

Title 415 WAC

RETIREMENT SYSTEMS, DEPARTMENT OF

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Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM

WAC

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WAC 415-104-225 Am I a LEOFF member? If you are employed by an employer as a full-time, fully compensated law enforcement officer or firefighter, 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 regard-

less 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) Firefighters.

(a) You are a firefighter if you are employed in a uniformed firefighter 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 and extinguishing fires.

(i) "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 and extinguishing fires.

(ii) You are a firefighter if you qualify as supervisory firefighter personnel.

(iii) If your employer requires firefighters 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 firefighter unless you qualify as supervisory firefighter personnel.

(iv) You are a firefighter 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.

(v) You do not qualify for membership as a firefighter if you are a volunteer firefighter or resident volunteer firefighter.

(b) You are a firefighter if you are employed on a full-time, fully compensated basis by an employer as an emergency medical technician (EMT). To be an "emergency medical technician" you must:

(i) Be certified by the department of health to perform emergency medical services at the level of care of an EMT; and

(ii) Complete the requirements of your employer, if any, to perform the job duties of an EMT.

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

- (a) "Commissioned" - WAC 415-104-011.
- (b) "Director of public safety" - WAC 415-104-011.
- (c) "Employer" - RCW 41.26.030.
- (d) "Firefighter" - RCW 41.26.030.
- (e) "Full time" - WAC 415-104-011.
- (f) "Fully compensated" - WAC 415-104-011.
- (g) "Law enforcement officer" - RCW 41.26.030.
- (h) "Member" - RCW 41.26.030.
- (i) "Public safety officer" - WAC 415-104-011.
- (j) "Uniformed firefighter position" - WAC 415-104-011.

[Statutory Authority: RCW 41.50.050(5) and 41.26.030. 09-05-011, § 415-104-225, filed 2/6/09, effective 3/9/09. Statutory Authority: RCW 41.50-050(5) and chapter 41.26 RCW. 02-18-046, § 415-104-225, filed 8/28/02, effective 9/30/02. 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 415-104-475 How does a firefighter who provides emergency medical services transfer PERS service credit to LEOFF Plan 2? (1) Who may use this section? You may use this section if you are:

(a) A member of PERS Plan 1 or Plan 2 eligible for membership in LEOFF Plan 2 as an EMT under RCW 41.26-030;

(b) Currently a LEOFF Plan 2 member who chose LEOFF membership after separating from service as an EMT in a PERS Plan 1 or Plan 2 eligible position; or

(c) Currently a LEOFF Plan 2 member and were formerly employed providing emergency medical services in a PERS Plan 1 or Plan 2 eligible position which was relocated by your employer to a fire department.

(2) How do I know if my job providing emergency medical services was "relocated" to a fire department? To be considered "relocated":

(a) The duties of the position must have required providing emergency medical services and the position must have been covered under PERS Plan 1 or Plan 2;

(b) The employer must have been a city, town, county, or district that transferred the position to a fire department; and

(c) The fire department must have determined the transferred position was eligible for LEOFF Plan 2.

(3) Who determines whether or not my job providing emergency medical services was "relocated" to a fire department? DRS will determine whether or not your job was relocated based on the criteria described in subsection (2) of this section. To do so, DRS will contact your former employer where you provided emergency medical services in a PERS eligible position and verify:

(a) That your position was relocated to a fire department; and

(b) The number of months you worked in that position.

(4) I formerly worked as an EMT for a PERS employer that relocated the job to a fire department. I was not working in the job at the time it was relocated. I am now in a LEOFF Plan 2 eligible position. Can I transfer my PERS Plan 1 or Plan 2 EMT service to LEOFF Plan 2? Yes, whether or not you were working in the job at the time it was relocated, you can transfer your PERS Plan 1 or Plan 2 EMT service as long as you are employed as a firefighter in a LEOFF Plan 2 eligible position at the time you request the transfer.

(5) What do I need to do if I have PERS Plan 1 or Plan 2 EMT service that can be transferred to LEOFF Plan 2? If you have PERS Plan 1 or Plan 2 EMT service that you want to transfer to LEOFF Plan 2, then you must do the following:

(a) Contact the LEOFF unit at DRS. Once DRS verifies you meet the criteria to transfer as described in subsection (1) of this section, DRS will provide you an *EMT Transfer Packet* that includes an "EMT transfer cost estimate" and an "EMT Request for Transfer" form. You may also request a benefit comparison. You must complete, sign, and return the

form to the LEOFF unit to choose to transfer the service credit.

(b) You must pay the difference in the member contribution rates between the PERS rate and the LEOFF rate, plus interest, for each month of EMT service that you transfer. This bill must be paid in full within five years of your election to transfer your EMT service.

(6) Do I have to pay the bill in a lump sum? No, you do not have to pay the bill in a lump sum, you may make installment payments. Interest on the unpaid balance will accrue monthly, at a rate of eight percent annually.

(7) Is there a deadline for requesting to transfer? Yes, you must submit a completed "EMT Request to Transfer" form to the department no later than June 30, 2013.

(8) When will the EMT service be transferred into my LEOFF Plan 2 account? The EMT service will be transferred after:

(a) The bill is paid in full and five years have passed after DRS receives your request to transfer; or

(b) You meet one of the conditions described in subsection (15) of this section.

(9) What if I choose not to transfer my PERS EMT service into LEOFF Plan 2? If you do not choose to transfer your PERS Plan 1 or Plan 2 EMT service, it will remain in PERS. You may either withdraw it or begin receiving a PERS retirement benefit when you are eligible. If you do not withdraw or retire from PERS, you will be a dual member of PERS and LEOFF Plan 2 under the provisions of chapter 41.54 RCW.

(10) Can I retire before the transfer of my PERS EMT service is completed? Yes, you may retire from LEOFF Plan 2 once you are eligible, but your retirement benefit will be calculated using only your LEOFF Plan 2 service.

Once the conditions described in subsection (8) of this section have been met, the PERS Plan 1 or Plan 2 EMT service will be transferred into your LEOFF Plan 2 account and your retirement benefit will be recalculated and increased to include the transferred service. The increase will be prospective only from the day following the five-year waiting period.

For example, if you requested the transfer on September 15, 2006, made the required payment, and you retired on August 1, 2007, your retirement benefit would be increased on September 16, 2011.

(11) What if I request to transfer my PERS Plan 1 or Plan 2 EMT service but change my mind before the transfer is completed? If you decide not to transfer your PERS Plan 1 or Plan 2 EMT service into LEOFF Plan 2, you must notify the LEOFF unit at DRS within five years from the date you requested the transfer. LEOFF staff will cancel your request and refund any money you have paid on the transfer bill.

(12) Can I transfer non-EMT PERS service into LEOFF Plan 2? No, you may not transfer non-EMT PERS service into LEOFF Plan 2. Only the PERS Plan 1 or Plan 2 service credit you earned working as an EMT can be transferred into LEOFF Plan 2.

(13) Can I transfer my PERS Plan 1 or Plan 2 EMT service into LEOFF Plan 2 and withdraw my non-EMT PERS service? Yes, you may transfer your PERS Plan 1 or Plan 2 EMT service into LEOFF Plan 2 and withdraw your non-EMT PERS service. You can withdraw your non-EMT

PERS service as soon as the PERS EMT service is fully transferred to LEOFF Plan 2. To be fully transferred, the conditions described in subsection (8) of this section must be met.

(14) **Can I transfer my PERS EMT service into LEOFF Plan 1?** No, you may not transfer your PERS EMT service into LEOFF Plan 1. If you reentered LEOFF Plan 1 membership after your position was relocated to a fire department, you may choose to remain in PERS or return to LEOFF Plan 1 membership, but you may not transfer the PERS EMT service into LEOFF Plan 1.

(15) **What happens if I die or retire for disability before the PERS EMT service is transferred into my LEOFF Plan 2 account?** If you elect to transfer your PERS Plan 1 or Plan 2 EMT service to LEOFF Plan 2 but die or retire for disability before the transfer is complete, then one of the following will occur:

(a) If your EMT bill **is** paid in full but the five-year waiting period has not expired, and you are approved for disability or you die, then DRS will transfer your applicable service credit, accumulated contributions, and interest to your LEOFF Plan 2 account immediately. The transferred service credit, accumulated contributions, and interest will be used to calculate your benefit or, in the case of your death, the benefit your spouse or minor children will receive.

(b) If your EMT bill **is not** paid in full and you **retire for disability**, DRS will transfer your applicable service credit, accumulated contributions, and interest into your LEOFF Plan 2 account and use them to calculate your benefit. You will then have the following options:

(i) Pay the bill in full;

(ii) Choose to have your monthly benefit actuarially reduced to reflect the unpaid amount of the bill; or

(iii) Continue to make payments against the remaining amount of the bill. You must pay the bill in full no later than five years from your original election date.

(c) If the EMT bill **is not** paid in full and you **die**, DRS will transfer your applicable service credit, accumulated contributions, and interest into your LEOFF Plan 2 account and use them to calculate the benefit for your spouse or minor children. Your spouse or minor children will have the following options:

(i) Pay the bill in full;

(ii) Choose to have their monthly benefit actuarially reduced to reflect the unpaid amount of the bill; or

(iii) Continue to make payments against the remaining amount of the bill. Your spouse or minor children must pay the bill in full no later than five years from **your** original election date.

Note: If the EMT bill is not paid in full within the five-year period, the monthly benefit will be actuarially reduced to reflect the unpaid amount of the bill.

(16) **Terms used:**

(a) DRS - Department of retirement systems.

(b) EMT - Emergency medical technician or paramedic who provides emergency medical services.

(c) LEOFF - Law enforcement officers' and firefighters' retirement system.

(d) PERS - Public employees' retirement system.

[Statutory Authority: RCW 41.50.050(5) and 41.26.547. 09-05-011, § 415-104-475, filed 2/6/09, effective 3/9/09; 04-04-039, § 415-104-475, filed 1/29/04, effective 3/1/04.]

WAC 415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance? Under RCW 41.26.470, two types of disability retirement are available to members of LEOFF Plan 2 who become disabled in the line of duty: Duty disability retirement benefits as described in WAC 415-104-480 and catastrophic disability retirement benefits as described in this section. If you are not eligible for a catastrophic disability allowance under this section, you may still be eligible for duty disability benefits.

(1) **Am I eligible for a catastrophic disability allowance?** You are eligible for a catastrophic disability allowance if the department determines all of the following are true:

(a) You incurred a physical or mental disability in the line of duty, as defined in subsection (13) of this section;

(b) You separated from LEOFF-eligible employment due to your disability;

(c) Your disability is so severe that you are unable to do your previous LEOFF eligible work, and considering your education, transferable skills, and work experience, you cannot engage in any other kind of substantial gainful activity in the labor market;

(d) Your condition has lasted or is expected to last at least twelve months, or your condition is expected to result in death; and

(e) Your disability is not the result of your criminal conduct committed after April 21, 1997. See RCW 41.26.061.

(2) **If I am receiving a retirement allowance for service, can I qualify for a catastrophic disability allowance?** You are eligible for a catastrophic disability allowance in lieu of your service retirement allowance if the department determines you separated from LEOFF-eligible service due to a duty disability and you otherwise meet the eligibility requirements in subsection (1) of this section.

(3) **How do I request a catastrophic disability allowance?** To request a catastrophic disability allowance, please contact the LEOFF unit at the department of retirement systems. You, your physician, and your employer will be required to provide information regarding your catastrophic disability.

(4) **What information will the department use to determine whether I am entitled to an allowance under this section?** The department will consider information submitted by you, your physician, and your employer, and information otherwise available to the department, including:

(a) Medical and vocational information;

(b) Information from and determinations made by the department of labor and industries, the Social Security Administration, or a self-insurer;

(c) Your job description at the time you separated from LEOFF Plan 2 service;

(d) Financial records;

(e) Your membership records, maintained by the department; and

(f) Any other relevant information.

(5) **Who determines my eligibility?** The LEOFF plan administrator determines your eligibility for a catastrophic

disability benefit. The plan administrator will rely substantially on determinations that have been made by the Social Security Administration unless there is information available that would produce a different determination.

(6) **What are my options if my request is denied?** If your request is denied, you have the following options:

(a) You may apply for duty disability benefits under WAC 415-104-480; and/or

(b) You may petition for review under chapter 415-04 WAC.

(7) **If my request is approved, when will my monthly allowance begin to be paid?** If your request is approved, you will begin to receive a catastrophic disability allowance in the month following the approval. Your first payment will include a retroactive payment of benefits that have accrued, but not yet been paid. The date your allowance for catastrophic disability accrues is determined as follows:

(a) If you separated from LEOFF Plan 2 employment due to a catastrophic disability, your allowance will accrue from the first of the month following your separation date.

(b) If you are receiving a duty disability allowance or a service retirement allowance, and you are subsequently approved for a catastrophic disability, your allowance will accrue from:

(i) The first of the month following the month in which a specific, one-time event, verified by medical records, occurred that clearly caused your duty disability to become a catastrophic disability; or

(ii) If the department determines there is not a one-time event that caused your disability to become catastrophic, the first of the month following the month in which the department receives your request for a catastrophic disability allowance.

Example: John has been receiving a duty-disability allowance under WAC 415-104-480 since June 1, 2005, when he separated service as a firefighter due to a back injury he incurred in the line of duty.

Example of (b)(i) of this subsection: A one-time event. On January 15, 2007, John accidentally twisted his back causing a catastrophic disability. Because John's catastrophic disability was clearly the result of a specific one-time event, his catastrophic disability allowance will accrue from February 1, 2007, the first of the month following the month in which the event occurred.

Example of (b)(ii) of this subsection: No specific event. John's back gradually worsened until his disability qualified as a catastrophic disability. On May 15, 2007, John applied for a catastrophic disability allowance. His allowance will accrue from June 1, 2007, the first of the month following the month the department received his application.

(8) **How much is a catastrophic disability allowance?** The base catastrophic disability allowance is equal to seventy percent of your final average salary (FAS).

(a) Your allowance combined with other disability benefits, such as Title 51 RCW benefits or Social Security disability benefits, may not exceed one hundred percent of your FAS. If necessary, your catastrophic disability allowance will be reduced so that your combined allowance does not exceed one hundred percent of your FAS. Your catastrophic disability allowance will not be reduced below your accrued retirement allowance as defined in subsection (13) of this section.

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, the allowance calculated in (a) of this subsection will be actuarially reduced to cover the cost of providing benefits over two lifetimes.

(c) If you have been retired for at least one year by July 1st of each year, you will receive a cost-of-living adjustment each July 1 based on the percentage change, if any, in the consumer price index.

(c) If you have been retired for at least one year by July 1st of each year, you will receive a cost-of-living adjustment each July 1 based on the percentage change, if any, in the consumer price index.

Example: Michael separates from service on June 1, 2005, and is approved for a catastrophic disability allowance. Since his FAS is \$5,800, Michael's catastrophic disability allowance from the department is \$4,060 per month ($\$5,800 \times 70\% = \$4,060$). Michael is also approved for a Social Security benefit in the amount of \$1,800 per month. Michael's combined benefit equals \$5,860 ($\$4,060 + \$1,800$). This is \$60 over 100% of his FAS ($\$5,860 - \$5,800$), so Michael's catastrophic disability benefit will be reduced by that amount; his new monthly benefit from the department is \$4,000 ($\$4,060 - \60). In January 2006, Michael received a 4.1% COLA for his Social Security benefit. The department will recalculate his benefit as follows:

January 2006 Social Security benefit, with COLA	$\$1,800 \times 4.1\% = \$73.80 + \$1,800$	= \$1,873.80
Total combined benefit	$\$4,060 + \$1,873.80$	= \$5,933.80
Amount over 100% of FAS	$\$5,933.80 - \$5,800$	= \$133.80

Since Michael's combined benefit is \$133.80 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is \$3,926.20 ($\$4,060 - \133.80). Michael's benefit cannot be reduced more than the amount of his accrued retirement allowance. To determine his accrued retirement allowance, the department multiplies Michael's FAS, \$5,800, by his years of service credit, 30, by 2% ($\$5,800 \times 30 \times 2\%$). Michael's accrued retirement allowance is \$3,480. Since his benefit does not fall below his retirement allowance, Michael will receive \$3,926.20 from the department per month.

In July 2006, Michael received a 3% COLA for his catastrophic disability benefit. The department will recalculate his benefit as follows:

July 2006 catastrophic disability benefit, with COLA	$\$5,800 \times 3\% = \$174 + \$5,800 = \$5,974 \times 70\%$	= \$4,181.80
Total combined benefits	$\$4,181.80 + \$1,873.80$	= \$6,055.60
Amount over 100% of FAS	$\$6,055.60 - \$5,974$	= \$81.60

Since Michael's combined benefit is \$81.60 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is \$4,100.20 (\$4,181.80 - \$81.60). This is compared to his accrued retirement allowance, \$3,584.40 (\$5,974 x 30 x 2%); since his benefit does not fall below his retirement allowance, Michael will receive \$4,100.20 from the department per month.

(9) Is my catastrophic disability allowance taxable?

You should consult with your tax advisor regarding all payments you receive from the department. The department does not:

- (a) Guarantee that payments are exempt from federal income tax;
- (b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;
- (c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or
- (d) Assume any liability for your compliance with the Internal Revenue Code.

(10) If I withdrew my contributions prior to December 2, 2004, and am approved for a catastrophic disability allowance, what will I receive? You may apply for a catastrophic disability allowance even if you withdrew your accumulated contributions prior to December 2, 2004. If you are approved for a catastrophic disability allowance, your monthly allowance will be calculated as follows:

(a) If you repay the entire amount you withdrew in a lump sum payment, you will receive a monthly allowance calculated according to subsection (8) of this section.

(b) If you do not repay the entire amount you withdrew, your monthly allowance will be actuarially reduced to offset the amount of your previous withdrawal.

(11) Can my catastrophic disability allowance be discontinued? Your catastrophic disability allowance will be discontinued if:

- (a) Medical/vocational examination reveals that your disability no longer prevents you from performing substantial gainful activity; or
- (b) Your earnings exceed the threshold for substantial gainful activity.

The department may require comprehensive medical/vocational examinations and/or submission of earnings information to evaluate your eligibility for continued benefits according to the provisions of RCW 41.26.470. You are required to contact the department if your medical/vocational or financial situation changes.

(12) If my catastrophic disability allowance terminates, may I qualify for duty disability benefits? If you are no longer eligible for a catastrophic disability allowance, but have a disability that prevents you from returning to a LEOFF-eligible position, the department will determine if you qualify for duty disability benefits under WAC 415-104-480.

(a) The department may request additional information from you, your physician, or others upon which to base the determination.

(b) If the department determines you are eligible, you will begin receiving a duty disability allowance under WAC 415-104-480 in lieu of your catastrophic disability allowance.

(13) **Definitions.** As used in this section:

(a) **Accrued retirement allowance** means a duty disability monthly allowance under WAC 415-104-480.

(b) **Earnings** are any income or wages received, which are reportable as wages or self-employment income on IRS form 1040.

(c) **Labor market** is the geographic area within reasonable commuting distance of where you were last gainfully employed or where you currently live, whichever provides the greatest opportunity for gainful employment.

(d) **Line of duty** means any action or activity performed in the service of your employer that is required or authorized by law, rule, regulations, or condition of employment or service.

(e) **Substantial gainful activity** means any activity that produces average earnings, as defined in (b) of this subsection, in excess of eight hundred sixty dollars a month in 2006, adjusted annually as determined by the department based on federal Social Security disability standards. Wages count toward earnings when they are earned, not when you receive them. Self-employment income counts when you receive it, not when you earn it.

(f) **Transferable skills** are any combination of learned or demonstrated behavior, education, training, work traits, and skills that you can readily apply. They are skills that are interchangeable among different jobs and workplaces.

[Statutory Authority: RCW 41.50.050(5) and 41.26.470. 09-17-035, § 415-104-482, filed 8/10/09, effective 9/10/09.]

Chapter 415-106 WAC

PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM

WAC

415-106-725 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in PSERS?

WAC 415-106-725 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in PSERS? (1) If you have retired from another retirement system authorized by the laws of this state, you cannot participate in PSERS membership unless:

(a) You accrued less than fifteen years of service credit in the other retirement system; or

(b) You are a LEOFF Plan 2 retiree returning to work in a PSERS eligible position and choose to participate in PSERS membership. See WAC 415-104-111.

(2) If you are **eligible to retire** from another retirement system listed in RCW 41.50.030, you cannot participate in PSERS membership unless:

(a) You accrued less than fifteen years of service credit in the other retirement system; or

(b) You are a dual member as described in RCW 41.54.010.

(3) If you are **receiving a disability allowance** from another retirement system listed in RCW 41.50.030, you can-

not participate in PSERS membership unless you are a LEOFF Plan 2 retiree returning to work in a PSERS eligible position and choose to participate in PSERS membership. See WAC 415-104-111.

(4) **Defined terms used.** Definitions for the following terms used in this section are:

- (a) "Membership" - RCW 41.37.020.
- (b) "Service" - RCW 41.37.010.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, and 41.26.500. 09-19-046, § 415-106-725, filed 9/10/09, effective 10/11/09.]

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WAC

415-108-432	PERS Plan 1 duty disability benefits.
415-108-434	PERS Plan 1 nonduty disability benefits.
415-108-725	If I have retired from another retirement system or am eligible to retire, am I excluded from participating in PERS?

WAC 415-108-432 PERS Plan 1 duty disability benefits. This section covers benefits provided for in RCW 41.40.200 through 41.40.220 for PERS Plan 1 members who incur a disability in the line of duty. You may also be eligible for benefits from the Washington state departments of labor and industries and social and health services, the U.S. Social Security Administration, your employer, and other disability insurers.

(1) **Am I eligible for a PERS Plan 1 duty disability benefit?** You are eligible for a PERS Plan 1 duty disability benefit if the department determines that all of the following are true:

- (a) You are a member of PERS Plan 1;
- (b) You have separated from PERS employment;
- (c) At the time you separated from PERS employment, you were totally incapacitated to perform the duties of your job or any other position for which you are qualified by training or experience;
- (d) You are under sixty years of age;
- (e) Your disability is the result of:
 - (i) An accident that occurred in the performance of duty;
 - or
 - (ii) An occupational disease as defined in RCW 51.08.140 for which you qualify to receive workers' compensation benefits under Title 51 RCW. To "qualify" means that you have received a formal determination from the department of labor and industries that you are eligible to receive Title 51 RCW benefits on account of an occupational disease.
- (f) Your disability is not the result of willful negligence on your part;
- (g) Your disability is not the result of your criminal conduct committed after April 21, 1997. See RCW 41.40.054; and
- (h) You apply for benefits within the specific time limits set forth in subsection (5) of this section.

(2) **What is the PERS Plan 1 duty disability benefit?** If you qualify to receive a duty disability benefit, you will receive the following for as long as you remain eligible:

- (a) A monthly benefit of three hundred fifty dollars or two-thirds of your monthly average final compensation, whichever is less, until you attain the age of sixty.

(i) The degree of your disability or impairment will not affect the amount of your benefit.

(ii) Your monthly disability benefit will be reduced by any amounts you receive for the same disability under workers' compensation or similar law. See RCW 41.40.300.

Example: Tiegian is a member of PERS Plan 1. Due to a work-related accident, she separated from service and began receiving a Title 51 RCW benefit in the amount of \$1,500 from the department of labor and industries (L&I). She then qualified for a duty disability benefit of \$350 per month from DRS. Because her duty disability benefit is offset by her Title 51 RCW benefit, Tiegian will receive, per month, \$0 from DRS and \$1,500 from L&I.

Example: Jennifer is a member of PERS Plan 1. Due to a work-related accident, she separated from service and began receiving a duty disability benefit of \$350 per month from DRS. Jennifer then began receiving a Title 51 RCW benefit from L&I in the amount of \$100 per month. Because her duty disability benefit will be offset by her Title 51 RCW benefit, Jennifer will receive, per month, \$250 from DRS and \$100 from L&I.

(b) One month of service credit for each month you receive a monthly benefit. You will accrue service credit even if your monthly benefit is totally offset by benefits you receive from other sources.

(3) **How do I apply?** To apply for a PERS Plan 1 duty disability the following documents must be submitted to the department:

(a) A properly completed three-part disability retirement application, consisting of:

(i) Part 1: Application for disability retirement. You must complete and sign the application.

(ii) Part 2: Employer's statement and report. You must complete the member information portion. The remainder must be completed, signed, and returned directly to the department by your employer.

(iii) Part 3: Medical report. You must complete the member information portion. The remainder must be completed, signed, and returned directly to the department by a person licensed according to Washington state law to practice medicine and/or surgery (including osteopathic medicine and/or surgery), advanced nursing, or psychology.

(b) Additional information, such as vocational and/or occupational information, requested by the department; and

(c) Any other material you want the department to consider.

(4) **Who is responsible for expenses related to my application?** You are responsible for all costs associated with your application for a benefit.

(5) **What is the time limit for filing a PERS Plan 1 duty disability application?** In general, you have two years to file an application for a duty disability benefit. You are considered an applicant for a duty disability benefit when the department receives Part 1 of your application. If your disability is the result of:

- (a) An **accident**, you must apply within two years from the date you know or should know that you are totally incapacitated and cannot return to work.

Example: Linda is a member of PERS Plan 1 and was injured on the job. After her injury, Linda resumed employment. Three years after the injury, her condition unexpectedly worsened and she could no longer work. Although more than two years had passed since her duty-related injury, Linda had no way of knowing that the injury would eventually cause her to be totally incapacitated to perform the duties of her job. Linda may apply for a duty disability benefit because the two-year time limit began when Linda knew she could no longer perform the duties for which she has training or experience.

Example: Hunter is a member of PERS Plan 1. He is injured on the job and knows immediately that he cannot return to work. Hunter goes on sick leave for two months, followed by two years of unpaid leave of absence. At the end of the unpaid leave, he applies for duty disability retirement. He is not eligible because more than two years have passed from the time he knew that his injury was such that he could not return to work.

(b) An **occupational disease**, you must apply within two years from separation of service. The two-year time limit begins running on the last day you are reported as an employee by your employer. If you are on an authorized leave of absence (paid or unpaid) you have not separated from service.

Example: Celina is a member of PERS Plan 1. She falls ill and goes on unpaid leave of absence for twenty-six months. At the end of the twenty-six months, she is diagnosed with a disease caused by her occupation and terminates her employment. Celina may apply for a duty disability benefit because the two-year time limit starts on the last day her employer reports her as an employee to the department.

(6) **What information will the department use to determine whether I am entitled to a duty disability benefit?** To determine your eligibility for a duty disability benefit, the department will consider any relevant information submitted by you, your employer, your physician, or otherwise available, including:

(a) Information and determinations by the department of labor and industries or a self-insurer;

(b) Medical, vocational, and other information about your disability;

(c) Your job description;

(d) Your membership records, maintained by the department; and

(e) Any other relevant information.

(7) **If I am eligible for a service retirement under RCW 41.40.180, may I still apply for a disability retirement?** Yes, you may apply for a disability retirement if you are eligible for a service retirement, as long as you are under age sixty. If you are sixty years old or older, you must apply for a service retirement; see subsection (14) of this section.

(8) **When will the department evaluate my eligibility for a duty disability benefit?** The department will evaluate your eligibility for a duty disability benefit once it receives:

(a) All three parts of your properly completed application and supporting documentation;

(b) If your disability is the result of an occupational disease, written documentation from L&I that you have qualified for benefits under Title 51 RCW; and

(c) Other documentation requested by the department.

(9) **If my application is approved, when will my benefit begin?** If your application for a duty disability benefit is approved, your benefit will accrue from the first day of the calendar month following the month you separate from service.

(a) If you separate from service **before** your application is approved, your disability benefit accrues from the first day of the calendar month following the date you separate from service. You will be eligible for a retroactive payment of the benefits that accrued between your separation from service and the approval of your application.

(b) If you separate from service **after** your application is approved, your disability benefit will not begin to accrue until you separate from service. If you are on an approved leave of absence (either paid or unpaid) at the time of your application for benefits, you have not separated from service.

(i) If you do not separate from service within ninety days of the department's approval of your application, the approval will lapse.

(ii) If your approval for a benefit lapses while you are still on an authorized leave of absence, you may request a reinstatement of approval. The department will reinstate its approval only if your employer verifies that you have been on an authorized leave of absence continuously from the time your application was first approved.

(10) **What are my options if my application is denied?** If your application for a duty disability benefit is denied, you have the following options:

(a) If you continue to work in a PERS position, you may reapply for a duty disability benefit at a later time if your condition worsens. You must submit new information to the department that shows you were totally incapacitated at the time of your separation from employment.

(b) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(11) **What happens if I am receiving a duty disability benefit and I die before age sixty?** If you are receiving a duty disability benefit and you die before you reach age sixty, your beneficiary will receive a lump sum distribution of the accumulated contributions in your account; please see RCW 41.40.220(3).

(12) **What information must I provide to the department if I am receiving a duty disability benefit?** If you are receiving a duty disability benefit, you must report the following to the department:

(a) Any compensation you are eligible to receive under workers' compensation or similar law for the same disability;

(b) Any improvement in your condition. Your doctor is also responsible to report any improvements; and

(c) If you resume employment, either public or private, the name of your employer and amount of compensation, regardless of the number of hours you work.

(13) **Is my medical condition monitored while I am receiving disability retirement?** The department may require comprehensive medical examinations, pursuant to

RCW 41.40.310, to reevaluate your eligibility for disability benefits. The department will pay the medical fees associated with these examinations.

(14) **How long will I receive a monthly disability benefit?** You will receive a monthly disability benefit until you reach age sixty. Your benefit may be recalculated or discontinued under certain circumstances. At age sixty you will become eligible for a service retirement as provided in RCW 41.40.220(2).

(a) Your benefit will be recalculated if you return to employment; see subsection (15) of this section for more information.

(b) Your benefit will be discontinued if:

(i) You return to active PERS membership;

(ii) A doctor determines that you are no longer totally incapacitated; or

(iii) You refuse to submit to medical examinations required by RCW 41.40.310.

(c) When you become eligible for a service retirement at age sixty, you must apply for your retirement benefit; it will not start automatically. The service credit used to calculate your service retirement benefit includes both the service credit earned for services performed and the service credit credited to your account during your period of duty disability.

(15) **If I return to employment, how will my monthly disability benefit be recalculated?** The recalculation of your disability benefit is based on whether your current compensation is greater than your allowable earnings. Your "allowable earnings" are the difference between your compensation at retirement, adjusted for inflation, and your monthly disability benefit.

(a) If your current compensation is **greater** than your allowable earnings your monthly disability benefit will be reduced or discontinued.

(i) If the difference between your current compensation and your allowable earnings is less than \$350, your disability benefit will be **reduced** by this difference.

Example: Due to a work-related accident, Martha separated employment and began receiving \$350 per month in duty disability benefits. Martha became gainfully employed in a new job earning \$1,800 per month. Martha's compensation at the time of separation adjusted for inflation is \$2,000. Because Martha's current compensation (\$1,800) is greater than her allowable earnings ($\$2,000 - \$350 = \$1,650$) by \$150 (an amount less than \$350) her benefit will be reduced by \$150. Martha's reduced disability benefit will be \$200 ($\$350 - \150).

(ii) Your benefit will be **discontinued** if your current compensation is greater than your allowable earnings by an amount equal to or greater than your disability benefit.

Example: Due to a work-related accident, Rebecca separated employment and began receiving \$350 per month in duty disability benefits. Rebecca became gainfully employed in a new job earning \$2,750 per month. Rebecca's compensation at the time of separation adjusted for inflation is \$2,500. Because Rebecca's current compensation (\$2,750) is greater than her allowable earnings ($\$2,500 - \$350 = \$2,150$) by an amount

($\$600$) that is greater than her disability benefit ($\$350$), her benefit will be discontinued.

(b) If your current compensation is **less** than your allowable earnings your benefit will not be reduced or discontinued.

Example: Ted separated employment due to a work-related accident and began receiving \$350 per month in duty disability benefits. Ted became gainfully employed in a new job earning \$1,000 per month. Ted's compensation at the time of separation adjusted for inflation is \$3,000. Because Ted's current compensation ($\$1,000$) is less than his allowable earnings ($\$3,000 - \$350 = \$2,650$), his benefit will not be reduced.

(16) **Is my PERS Plan 1 duty disability benefit taxable?** You should consult with your tax advisor regarding all payments you receive from the department. The department does not:

(a) Guarantee that payments are exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(17) **Are PERS Plan 1 duty disability benefits subject to court or administrative orders?** Your PERS Plan 1 duty disability benefits may be subject to court or administrative orders. For more information, see RCW 41.40.052(3) or contact the department.

(18) **If I am a member of more than one retirement system, does my eligibility for a PERS Plan 1 duty disability benefit make me eligible for a benefit from the other system?** If you are a member of more than one retirement system, your PERS Plan 1 duty disability benefit does not qualify you to receive a benefit from any other system. See chapters 41.54 RCW and 415-113 WAC.

[Statutory Authority: RCW 41.50.050(5), 41.40.200, 41.40.210, 41.40.220, 09-18-051, § 415-108-432, filed 8/27/09, effective 9/27/09.]

WAC 415-108-434 PERS Plan 1 nonduty disability benefits. This section covers benefits provided in RCW 41.40.230 through 41.40.250 for PERS Plan 1 members who incur a disability outside the performance of duty. You may also be eligible for benefits from the Washington state departments of labor and industries and social and health services, the U.S. Social Security Administration, your employer, and other disability insurers.

(1) **Am I eligible for a PERS Plan 1 nonduty disability benefit?** You are eligible for a PERS Plan 1 nonduty disability benefit if the department determines that all of the following are true:

(a) You are a PERS Plan 1 member and have been employed with a PERS eligible employer for at least five years;

(b) You separate from PERS employment;

(c) At the time you separated from PERS employment, you were totally incapacitated to perform the duties of your

job or any other position for which you are qualified by training or experience;

(d) Your disability is likely to be permanent;

(e) Your disability was not incurred during the performance of your job duties; and

(f) Your disability is not the result of your criminal conduct committed after April 21, 1997. See RCW 41.40.054.

(2) What is the PERS Plan 1 nonduty disability benefit? If you qualify to receive a nonduty disability benefit, you will receive a benefit under RCW 41.40.235 or, if you were a PERS Plan 1 member on February 25, 1972, you may irrevocably choose to receive a benefit under RCW 41.40.250.

If you are eligible to receive a benefit under RCW 41.40.235, your benefit will equal two percent of your average final compensation for each year of service credit, reduced by two percent for every year or fraction of a year that your age is less than fifty-five. For example, if you are fifty years old, your monthly disability benefit will be reduced by ten percent.

(a) Your monthly disability benefit will not exceed sixty percent of your average final compensation.

(b) The degree of your disability or impairment will not affect the amount of your benefit.

(c) Your monthly disability benefit will be reduced by any amounts you receive for the same disability under workers' compensation or similar law. See RCW 41.40.300.

(d) Your monthly disability benefit will be actuarially reduced if you choose a benefit option with a survivor feature. See WAC 415-108-326.

(3) How do I apply? To apply for a nonduty disability benefit the following documents must be submitted to the department:

(a) A properly completed three-part disability retirement application, consisting of:

(i) Part 1: Application for disability retirement. You must complete and sign the application. If you are married, your spouse must sign consenting to the option you choose. Your signature(s) must be notarized.

(ii) Part 2: Employer's statement and report. You must complete the member information portion. The remainder must be completed, signed, and returned directly to the department by your employer.

(iii) Part 3: Medical report. You must complete the member information portion. The remainder must be completed, signed, and returned directly to the department by a person licensed according to Washington state law to practice medicine and/or surgery (including osteopathic medicine and/or surgery), advanced nursing, or psychology.

(b) Additional information, such as vocational and/or occupational information, requested by the department; and

(c) Any other material you want the department to consider.

(4) Who is responsible for expenses related to my application? You are responsible for all costs associated with your application for benefits.

(5) What is the time limit for filing an application for a nonduty disability benefit? There is no time limit for filing an application for a nonduty disability benefit. However, you must prove that you were totally incapacitated at the time you separated from PERS employment.

(6) What information will the department use to determine whether I am entitled to a nonduty disability benefit? To determine your eligibility for a nonduty disability benefit, the department will consider any relevant information submitted by you, your employer, or your physician, or otherwise available, including:

(a) Information and determinations by the department of labor and industries or a self-insurer;

(b) Medical, vocational, and other information about your disability;

(c) Your job description;

(d) Your membership records, maintained by the department; and

(e) Any other relevant evidence.

(7) If I am eligible for a service retirement under RCW 41.40.180, may I still apply for a disability retirement? Yes, if you are eligible for both you may elect a disability retirement or a service retirement. If you elect a service retirement, you may not later change to a disability retirement.

(8) When will the department evaluate my eligibility for benefits? The department will evaluate your eligibility for a nonduty disability benefit once it receives all three parts of your properly completed application, supporting documentation, and all other information requested by the department.

(9) If my application is approved, when will my benefit accrue? If your application for a nonduty disability benefit is approved, your benefit will accrue from the first day of the calendar month following the month you separate from service.

(a) If you separate from service **before** your application is approved, you will be eligible for a retroactive payment of the benefit that accrued between the month following your date of separation from service and the approval of your application.

(b) If you separate from service **after** your application is approved, your disability benefit will not begin to accrue **until** you separate from service. If you are on an approved leave of absence (either paid or unpaid) at the time of your application for a benefit, you have not separated from service.

(i) If you do not separate from service within ninety days of the department's approval of your application, the approval will lapse.

(ii) If your approval for a benefit lapses while you are still on an authorized leave of absence, you may request a reinstatement of approval. The department will reinstate its approval only if your employer verifies that you have been on an authorized leave of absence continuously from the time your application was first approved.

(10) What are my options if my application is denied?

(a) If your application is denied and you continue in or resume PERS employment, you may reapply for a nonduty disability benefit at a later time if your condition worsens. You must submit new information to the department that shows you meet the requirements in subsection (1) of this section.

(b) If your application is denied, you may petition for review of the department's decision under the provisions of chapter 415-04 WAC.

(11) **What happens if I die within sixty days of applying for nonduty disability benefits?** If you die within sixty days of the date the department receives your application for a nonduty disability benefit, the beneficiary you name on the application may choose to receive either:

(a) A lump sum amount equal to the contributions in your PERS account; or

(b) A monthly benefit calculated according to whichever of the following methods will give your beneficiary the greatest benefit:

(i) A benefit calculated according to subsection (2) of this section and the benefit option indicated on your application; or

(ii) If otherwise qualified, the benefit provided in RCW 41.40.270 (4)(a).

(12) **What information must I provide to the department if I am receiving nonduty disability benefits?** If you are receiving nonduty disability benefits, you must report the following to the department:

(a) Any compensation you are eligible to receive under workers' compensation or similar law for the same disability;

(b) Any improvement in your condition. Your doctor is also responsible to report any improvements; and

(c) If you resume employment, either public or private, the name of your employer and amount of compensation, regardless of the number of hours you work.

(13) **Is my medical condition monitored while I receive disability benefits?** The department may require comprehensive medical examinations, pursuant to RCW 41.40.310, to reevaluate your eligibility for disability benefits. The department will pay the medical fees associated with these examinations.

(14) **How long will I receive a monthly disability benefit?** During your lifetime, you will receive a monthly disability benefit unless one of the following occurs:

(a) If you return to gainful employment, your monthly disability benefit will be recalculated, as set forth in subsection (15) of this section.

(b) If you return to active PERS membership, your disability benefit will be discontinued.

(c) If a doctor determines that you are no longer totally incapacitated, your disability benefit will be discontinued.

(d) If you refuse to submit to medical examinations required by RCW 41.40.310, your disability benefit will be discontinued.

(15) **If I return to employment, how will my monthly disability benefit be recalculated?** The recalculation of your disability benefit is based on whether your current compensation is greater than your allowable earnings. Your "allowable earnings" are the difference of your compensation at retirement, adjusted for inflation, and your monthly disability benefit.

(a) If your current compensation is **greater** than your allowable earnings your benefit will be reduced or discontinued.

Example of benefit being reduced:

Due to a nonduty-related disability, Joe separated from service and began receiving a disability benefit of \$1,000 per month. Joe became gainfully employed earning \$2,500 per month. Joe's compensation at the time of sep-

aration adjusted for inflation is \$3,000. Because Joe's current compensation, \$2,500, is greater than his allowable earnings ($\$3,000 - \$1,000 = \$2,000$) by \$500, his benefit will be reduced by \$500. Joe's reduced disability benefit will be \$500 per month ($\$1,000 - \500).

Example of benefit being discontinued:

Due to a nonduty-related disability, Heidi separated from service and began receiving a disability benefit of \$1,000 per month. Heidi became gainfully employed earning \$4,000 per month. Heidi's compensation at the time of separation adjusted for inflation is \$3,000. Because Heidi's current compensation, \$4,000, is greater than her allowable earnings ($\$3,000 - \$1,000 = \$2,000$) by an amount (\$2,000) that is greater than her disability benefit (\$1,000), her benefit will be discontinued.

(b) If your current compensation is **less** than your allowable earnings, then your benefit will not be reduced or discontinued.

Example:

Due to a nonduty-related disability, you separated from service and began receiving a disability benefit of \$1,000 per month. You become gainfully employed earning \$1,000 per month. Your compensation at the time of separation adjusted for inflation is \$3,000. Because your current compensation, \$1,000, is less than your allowable earnings ($\$3,000 - \$1,000 = \$2,000$), your disability benefit will not be reduced or discontinued.

(16) **Is my PERS Plan 1 nonduty disability benefit taxable?** You should consult with your tax advisor regarding all payments you receive from the department. The department reports disability benefits to the Internal Revenue Service as required by federal law and does not:

(a) Guarantee that payments are exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property, or other tax consequence will occur because of its determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(17) **Are disability benefits subject to court or administrative orders?** Your nonduty disability benefit may be subject to court or administrative orders. For more information, see RCW 41.40.052(3) or contact the department.

(18) **If I am a member of more than one retirement system, does my eligibility for a PERS Plan 1 nonduty disability make me eligible for a benefit from the other system?** If you are a member of more than one retirement system, you may be entitled to additional benefits under portability law. See chapters 41.54 RCW and 415-113 WAC.

[Statutory Authority: RCW 41.50.050(5), 41.40.230, 41.40.235, 41.40.250, 09-18-051, § 415-108-434, filed 8/27/09, effective 9/27/09.]

WAC 415-108-725 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in PERS? (1) If you have retired 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 19, 1976;

(b) You accrued less than fifteen years of service credit in the other retirement system; or

(c) You are a LEOFF Plan 2 retiree returning to work in a PERS eligible position and choose to participate in PERS membership. See WAC 415-104-111.

(2) If you are **eligible to retire** from another retirement system listed in RCW 41.50.030, you cannot participate in PERS membership unless:

(a) You established membership in PERS prior to March 19, 1976;

(b) You accrued less than fifteen years of service credit in the other retirement system; or

(c) You are a dual member as described in RCW 41.54.010.

(3) If you are **receiving a disability allowance** from another retirement system listed in RCW 41.50.030, you cannot participate in PERS membership unless:

(a) You established membership in PERS prior to March 19, 1976; or

(b) You are a LEOFF Plan 2 retiree returning to work in a PERS eligible position and choose to participate in PERS membership. See WAC 415-104-111.

(4) **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) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, and 41.26.500. 09-19-046, § 415-108-725, filed 9/10/09, effective 10/11/09. Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-725, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-725, filed 7/25/95, effective 8/25/95.]

Chapter 415-110 WAC

SCHOOL EMPLOYEES' RETIREMENT SYSTEM

WAC

415-110-725 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in SERS?

WAC 415-110-725 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in SERS? (1) If you have **retired** from another retirement system authorized by the laws of this state, you cannot participate in SERS membership unless:

(a) You accrued less than fifteen years of service credit in the other retirement system; or

(b) You are a LEOFF Plan 2 retiree returning to work in a SERS eligible position and choose to participate in SERS membership. See WAC 415-104-111.

(2) If you are **eligible to retire** from another retirement system listed in RCW 41.50.030, you cannot participate in SERS membership unless:

(a) You accrued less than fifteen years of service credit in the other retirement system; or

(b) You are a dual member as described in RCW 41.54.-010.

(3) If you are **receiving a disability allowance** from another retirement system listed in RCW 41.50.030, you cannot participate in SERS membership unless you are a LEOFF Plan 2 retiree returning to work in a SERS eligible position and choose to participate in SERS membership. See WAC 415-104-111.

(4) **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) "Service" - RCW 41.35.010.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, and 41.26.500. 09-19-046, § 415-110-725, filed 9/10/09, effective 10/11/09. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-725, filed 8/28/02, effective 9/30/02. 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.]

Chapter 415-112 WAC

TEACHERS' RETIREMENT SYSTEM

WAC

415-112-546 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in TRS?

WAC 415-112-546 If I have retired from another retirement system or am eligible to retire, am I excluded from participating in TRS? (1) If you have **retired** from another retirement system authorized by the laws of this state, you cannot participate in TRS membership unless:

(a) You established membership in TRS prior to March 19, 1976;

(b) You accrued less than fifteen years of service credit in the other retirement system; or

(c) You are a LEOFF Plan 2 retiree returning to work in a TRS eligible position and choose to participate in TRS membership. See WAC 415-104-111.

(2) If you are **eligible to retire** from another retirement system listed in RCW 41.50.030, you cannot participate in TRS membership unless:

(a) You established membership in TRS prior to March 19, 1976;

(b) You accrued less than fifteen years of service credit in the other retirement system; or

(c) You are a dual member as described in RCW 41.54.-010.

(3) If you are **receiving a disability allowance** from another retirement system listed in RCW 41.50.030, you cannot participate in TRS membership unless you are a LEOFF Plan 2 retiree returning to work in a TRS eligible position and choose to participate in TRS membership. See WAC 415-104-111.

(4) **Defined terms used.** Definitions for the following terms used in this section are:

(a) "Membership" – RCW 41.32.032.

(b) "Service" – RCW 41.32.010.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, and 41.26.500. 09-19-046, § 415-112-546, filed 9/10/09, effective 10/11/09.]

Chapter 415-200 WAC
EMPLOYEE RETIREMENT BENEFITS BOARD

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

415-200-020 Regular board meetings. [Statutory Authority: RCW 41.50.050(5), 41.50.086. 08-10-025, § 415-200-020, filed 4/25/08, effective 5/26/08. Statutory Authority: RCW 41.50.086 and 41.50.050. 96-23-025, § 415-200-020, filed 11/13/96, effective 12/14/96.] Repealed by 10-01-146, filed 12/21/09, effective 1/21/10. Statutory Authority: RCW 41.05.050.

Chapter 415-501 WAC
DEFERRED COMPENSATION PLAN

WAC

415-501-494 How will the account be distributed if my beneficiary is a minor?

WAC 415-501-494 How will the account be distributed if my beneficiary is a minor? If you die before your entire account has been distributed and if one or more of your beneficiaries is a minor child, the department will distribute your deferred compensation funds to the minor according to the following:

(1) **Nominated UTMA custodian.** If your beneficiary is a minor at the time of your death, and if you have nominated a custodian to receive funds on behalf of your minor beneficiary pursuant to RCW 11.114.030 of the Uniform Transfers to Minors Act (UTMA), the department will distribute your funds to the custodian regardless of the amount to be distributed. If you have more than one minor beneficiary, a separate custodianship must be established for each minor.

(2) **No nominated UTMA custodian.** If, at the time of your death, your beneficiary is a minor and you did **not** nominate a custodian to receive the funds on behalf of your minor beneficiary, then your funds will be distributed according to the following:

(a) If your beneficiary is an emancipated minor and your DCP account balance is less than five thousand dollars, the department will distribute the funds directly to the minor.

(b) If your beneficiary is an unemancipated minor and your DCP account balance is less than five thousand dollars, the department will distribute the funds to an adult member of the minor's family or to a court-appointed custodian who submits a claim on behalf of the minor beneficiary. If no adult family member or court-appointed custodian submits a claim within one hundred eighty days of your death, the department will directly petition the court for the appointment of a custodian under the UTMA. After a custodian is appointed, the department will distribute the funds to the custodian.

(c) If your beneficiary is a minor and your DCP account balance is five thousand dollars or greater, the department will distribute the funds only to a court-appointed guardian.

(i) Upon satisfactory proof of guardianship, the department will distribute the funds to the guardian of the minor.

(ii) If the department does not receive satisfactory proof of guardianship within one hundred eighty days of your death, the department will petition the court for the appointment of a guardian under chapters 11.88 and 11.92 RCW. After a guardian is appointed, the department will distribute

the funds to the guardian pursuant to the terms of the guardianship order.

(3) Distribution consistent with this rule releases the department from further liability with regard to your DCP account.

(4) The person receiving the distribution pursuant to this rule must choose a distribution date and method on behalf of the minor, consistent with the requirements of this chapter.

(5) **Terms used.** For purposes of this rule, the following terms are defined as:

(a) An "adult" is any person who has attained the age of twenty-one years.

(b) A "member of the minor's family" means a parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt of the minor, whether in whole or half blood or by adoption.

[Statutory Authority: RCW 41.50.050(5), 41.50.770, and 41.50.780. 09-09-044, § 415-501-494, filed 4/9/09, effective 5/10/09. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-494, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.-050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-494, filed 12/19/01, effective 1/1/02.]