

Chapter 415-501 WAC

DEFERRED COMPENSATION PLAN

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[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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.</p> <p>415-501-120 Beneficiary. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.</p> <p>415-501-130 Compensation. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.</p> <p>415-501-140 Deferred compensation. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.</p> <p>415-501-150 Department. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2),</p>
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	41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.		010, filed 7/29/96, effective 7/29/96.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
415-501-160	Eligible employee. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-350	Department and employee retirement benefits board actions. [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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
415-501-170	Employee retirement benefits board. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-360	Plan prevails. [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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
415-501-180	Employer. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-470	Suspension and reinstatement of deferrals. [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, § 415-501-470, filed 12/19/01, effective 1/1/02. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
415-501-190	Participant. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-490	Elections regarding distribution. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.
415-501-200	Participation agreement. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-492	Distribution to a beneficiary, if distribution to the participant has not begun. [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, § 415-501-492, filed 12/19/01, effective 1/1/02.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
415-501-210	Separation from service. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-500	Distribution of deferrals. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.
415-501-300	Department to adopt rules and regulations. [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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. 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.	415-501-710	Plan to conform to state law. [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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
415-501-305	Department to interpret. [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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.	415-501-720	Plan to conform to federal law. [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.] Repealed by 04-22-053,
415-501-310	Administered by department. [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-		

filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.

DEFERRED COMPENSATION PLAN ESTABLISHED

WAC 415-501-010 What is the purpose of this chapter, and does it apply to me? (1) This chapter establishes the "deferred compensation plan" according to the provisions of RCW 41.50.030(2), 41.50.088(2), 41.50.770, 41.50.780, and Section 457 of the Internal Revenue Code. This plan is for employees of the state of Washington and approved political subdivisions of the state of Washington.

(2) This chapter does not:

(a) Apply to any other plan administered by the department;

(b) Constitute an employment agreement between the participant and the employer; or

(c) Give a participant any right to be retained in the employment of the employer.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-010, 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, § 415-501-010, filed 12/19/01, effective 1/1/02. 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.]

DEFINITIONS

WAC 415-501-110 Definitions. (1) **Accumulated deferrals.** Compensation deferred under the plan, adjusted by income received, increases or decreases in investment value, fees, and any prior distributions made.

(2) **Beneficiary.** A beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

(3) **Compensation.** All payments made to a public employee by the employer as remuneration for services rendered.

(4) **Deferred compensation.** The amount of the participant's compensation that is deferred under a participation agreement. See WAC 415-501-410.

(5) **Deferred compensation plan or plan.** A plan that allows employees of the state of Washington and approved political subdivisions of the state of Washington to defer a portion of their compensation according to the provisions of Section 457(b) of the Internal Revenue Code.

(6) **Department.** The department of retirement systems created by RCW 41.50.020 or its designee.

(7) **Eligible employee.** Any person who is employed by and receives any type of compensation from a participating employer for whom services are provided, and who is:

(a) A full-time, part-time, or career seasonal employee of Washington state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service;

(b) An elected or appointed official of the executive branch of the government, including a full-time member of a board, commission, or committee;

(c) A justice of the supreme court, or a judge of the court of appeals or of a superior or district court; or

(d) A member of the state legislature or of the legislative authority of a county, city, or town.

(8) **Eligible rollover distribution.** A distribution to a participant of any or all funds from an eligible retirement plan unless it is:

(a) One in a series of substantially equal annuity payments;

(b) One in a series of substantially equal installment payments payable over ten years or more;

(c) Required to meet minimum distribution requirements of the plan; or

(d) Distributed for hardship or unforeseeable emergency from a 457 plan.

(9) **Employee retirement benefits board.** The board created by RCW 41.50.086.

(10) **Employer.**

(a) The state of Washington; and

(b) Approved political subdivisions of the state of Washington.

(11) **Normal retirement age.** An age designated by the participant for purposes of the three-year catch-up provision described in WAC 415-501-430(2). The participant may choose a normal retirement age between:

(a) The earliest age at which an eligible participant has the right to receive retirement benefits without actuarial adjustment from his/her retirement plan with the same employer; and

(b) Age seventy and one-half.

(12) **Participant.** An eligible employee:

(a) Who has submitted a participation agreement that is approved by the department; and

(b) Who either:

(i) Is currently deferring compensation under the plan; or

(ii) Has previously deferred compensation and has not received a distribution of his/her entire benefit under the plan.

(13) **Participation agreement.** The agreement executed by an eligible employee pursuant to WAC 415-501-410, in which the eligible employee chooses to become a plan participant.

(14) **You,** as used in this chapter, means a participant as defined in subsection (12) of this section.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 05-15-045, § 415-501-110, filed 7/11/05, effective 8/11/05; 04-22-053, § 415-501-110, 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, § 415-501-110, filed 12/19/01, effective 1/1/02. 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.]

ADMINISTRATION

WAC 415-501-312 What laws govern the administration of the plan? This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457(b) of the Internal Revenue Code and Washington state law. It is interpreted and administered accordingly.

The department is authorized to interpret the provisions of this plan and resolve any ambiguity in the plan. 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 prevail.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-312, filed 10/29/04, effective 11/29/04.]

WAC 415-501-315 What are my employer's responsibilities? An employer 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.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-315, filed 10/29/04, effective 11/29/04. 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 What are the tax consequences of participating in the plan? You should consult with your own representative regarding questions of federal or state income, payroll, personal property or other tax consequences arising from your participation in this plan. 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 your participation in this plan;

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

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-320, filed 10/29/04, effective 11/29/04. 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 Does the department maintain a record of my account? The department maintains a deferred compensation account for each participant.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-330, filed 10/29/04, effective 11/29/04. 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 Where is my deferred compensation deposited? The department deposits deferred compensation into a special fund created in the treasury of the state of Washington called the "deferred compensation principal account." Amounts in the deferred compensation principal account may be invested according to RCW 41.50.770. All amounts payable to participants or their beneficiaries are paid from the deferred compensation principal account.

All costs of administering and staffing the plan, expenses of the department, and other amounts determined by the department and permitted by law, are paid out of the deferred compensation administrative account.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-340, filed 10/29/04, effective 11/29/04. 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.]

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DEPARTMENT POWERS

WAC 415-501-370 How are the rights of participants and beneficiaries determined? (1) The department has the authority to decide all issues concerning the rights of participants and beneficiaries under the plan. The department's determination is binding on the participant and beneficiaries.

(2) 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 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-370, filed 10/29/04, effective 11/29/04. 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 How are questions about distributions resolved? (1) The department may suspend distribution of your accumulated deferrals in order to resolve issues beyond its authority, such as the correctness of the distribution, amount of the distribution, or identity of the entitled recipient(s). The suspension will continue until all issues are resolved, either by written agreement of all parties concerned or by final order of a court of competent jurisdiction. The department and all involved parties must comply with the final order(s) of the court in any such suit.

(2) Whenever a distribution is suspended pursuant to this section, the time period for making any choice under WAC 415-501-485 or 415-501-491 through 415-501-494 will not begin until all issues are resolved.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-380, 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, § 415-501-380, filed 12/19/01, effective 1/1/02. 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 Can the department delegate its authority? The department may delegate functions performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-390, filed 10/29/04, effective 11/29/04. 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 How do I enroll in the plan? (1) As an eligible employee, you may enroll in the plan by executing a participation agreement.

(2) By signing the participation agreement, you authorize your employer to reduce your gross compensation each month by a specific amount. This amount will be contributed to your deferred compensation account. Your employer will reduce your compensation by the specified amount until you

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change the amount (WAC 415-501-450) or suspend contributions (WAC 415-501-470).

(3) Deferrals from your compensation will start during the calendar month after the month your participation agreement is approved by the department.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-410, filed 10/29/04, effective 11/29/04. 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 May I move funds into the plan from an eligible retirement plan? (1) Rollover. You may roll pretax contributions into the plan from an individual retirement account (IRA) or from another eligible retirement plan.

(a) The plan will keep a separate accounting of all funds rolled into the plan.

(b) Distributions of money rolled into the plan may be subject to an additional ten percent tax on early distributions.

(2) **Plan-to-plan transfer.** You may transfer money into the plan from another eligible governmental Section 457(b) plan maintained by political subdivision, subject to the following conditions:

(a) The political subdivision also participates in DCP;

(b) The transferor plan allows direct plan-to-plan transfers; and

(c) You are employed by the political subdivision at the time of the transfer.

(3) **Rollover/transfer application.** You must complete the appropriate form to transfer or roll money over into your deferred compensation account. Forms are available through the department or on its web site.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-415, 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, § 415-501-415, filed 12/19/01, effective 1/1/02. 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 415-501-416 May I move funds from the plan into another eligible retirement plan? (1) Rollover. Subject to the rules of the receiving plan, you may roll pretax contributions into an individual retirement account (IRA) or another eligible retirement plan after separation from service.

(2) **Plan-to-plan transfer.** You may transfer money:

(a) Through a plan-to-plan transfer into another eligible governmental Section 457(b) plan after you terminate employment, if the receiving plan allows the transfer and you are employed by the sponsor of the receiving plan.

(b) Through a plan-to-plan transfer into another eligible governmental Section 457(b) plan maintained by a political subdivision if the receiving plan allows the transfer and you are employed by the political subdivision both before and after the transfer.

(c) Through a plan-to-plan transfer to purchase service credit in a governmental Section 401(a) plan.

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Transferred funds are governed by the rules of the receiving plan.

(3) Subject to the rules of the receiving plan, if your spouse becomes eligible to receive a distribution as beneficiary, your spouse may roll an eligible rollover distribution from his/her deferred compensation account into an eligible retirement plan in which he or she is a member.

(4) **Rollover/transfer application.** You or your spouse must complete the appropriate form to transfer or roll money over from your deferred compensation account. Forms are available through the department or on its web site.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-416, 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, § 415-501-416, filed 12/19/01, effective 1/1/02.]

WAC 415-501-417 How do I purchase service credit in a qualified defined benefit retirement plan? (1) What is allowed. Subject to the requirements of the receiving retirement plan, you may make a direct transfer of funds from your deferred compensation account to purchase, restore, or reinstate service credit in any qualified defined benefit government retirement plan.

(2) **Who is eligible.** You may transfer funds, whether or not you are employed at the time of the transfer.

(3) **How to request a transfer.**

(a) You may request a transfer by submitting a completed form to the department.

(b) Forms are available through the department or on its web site.

(4) **Tax consequences.** You are advised to consult with a tax professional regarding the tax consequences of this transaction.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-417, 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, § 415-501-417, filed 12/19/01, effective 1/1/02.]

WAC 415-501-420 What are the annual deferral limits? Except as provided in WAC 415-501-430 (catch-up provisions), the maximum you may defer for any taxable year is the lesser of:

(1) One hundred percent of your includible compensation as defined in IRC Section 457 (e)(5), and Treasury Regulation 1.457.2(g), and determined without regard to community property laws; or

(2) The annual deferral limit in the following table:

For taxable year beginning in calendar year:	Annual deferral limit:
2001	\$8,500
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000

For taxable year beginning in calendar year:	Annual deferral limit:
Beginning January 1, 2007	\$15,000 plus cost-of-living adjustments, if any, established by the IRS under 26 USC 457

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-420, 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, § 415-501-420, filed 12/19/01, effective 1/1/02. 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 Are there exceptions to the annual deferral limits? You may defer more than the annual deferral limit set in WAC 415-501-420 if you qualify to use one of the "catch up" provisions described in this section. You may not use both catch-up provisions during the same taxable year.

(1) **Age fifty and over:** You may defer a higher amount during any plan year in which you are age fifty or older. The maximum you may defer each year is the sum of:

(a) The annual deferral amount in WAC 415-501-420 for the current taxable year; and

(b) The amount in the following table:

For taxable year beginning in calendar year:	Age 50 deferral limit:
2002	\$1,000
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006	\$5,000
Beginning January 1, 2007	\$5,000 plus cost-of-living adjustments, if any, established by the IRS under 26 USC 414

(2) **Three years before normal retirement age:** You may defer a higher amount during a period of three consecutive years immediately preceding the taxable year in which you reach normal retirement age as defined in WAC 415-501-110(11). The maximum you may defer during each of the three years is the lesser of:

(a) Twice the annual deferral limit established in WAC 415-501-420; or

(b) The sum of the annual deferral limit established in WAC 415-501-420, plus the portion of the annual deferral limit for any prior taxable year that you have not previously used.

(i) For years prior to 2002, amounts you deferred under certain other plans must be considered in determining the unused amount, consistent with Treasury Regulation 1.457-4(c)(3)(iv).

(ii) A prior taxable year may be taken into account only if:

(A) It begins after December 31, 1978;

(B) You were eligible, during any portion of the taxable year, to participate in the plan; and

(C) Compensation deferred under the plan during that year, if any, was subject to a deferral limit under WAC 415-501-420.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-430, 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, § 415-501-430, filed 12/19/01, effective 1/1/02. 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 How are deferral limits monitored? (1) Under WAC 415-501-315, employers will monitor deferrals to ensure that amounts deferred comply with the limitations in WAC 415-501-420 and 415-501-430.

(2) The department may also monitor deferrals and has the authority to disallow deferral of compensation in excess of the statutory limits.

(3) You must also monitor your deferrals to ensure that combined deferrals in two or more deferred compensation plans do not exceed the deferral limits.

(4) If the plan determines that your deferrals into the plan have exceeded the deferral limit, the excess deferrals will be distributed to you as soon as administratively practicable.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-440, filed 10/29/04, effective 11/29/04. 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 May I change my deferral amount? You may change the amount of your deferred compensation through the methods established by the department. Changes may be made only in:

(1) Whole dollar increments; or

(2) Whole percentages if percentage deferrals are allowed for your employer.

A change in the amount will be effective for any calendar month only if you notify the department 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 your employer.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-450, filed 10/29/04, effective 11/29/04. 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 415-501-472 Who determines DCP's investment options? (1) The state investment board, in consultation with the employee retirement benefits board, makes certain investment options available to plan participants. The investment board may:

(a) Open, change, or close investment options according to its investment policy; or

(b) Change investment managers for any investment option.

(2) If the state investment board closes or substantially changes an investment option, the state investment board may transfer the funds invested in that option to another option that, in the board's judgment, most closely represents the investment characteristics of the option being closed or changed.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), 05-22-109, § 415-501-472, filed 11/2/05, effective 12/3/05.]

WAC 415-501-475 May I choose how I want my deferred compensation invested? (1) You must designate on your participation agreement the investment option(s) in which you wish to have your deferrals invested.

(2) In general, you may change the investment of your accumulated deferrals, the investment of your future deferrals, or both, through the methods established by the department. However, if necessary to protect the performance results of the DCP program, the department has the right to:

- (a) Limit the number of times you change investment options;
- (b) Limit the frequency of the changes;
- (c) Limit the manner of making changes; or
- (d) Impose other restrictions.

In addition, changes must be consistent with any restrictions on trading imposed by the investment options involved.

(3) Beneficiaries receiving a distribution may change investment options according to the provisions of subsection (2) of this section.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), 05-22-109, § 415-501-475, filed 11/2/05, effective 12/3/05. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770, 04-22-053, § 415-501-475, filed 10/29/04, effective 11/29/04. 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 How do I designate my beneficiaries? You have the right to designate a beneficiary or beneficiaries to receive your accumulated deferrals in the event of your death. You may change your beneficiary designation at any time by filing a beneficiary change form with the department. The change will take effect upon the department's receipt of the beneficiary change form.

You may name:

(1) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(2) Your estate.

(3) An existing trust or a trust that is to be established under your last will. For an existing trust, you must provide a copy of the trust document and the name, address and telephone number of the current trustee.

You may name contingent beneficiaries in addition to primary beneficiaries.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770, 04-22-053, § 415-501-480, filed 10/29/04, effective 11/29/04. Statutory Author-

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ity: 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 How do I obtain a distribution?

Distribution from the plan is governed by Internal Revenue Code Sections 401 (a)(9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are set forth in the *DCP Distribution Booklet*. The booklet will be mailed to you when your employer notifies the department of your termination of employment.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection. The department must receive a properly completed distribution form from you at least thirty days prior to the date distribution is to begin.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

(i) A distribution for an unforeseeable emergency under WAC 415-501-510;

(ii) A voluntary in-service distribution under subsection (4) of this section; or

(iii) A distribution from funds that were rolled into the deferred compensation account.

(b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:

(i) The calendar year in which you reach age seventy and one-half; or

(ii) The calendar year in which you retire.

(c) If you do not make a timely choice of distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a)(9).

(2) **Method of distribution.** You must choose a distribution method (amount and frequency) from the payment options outlined in the *DCP Distribution Booklet*. Payment options include a lump sum payment, periodic payments, or an annuity purchase.

(a) Periodic payments must be at least fifty dollars per month (if paid monthly) or six hundred dollars per year.

(b) Beginning at age seventy and one-half or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a)(9).

(3) **Voluntary in-service distribution.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:

(a) Your entire account value does not exceed five thousand dollars;

(b) You have not previously received an in-service distribution; and

(c) Your deferrals have been suspended during the preceding two-year period ending on the date of the in-service distribution.

(4) **Unforeseeable emergencies.** See WAC 415-501-510.

(5) **Rehire.** If you terminate and then return to employment for an eligible employer, you may reenroll in the plan. The department will stop your distribution, if applicable, and void any choices of distribution date and method made prior to reenrollment.

[Statutory Authority: RCW 41.50.780(10), 06-04-058, § 415-501-485, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-485, 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, § 415-501-485, filed 12/19/01, effective 1/1/02. 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 How will my accumulated deferrals be distributed in the event of my death? If you die before your entire deferred compensation account has been distributed, accumulated deferrals will be paid to the beneficiary or beneficiaries you have designated according to WAC 415-501-480. If no beneficiary is designated or if the designated beneficiary does not survive you by a period of thirty days, accumulated deferrals will be paid to your surviving spouse, if any. If you do not have a surviving spouse, the accumulated deferrals will be paid to your estate. Provisions regarding distribution to various classes of beneficiaries are set forth in WAC 415-501-487 through 415-501-494.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-486, 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, § 415-501-486, filed 12/19/01, effective 1/1/02. 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 If my beneficiary dies while receiving my accumulated deferrals, who will get the remainder of the account? If your beneficiary dies while receiving distributions, any remaining balance will be paid to your beneficiary's estate. Distribution will take place in the second month following the notification of the beneficiary's death, unless benefits are being paid under an annuity you purchased. If benefits were being paid under an annuity, distribution will be governed by the terms of the annuity contract.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-487, 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, § 415-501-487, filed 12/19/01, effective 1/1/02. 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 415-501-488 How will the account be distributed if my beneficiary is my spouse? If you die before the entire account has been exhausted, your spouse beneficiary will receive your accumulated deferrals according to the provisions of this section.

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(1) **Date of distribution.** Your spouse beneficiary may choose the date on which to begin receiving the distribution, provided:

(a) The spouse beneficiary notifies the department of the distribution date within ninety days from the date the department is notified of your death.

(b) The department receives the election form at least thirty days before distribution is to begin.

(c) Distribution begins on or before the first day of April of the calendar year following the latter of:

(i) The year you would have reached age seventy and one-half; or

(ii) The calendar year in which you die.

If the beneficiary does not make a timely choice of distribution date, the department will begin distribution according to the minimum distribution requirements in IRC 401(a)(9).

(2) **Method of distribution.** The spouse beneficiary must choose a distribution method from the payment options outlined in the *DCP Distribution Booklet*, which will be mailed to your beneficiary when the department is notified of your death. Payment options include a lump sum payment or periodic payments, provided:

(a) The amount and frequency allows for distribution of the entire account balance during the beneficiary's life expectancy, as computed by the Department of Treasury in IRS Regulation 1.72.9; and

(b) Periodic distributions made by the department are at least fifty dollars per month, if paid monthly, or six hundred dollars per year.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-488, filed 10/29/04, effective 11/29/04.]

WAC 415-501-491 How will the account be distributed if my beneficiary is not my spouse? If you die before the entire account has been exhausted and your beneficiary is not your spouse, your accumulated deferrals will be distributed according to the provisions of this section.

(1) **Date of distribution.** A nonspouse beneficiary may choose the date on which to begin receiving the distribution, provided:

(a) The beneficiary notifies the department of the distribution date within ninety days from the date the department is notified of your death.

(b) The department receives the election form at least thirty days before distribution is to begin.

(c) Distribution begins on or before the first day of April of the calendar year following the latter of:

(i) The year you would have reached age seventy and one-half; or

(ii) The calendar year in which you die.

If the beneficiary does not make a timely choice of distribution date, the department will begin distribution according to the minimum distribution requirements in IRC 401(a)(9).

(2) **Method of distribution.** A nonspouse beneficiary must choose a distribution method from the payment options outlined in the *DCP Distribution Booklet*, which will be mailed to your beneficiary when the department is notified of your death. Your beneficiary may choose a lump sum payment or periodic payments.

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(a) If the nonspouse beneficiary begins distribution by the thirty-first day of December of the year following your death:

(i) The amount and frequency must allow for distribution of the entire account balance during the beneficiary's life expectancy, as computed by the Department of Treasury in IRS Regulation 1.72.9; and

(ii) Periodic distributions made by the department must be at least fifty dollars per month, if paid monthly, or six hundred dollars per year.

(b) If the nonspouse beneficiary does not begin distribution by the thirty-first day of December of the year following the year of your death, the entire account balance must be paid out within five years from the date of your death.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-491, 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, § 415-501-491, filed 12/19/01, effective 1/1/02.]

WAC 415-501-493 How will my accumulated deferrals be distributed if my beneficiary is an organization, estate, or trust? If your beneficiary is an organization, estate, or trust, the department will make the distribution as a lump sum in the second month following the receipt of all required information.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-493, 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, § 415-501-493, filed 12/19/01, effective 1/1/02.]

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.]

WAC 415-501-495 Will the department honor domestic relations orders? (1) The department will honor a domestic relations order (DRO) only if the order:

(a) Was entered by a court of competent jurisdiction.

(b) Establishes a right of a former spouse to a portion of your deferred compensation account pursuant to a division of property;

(c) Clearly states either the dollar amount or a percentage of the account to be transferred to the account of the former spouse from your account; and

(d) Provides your name and date of birth, and the name and date of birth of your former spouse.

(2) You must provide the address and Social Security number of both you and your former spouse to the department. This information may be submitted in a cover letter, in another document, or by other means arranged with the department.

(3) To implement a DRO, the department will establish a separate account for the former spouse in the amount specified in subsection (1)(c) of this section. The amount will initially be invested in the savings pool. Thereafter, the former spouse may provide investment instructions under WAC 415-501-450.

(4) Your former spouse may choose a method of distribution, including a direct rollover.

(5) If a DRO filed with the department prior to January 1, 2002, provides that distribution to the former spouse is not available until you separate from service, the department will comply with the express terms of the order unless it is subsequently amended.

(6) If the former spouse has not elected another method of distribution by age seventy and one-half, the department will begin distribution in accordance with the minimum distribution requirements in IRC 401 (a)(9).

(7) If the former spouse dies before the account is fully distributed, the remaining balance will be paid to the former spouse's estate.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-495, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42. 02-12-084, § 415-501-495, filed 6/4/02, effective 7/5/02. 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, § 415-501-495, filed 12/19/01, effective 1/1/02. 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.]

UNFORESEEABLE EMERGENCY

WAC 415-501-510 May I have some or all of my accumulated deferrals in the event of an unforeseeable emergency? (1) Notwithstanding any other provisions in this chapter, you may request all or a portion of your accumulated deferrals in the event of an unforeseeable emergency. Distribution will be made within sixty days following the department's approval of your request. The amount paid will be limited strictly to that amount reasonably necessary to satisfy the emergency need.

(2) For purposes of this plan, an unforeseeable emergency is severe financial hardship to you resulting from:

(a) A personal illness or accident or the illness or injury of a spouse or dependent who meets the definition in Section 152(a) of the Internal Revenue Code;

(b) Loss of your property due to casualty, including the need to rebuild a home following damage not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster; or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control.

(3) The circumstances that constitute an unforeseeable emergency depend upon the facts of each case, but, in no case will the department approve a distribution request if the financial hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of your assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

(4) Examples:

(a) The following types of occurrences are not considered unforeseeable emergencies:

(i) Sending your child to college; or

(ii) Purchasing a home.

(b) The following types of occurrences may be considered unforeseeable emergencies, depending on the facts in each case:

(i) Imminent foreclosure of or eviction from your primary residence;

(ii) Medical expenses, including nonrefundable deductibles, and/or the cost of prescription drug medication;

(iii) Funeral expenses of your spouse or a dependent as defined in Section 152(a) of the Internal Revenue Code; and

(iv) Extraordinary expenses resulting from a divorce.

(5) If the department denies your request for distribution, you may request a review of that decision according to the provisions of WAC 415-08-015.

(6) Unforeseeable emergency requests received by the department, whether approved or denied, will cause a mandatory suspension of deferrals to the plan. You may not resume deferrals sooner than six months from the date of suspension.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-510, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.770 and 41.50.780. 02-02-059, § 415-501-510, filed 12/28/01, effective 1/1/02. 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 May I stay in the plan if I am on a leave of absence? If you are on an approved leave of absence from the employer, participation in this plan will continue.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-520, filed 10/29/04, effective 11/29/04. 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 What happens if the plan is terminated? The legislature may terminate this plan at any time. Upon such termination, accumulated deferrals will be distributed to all plan participants and beneficiaries as soon as administratively possible. The participants' deferrals will cease.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-530, 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, § 415-501-530, filed 12/19/01, effective 1/1/02. 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 Does the department have the right to amend the plan? To the extent not inconsistent with state and federal law, the department may amend the provisions of this plan at any time. No amendment will affect the rights of participants or their beneficiaries regarding accumulated deferrals at the time of the amendment.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-540, filed 10/29/04, effective 11/29/04. 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 Will my retirement benefit be affected by the amount of compensation I defer? Deferred amounts are included as compensation in determining benefits or rights under the employer's group insurance and retirement plans.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-550, filed 10/29/04, effective 11/29/04. 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.]

TRANSFER IN LIEU OF CASH

WAC 415-501-560 May I receive 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 that the employer has acquired, at fair market value.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-560, filed 10/29/04, effective 11/29/04. 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 May I transfer or assign my accumulated deferrals? Neither you, your 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 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-570, filed 10/29/04, effective 11/29/04. 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 How are the plan's assets protected for the exclusive benefit of participants and beneficiaries? 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 will be held in trust for the exclusive benefit of participants and beneficiaries under the plan. Any trust under the plan will be established under the laws of Washington.

All amounts of compensation deferred under the plan will 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 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-580, filed 10/29/04, effective 11/29/04. 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.]

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

WAC 415-501-590 Are department officers and employees and members of the employee retirement benefits board eligible to participate in the plan? 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. Such officers, employees, or board members may not participate in any department or board action uniquely affecting their own participation.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-590, filed 10/29/04, effective 11/29/04. 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 CONTRIBUTIONS

WAC 415-501-600 Is my employer allowed to contribute to my deferred compensation account? The employer may, pursuant to WAC 415-501-450, add additional deferred compensation for services you provided to the employer during any calendar month, provided:

(1) You elected to have such additional compensation deferred 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 this chapter.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-600, 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, § 415-501-600, filed 12/19/01, effective 1/1/02. 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 What is the state investment board's responsibility regarding investments? Action by the state investment board as plan trustee or by the department as plan administrator is not 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 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-610, filed 10/29/04, effective 11/29/04. 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.]