

Chapter 415-103 WAC

WASHINGTON STATE PATROL RETIREMENT SYSTEM (WSPRS)

WAC

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(2) Membership.

(a) WSPRS Plan 1 refers to members of the Washington state patrol retirement system commissioned before January 1, 2003.

(b) WSPRS Plan 2 refers to members of the Washington state patrol retirement system commissioned on or after January 1, 2003.

[Statutory Authority: RCW 41.50.050(5) and chapter 43.43 RCW. WSR 02-23-037, § 415-103-010, filed 11/13/02, effective 1/1/03. Statutory Authority: RCW 41.50.050(5), 43.43.142, 43.43.278, 43.43.280. WSR 01-13-010, § 415-103-010, filed 6/8/01, effective 7/9/01.]

WAC 415-103-010 WSPRS definitions. (1) General. The definitions in RCW 43.43.120 and 41.50.010 apply to this chapter. In case of conflict between definitions, RCW 43.43.120 will prevail.

WAC 415-103-100 Are payments I receive reportable compensation? The following table will help you determine whether certain types of payments are reportable compensation. The department determines reportable compensation based upon the nature of the payment, not the name applied. See "salary" as defined in RCW 43.43.120.

Type of Payment	Commission Date: Prior to 7/1/2001	Commission Date: On or after 7/1/2001
Overtime related to RCW 47.46.040 or voluntary overtime, earned prior to 7/1/2001	Yes	No
Overtime related to RCW 47.46.040 or voluntary overtime, earned on or after 7/1/2001 and before 7/1/2017	No	No
Overtime up to 70 hours per year ¹ in total related to either RCW 47.46.040 or voluntary overtime, earned on or after 7/1/2017 ²	Yes	Yes
Overtime in excess of 70 hours per year ¹ in total related to either RCW 47.46.040 or voluntary overtime, earned on or after 7/1/2017	No	No
Fringe benefits including, but not limited to, any type of insurance, or contributions for insurance, such as medical, dental, or life insurance, for members and/or their dependents	No	No
Lump sum payments for:		
Deferred annual sick leave ³	No	No
Unused accumulated annual leave - 240 hour maximum ⁴	Yes	No
Holiday pay - 80 hour maximum	Yes	No

¹"Year" means "state fiscal year," which is the twelve-month period that begins on July 1st and ends on June 30th of the next calendar year.

²The combined total of overtime included in the average final salary, related to either RCW 47.46.040 or voluntary overtime, may not exceed one hundred forty hours for WSPRS Plan 1, or three hundred fifty hours for WSPRS Plan 2.

³See also RCW 41.04.340(4).

⁴See also RCW 43.43.263, 43.01.040 and 43.01.044.

[Statutory Authority: RCW 41.50.050(5), WSR 17-20-036, § 415-103-100, filed 9/28/17, effective 10/29/17. Statutory Authority: RCW 41.50.050(5) and chapter 43.43 RCW. WSR 02-23-037, § 415-103-100, filed 11/13/02, effective 1/1/03.]

WAC 415-103-215 What are the WSPRS Plan 1 retirement benefit options? This section only applies to members commissioned before January 1, 2003.

(1) When retiring for service, a married member can choose either Option A (historic retirement option) under RCW 43.43.260 and 43.43.270 or Option B under RCW

43.43.278. Both options include a survivor feature that entitles the eligible surviving spouse and any eligible children to receive a monthly benefit after the retiree dies.

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

The department pays survivor benefits in accordance with RCW 43.43.270 (Retirement allowances).

(a) **Surviving spouse.** When the retiree dies, the department pays the retiree's surviving spouse a monthly retirement benefit equal to the gross monthly benefit then payable to the retiree, or a benefit equal to fifty percent of the average final salary (AFS) used to determine the retiree's benefit, whichever is less.

(b) **Surviving children when there is a surviving spouse.** If the retiree has a surviving spouse and surviving unmarried children under the age of eighteen years, each child shall be entitled to a benefit equal to five percent of the retiree's average final salary (AFS) at retirement. The combined benefits to the surviving spouse and all children cannot exceed sixty percent of the retiree's AFS.

(3) **Option B (actuarially equivalent retirement option and survivor benefit).** The department pays the retiree a monthly retirement benefit that is actuarially reduced from the benefit calculated under Option A. The department pays survivor benefits in accordance with RCW 43.43.278 using an actuarial reduction. See WAC 415-02-380 for more information on how your benefit is affected by choosing an optional survivor feature.

(a) **Surviving spouse.** When the retiree dies, the department pays the retiree's surviving spouse a monthly retirement benefit equal to the gross monthly benefit then payable to the retiree.

(b) **Surviving children when there is a surviving spouse.** If the retiree has a surviving spouse and surviving unmarried children under the age of eighteen years, each surviving unmarried child under the age of eighteen years shall be entitled to a benefit equal to five percent of the retiree's average final salary (AFS) at retirement.

(4) **Benefits included in Option A and Option B.**

(a) **Cost-of-living adjustment.** The retiree's annual adjustment every July is based upon the provisions in RCW 43.43.260(5). The annual adjustment applies to the eligible surviving spouse and any eligible children, who receive a monthly benefit after the retiree dies.

(b) **Surviving spouse eligibility.** To be eligible for a benefit, the surviving spouse of a retiree must either:

(i) Have been married to the retiree prior to his or her retirement and continuously thereafter until the retiree's death; or

(ii) Have been married to the retiree for at least two years prior to the retiree's death.

(c) **Remarriage of surviving spouse.** If a surviving spouse who is receiving benefits under this subsection marries another member of WSPRS and that retiree dies before the spouse, the spouse will receive only the higher of the two survivors' benefits for which he or she qualifies. The surviving spouse cannot receive more than one survivor benefit at a time under this subsection.

(d) **Surviving children when there is no surviving spouse.** If there is no surviving spouse or the surviving spouse dies, the unmarried child or children under the age of eighteen years shall be entitled to a benefit equal to thirty percent of the retiree's AFS for one child and an additional ten percent of AFS for each additional child. The combined benefits to the surviving children cannot exceed sixty percent of

the retiree's AFS. Benefit payments under this subsection will be divided equally among the children.

(e) **End of benefits.** All benefits end when the surviving spouse dies or the youngest unmarried child reaches age eighteen, whichever occurs last.

(f) **Distribution of remaining contributions.** Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (f)(i) of this subsection is living or in existence at the time of the retiree's death.

(5) **Pop-up provision.**

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

(b) If the retiree and spouse divorce, or if the spouse dies before the retiree, the retiree's monthly retirement benefit increases, effective the first day of the following month, to:

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

(ii) Any cost of living adjustments (COLA) the retiree received prior to the divorce or the spouse's death.

(c) **Pop-up recalculation example:**

Option B: When Bob retired in September 2010, his Option A monthly benefit was \$3,000. He selected Option B so that his spouse, Linda, would receive his monthly benefit and COLA after he dies. Bob is 5 years younger than Linda. For illustration purposes in this example, 0.967 is being used as the Option B actuarial reduction factor (actuarial factors change periodically). As a result, the department calculated Bob's Option B benefit amount by multiplying \$3,000 (Option A) by 0.967. Bob's Option B monthly benefit amount at retirement was \$2,901. Bob received his first COLA on July 1, 2012, in the amount of \$87.03. Bob's monthly benefit amount with the COLA was \$2,988.03.

Linda died in September 2012. Under the "pop-up" provision, Bob's monthly benefit increased in October 2012 to a total of \$3,087.03. His new benefit amount included the \$3,000 he would have received had he originally chosen Option A, plus the COLA he received in 2012 (\$87.03).

(d) If a retiree whose benefit increases under this subsection dies and there is no eligible child, all benefit payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (d)(i) of this subsection is living or in existence at the time of the retiree's death.

(6) See chapter 415-02 WAC starting with WAC 415-02-300 for information on how the department uses factors and schedules to calculate retirement benefits.

(7) **Terms used in this section:**

"Pop-up" - See WAC 415-02-030.

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-103-215, filed 8/28/13, effective 10/1/13; WSR 10-16-086, § 415-103-215, filed

7/30/10, effective 9/1/10. Statutory Authority: RCW 41.50.050(5), 43.43.260, [43.43.]270, [43.43.]278, [43.43.]280(1). WSR 02-23-037, § 415-103-215, filed 11/13/02, effective 1/1/03. Statutory Authority: RCW 41.50.050(5), 43.43.142, 43.43.278, 43.43.280. WSR 01-13-010, § 415-103-215, filed 6/8/01, effective 7/9/01. Statutory Authority: RCW 43.43.278 and 41.50.050. WSR 00-11-103, § 415-103-215, filed 5/18/00, effective 6/18/00.]

WAC 415-103-225 What are my WSPRS Plan 2 retirement benefit options? This section applies to WSPRS Plan 2 members. Upon retirement for service under RCW 43.43.250, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. See WAC 415-02-380 for more information on how your monthly allowance is affected by choosing a survivor feature.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor option). The department will pay you a monthly retirement allowance throughout your life. Your monthly allowance will cease upon your death.

(b) Option two: Joint and whole allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) Option three: Joint and one-half allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) Option four: Joint and two-thirds allowance. The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667 percent) of the gross monthly retirement allowance you were receiving.

(3) Do I need my spouse's consent on the option I choose? If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 43.43.271(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(9/28/17)

(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary? Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do? Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example:

John retired from WSPRS in 2008. John chose a benefit option with a survivor feature and named Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance was reduced from \$2,000 (standard allowance) to \$1,750. Beatrice died in 2013. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2008	2,000.00	1,750.00		0.00
2009		1,750.00	.02	35.00
2010		1,785.00	.03	53.55
2011		1,838.55	.025	45.96
2012		1,884.51	.03	56.54
2013	2,000.00	1,941.05	—	—
			Total COLAs	191.05
Original Monthly Allowance		+ Total COLAs		= New Monthly Allowance
\$2000		+ \$191.05		= \$2,191.05*

* In the future, John's COLA will be based on his increased monthly allowance.

(6) May I change my benefit option after retirement? Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department; and

(iv) You provide proof of your current spouse's birth date.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 43.43.271.

[Statutory Authority: RCW 41.50.050(5), WSR 13-18-034, § 415-103-225, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5), 43.43.271, WSR 05-23-062, § 415-103-225, filed 11/14/05, effective 12/15/05. Statutory Authority: RCW 41.50.050(5), 43.43.260, [43.43.]271, [43.43.]280(1), [43.43.]295, WSR 02-23-037, § 415-103-225, filed 11/13/02, effective 1/1/03.]

WAC 415-103-275 How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to members commissioned on or after January 1, 2003.

(1) You may designate or change a beneficiary by submitting a Beneficiary Designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) 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.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

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

(iii) The tax identification number.

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

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 43.43.295.

(7) If your surviving spouse is eligible to receive a benefit under RCW 43.43.295(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

EXAMPLE ONE.

Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 43.43.295.

EXAMPLE TWO.

Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.**Facts**

When she became a WSPRS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

Result

Unless required to do otherwise by court order, the department will comply with RCW 43.43.295(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.**Facts**

John is a member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 43.43.295(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5). WSR 05-12-041, § 415-103-275, filed 5/25/05, effective 6/25/05.]

WAC 415-103-300 Actuarial factors and schedules.

See chapter 415-02 WAC starting with WAC 415-02-300 for information on how the department uses factors and schedules to calculate optional retirement allowances of members of the Washington state patrol retirement system Plan 2.

[Statutory Authority: RCW 41.50.050(5). WSR 13-18-034, § 415-103-300, filed 8/28/13, effective 10/1/13. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. WSR 02-18-048, § 415-103-300, filed 8/28/02, effective 9/1/02.]