice shall not vest any participant with title in the assets of the state or entitle such participant to benefits, except as expressly provided by the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-660-020, filed 7/29/96, effective 7/29/96.]

Chapter 415-670 WAC TERMINATION OF PARTICIPATION

WAC

415-670-010 Termination of participation.

WAC 415-670-010 Termination of participation. (1) A participant shall cease to be a participant upon the occurrence of any of the following:

- (a) The end of the plan year, unless the employee has reenrolled during an open enrollment period;
- (b) The date the participant ceases to be an eligible employee;
- (c) The date the participant refuses a request for updated information;
- (d) The date the plan is terminated.

(2) A participant who terminates participation shall be entitled to reimbursement only for dependent care expenses incurred within the current plan year, and only if the participant (or personal representative of such participant in the event of death) submits a claim for such reimbursement which is received by the department on or before March 31 following the close of the plan year. No reimbursement shall exceed the balance in the participant's dependent care account for the plan year in which the expenses were incurred.

(3) For purposes of this section, the date a participant shall be deemed to have refused a request for updated infor-

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mation shall be thirty days after a letter requesting such information and notifying the participant of the consequences of failure to provide such information is mailed certified mail, return receipt requested, to such participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-670-010, filed 7/29/96, effective 7/29/96.]

Chapter 415-680 WAC ADMINISTRATION

WAC

415-680-010 Administered by department.
415-680-020 Delegation of authority.
415-680-030 Proper proof.
415-680-040 Genuineness of documents.
415-680-050 Reliance on information.
415-680-060 Condition of participation.
415-680-070 Decision binding.

WAC 415-680-010 Administered by department. This plan shall be administered by the department.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-010, filed 7/29/96, effective 7/29/96.]

WAC 415-680-020 Delegation of authority. The department may delegate functions to be performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-020, filed 7/29/96, effective 7/29/96.]

WAC 415-680-030 Proper proof. In any case in which the employer, or the department is required under the plan to take action upon the occurrence of any event, they will be under no obligation to take such action unless and until satisfactory evidence of such occurrence has been received by them.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-030, filed 7/29/96, effective 7/29/96.]

WAC 415-680-040 Genuineness of documents. The department and the employer and their respective officers and employees, will be entitled to rely upon any notice, request, consent, invoice, draft, letter, telegram, or other paper or document believed by them or any of them to be genuine and to have been signed or sent by the participant or other person at the participant's request.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-040, filed 7/29/96, effective 7/29/96.]

WAC 415-680-050 Reliance on information. In administering the plan, the department will be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions, and reports which are furnished by accountants, counsel, consultants, or other experts employed or engaged by the department in good faith.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-050, filed 7/29/96, effective 7/29/96.]

WAC 415-680-060 Condition of participation. Participants are required, as a condition of participation, to provide

the department with medical, family, and other information deemed necessary by the department for the operation of the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-060, filed 7/29/96, effective 7/29/96.]

WAC 415-680-070 Decision binding. The program administrator is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding upon the participant and any beneficiary thereof. Any participant affected by such a determination may submit written or oral comments to the department regarding its determination, which comments the director or the director's designee shall consider.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-070, filed 7/29/96, effective 7/29/96.]

Chapter 415-690 WAC

TERMINATION OR AMENDMENT OF PLAN

WAC

415-690-010 Termination or amendment of plan.

WAC 415-690-010 Termination or amendment of plan. The employer may terminate the salary reduction plan at the end of the plan year or upon notification of federal action affecting the status of the plan. Upon such termination, a participant's right to reimbursement of dependent care expenses for that plan year will continue to apply to all such expenses incurred prior to the date of termination. The department may amend the salary reduction plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participant's dependent care account.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-690-010, filed 7/29/96, effective 7/29/96.]

Chapter 415-695 WAC

MISCELLANEOUS

WAC

415-695-010 Communication to employees.
415-695-020 Nonassignability of rights.
415-695-030 No guarantee of tax consequences.
415-695-040 Indemnification of employer by participants.

WAC 415-695-010 Communication to employees. Reasonable notification of the availability and terms of the plan shall be provided to eligible employees.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-010, filed 7/29/96, effective 7/29/96.]

WAC 415-695-020 Nonassignability of rights. The right of any participant to receive any reimbursement under the plan shall not be alienable by the participant by assignment or any other method, and will not be subject to be taken by his/her creditors by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.

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[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-020, filed 7/29/96, effective 7/29/96.]

WAC 415-695-030 No guarantee of tax consequences. Neither the employer nor the department makes any commitment or guarantee that any amount paid to or for the benefit of a participant will be excludable from the participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any participant. It shall be the obligation of each participant to determine whether and what amount, if any, is excludable from the participant's gross income for federal and state income tax purposes, and to notify the department if the participant has reason to believe that any amount excluded is not eligible for exclusion.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-030, filed 7/29/96, effective 7/29/96.]

WAC 415-695-040 Indemnification of employer by participants. If any participant receives one or more payments or reimbursements that are not for dependent care expenses, such participant shall indemnify and reimburse the employer for any liability it may incur for failure to withhold federal income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal income tax that the participant would have owed if the payments or reimbursements had been made to the participants as regular cash compensation, plus the participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-040, filed 7/29/96, effective 7/29/96.]