



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: **Administrative Order 130 Resolution 91-24**
State Board for Community College Education

Permanent Rule
 Emergency Rule

(1) Date of adoption: **May 30, 1991**

(2) Purpose: **Amendment, repeal, and adoption of new sections of rules related to the operations of the TIAA/CREF retirement annuity plan for community colleges**

(3) Citation of existing rules affected by this order:
 Repealed: **WAC 131-16-020, 131-16-030, and 131-16-069**
 Amended: **WAC 131-16-005, 131-16-010, 131-16-011, 131-16-015, 131-16-040, 131-16-050,**
 Suspended: **131-16-060, 131-16-061, 131-16-065, and 131-16-066**

(4) Authority for adoption:
 Statute: **RCW 28B.10.400**
 Other Authority:

(5.1) **PERMANENT RULE ONLY**
 Pursuant to notice filed as WSR _____ on _____ (date).
 Describe any changes other than editing from proposed to adopted version:

(5.2) **EMERGENCY RULE ONLY**
 Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:
Adoption of the changes on an emergency basis will allow application of the revised procedures to individuals who plan retirement effective July 1, 1991, which in higher education institutions is the most frequently chosen retirement date. Otherwise the effective date would fall after such retirements and would cause a loss of potential options for such retirees.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:
Permanent Rules **Emergency Rules**
 31 days after filing Immediately
 Other (specify) _____ * Later (specify) _____
 *(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.360(3) is required)

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FILED

JUN 03 1991

TIME: 10:47
 WSR: 91-12-030

NAME (TYPE OR PRINT) **Gilbert J. Carbone**
 SIGNATURE
 TITLE **Assistant Director** DATE **6/3/91**

AMENDATORY SECTION (Amending Order 103, Resolution No. 85-25, filed 9/16/85)

WAC 131-16-005 MANDATORY RETIREMENT AGE DEFINED. Except as otherwise prohibited by federal law, the mandatory retirement age for employees of ((community)) college districts or the state board ((for community-college-education)) shall be ((defined-as)) the end of the academic year in which an employee attains age seventy; however, when officially approved by the district board of trustees, or by the state board in the case of its employees, extension of service beyond the mandatory retirement age may be made pursuant to the provisions of RCW 28B.10.420.

AMENDATORY SECTION (Amending Order 28, filed 7/1/74)

WAC 131-16-010 DESIGNATION OF COMMUNITY COLLEGE SYSTEM RETIREMENT PLAN. There is hereby established for the eligible employees of the community colleges of the state of Washington and the state board, a retirement plan which shall entitle such employees to purchase retirement annuities from the teachers' insurance annuity association (TIAA) and the college retirement equities fund (CREF), hereafter called the TIAA/CREF plan, ((in-conjunction-with-the-employing--community--college-district-as-provided-in-regulations-approved-pursuant-to-this-policy)) subject to the provisions of WAC 131-16-011 through 131-16-066.

AMENDATORY SECTION (Amending Order 111, Resolution No. 86-43, filed 10/30/86)

WAC 131-16-011 DEFINITIONS. For the purpose of WAC 131-16-005 through ((+34-+6-069)) 131-16-066, the following definitions shall apply:

(1) "Participant" ((shall--be-defined-as)) means any individual who is eligible to purchase retirement annuities through the TIAA/CREF plan and whose ((basic)) required contribution to such plan is matched by the employing college district or the state board ((for--community college-education)) pursuant to the provisions of WAC 131-16-050.

(2) "Supplemental retirement benefit" ((shall-be-defined-as)) means payments, as calculated in accordance with WAC 131-16-061 ((and +34-+6-062)), made by ((the-community-college-district-or)) the state board to an eligible retired participant or designated beneficiary whose retirement benefits provided by the TIAA/CREF plan do not attain the level of the retirement benefit goal established by WAC 131-16-015.

(3) "Year of full-time service" ((shall--be--defined--as)) means retirement credit based on full-time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any fiscal year during which TIAA/CREF contributions were made by both the participant and a Washington public higher education institution or the state board or any year or fractional year of prior service in a Washington public retirement system while employed at a Washington public higher education institution: PROVIDED, That the participant will receive a pension benefit from such other retirement system: AND PROVIDED FURTHER, That not more than one year of full-time service will be credited for service in any one fiscal year.

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

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

(6) "TIAA/CREF retirement benefit" (~~shall-be-defined-as~~) means the amount of annual retirement income derived from a participant's accumulated annuities including dividends at the time of retirement(~~7~~): PROVIDED, That(~~7~~) solely for the purpose of calculating a potential supplemental retirement benefit, such amount shall be adjusted to meet the assumptions set forth in WAC 131-16-061(2).

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

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

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

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

AMENDATORY SECTION (Amending Order 91, Resolution No. 82-6, filed 5/10/82)

WAC 131-16-015 RETIREMENT BENEFIT GOAL ESTABLISHED. Subject to the provisions of WAC 131-16-061, the retirement benefit goal for participants in the TIAA/CREF plan is to provide participants at age sixty-five having twenty-five years of full-time service a minimum annual retirement income, exclusive of Federal Old Age Survivors Insurance benefits, equivalent to fifty percent of (~~the~~) their average annual salary (~~for-the-two-consecutive--highest--salaried--fiscal years~~).

NEW SECTION

WAC 131-16-021 EMPLOYEES ELIGIBLE TO PARTICIPATE IN RETIREMENT ANNUITY PURCHASE PLAN. (1) Eligibility to participate in the TIAA/CREF plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and who are assigned a cumulative total of at least eighty percent of full-time workload as defined by the appointing authority at one or more college districts or the state board for at least two consecutive college quarters or who otherwise would be eligible for membership in the Washington state teachers retirement system.

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington:

PROVIDED, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Participation in the plan without matching employer contributions is also permitted for any employee of a college district or the state board who desires to utilize the plan as a supplemental retirement savings vehicle to any state-sponsored retirement plan in which the employee participates: PROVIDED, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed by the same appointing authority. For the purpose of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) Any eligible employee who at the time of initial employment is required to or elects to become a participant in this plan may also select at that time to delay active participation and payment of required contributions for two years following the date of initial employment.

NEW SECTION

WAC 131-16-031 PARTICIPATION IN THE PLAN. (1) Participation in the TIAA/CREF plan is required of all otherwise eligible new employees: PROVIDED, That any such new employee, who at the time of employment is a member of the Washington state teachers retirement system or the Washington public employees retirement system, may irrevocably elect to retain such membership or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in the TIAA/CREF plan.

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

AMENDATORY SECTION (Amending Order 95, Resolution No. 83-25, filed 9/28/83)

WAC 131-16-040 ((SPECIAL)) DISABILITY RETIREMENT PROVISIONS FOR TIAA/CREF PARTICIPANTS. ((~~++~~The--normal--retirement--age--shall--be defined--as--the--end--of--the--academic--year--in--which--the--participant attains--age--sixty--five;--PROVIDED,--That--any--participant--may--elect--to retire--at--the--earliest--age--specified--for--retirement--by--federal--Social Security--law.

(~~2~~)) The board of trustees of any college district or the state board may approve the retirement of any ((employee-under-the-age-of-seventy)) participant for reasons of health or permanent disability either upon the request of the ((individual-employee)) appointing authority or the ((district-president)) participant: PROVIDED, That ((the-board-of-trustees-shall-first-give)) reasonable consideration is

first given to the written recommendations ((regarding-such-requested retirement-from)) of the employee's personal physician ((and)) or, if requested by either the employee or the ((district-president)) appointing authority, a review of such recommendations by another physician appointed by ((the-board-of-trustees)) mutual agreement for that purpose.

AMENDATORY SECTION (Amending Order 28, filed 7/1/74)

WAC 131-16-050 CONTRIBUTION RATES ESTABLISHED. (1) Each participant in the TIAA/CREF plan shall contribute five percent of salary each pay period until ((the-end-of-the-calendar-year-during--which--he attains--his--35th--birthday)) attainment of age thirty-five and seven and one-half percent each pay period thereafter ((of-all--remuneration he--receives--from--the--employing--community--college--district)) and the employing district or state board shall contribute a like sum((7--each on-a-monthly-basis)). A participant may further elect to increase the rate to ten percent ((at-any-time-following-the-calendar-year-during which-he-attains-his-50th-birthday)) of salary each pay period after attaining age fifty and the employing district or state board shall contribute a like sum. ((The-sum-of-the-participant's-and-the--community--college--district's-contribution-shall-be-forwarded-to-TIAA/CREF for-the-purchase-of-retirement-annuities.)) The combined contribution may be ((divided-between)) allocated among the TIAA and CREF ((premium payments)) funds as directed by the participant.

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

(3) ((Any-of-the-following-allocations-of-the-combined-contributions-may-be-elected-at-any-time-by-the-participant--as--the--premium basis-for-purchase-of-TIAA-and-CREF-annuities:

TIAA-----	CREF
+00%-----	0%
75%-----	25%
50%-----	50%
25%-----	75%
0%-----	+00%

(4)) Any eligible employee may enter into an agreement with the college district to reduce the employee's monthly salary by the amount of the required employee's monthly contribution and any supplemental amount, within the limits prescribed in the Internal Revenue Code((7 such-amount-to-be-transmitted--to--TIAA/CREF--to--purchase--retirement annuities--in--the-name-of-the-employee, thereby-deferring-the-federal income-tax-normally-due-on-that-amount-until-it-is-received-as-retirement-annuity-income)): PROVIDED, That ((after--one--year--from--the effective-date-of-the-agreement, either-party-may-terminate-the-agreement--AND--PROVIDED--FURTHER,--That)) no more than one agreement for such salary reduction may be made within any ((taxable)) tax year of the employee, except to the extent otherwise permitted by ((the-regulations-under-Section-403(b)-of)) the Internal Revenue Code.

NEW SECTION

WAC 131-16-055 OPTIONS FOR SELF-DIRECTED INVESTMENT OF RETIREMENT PLAN CONTRIBUTIONS AND ACCUMULATIONS. While actively employed, participants may exercise any or a combination of the following options for allocation of current premiums or transfer of accumulated TIAA or CREF fund accumulated balances.

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

(2) CREF fund accumulations resulting from previously contributed premiums may be transferred in whole or in part among any of the CREF subsidiary accounts or to the TIAA account.

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

AMENDATORY SECTION (Amending Order 28, filed 7/1/74)

WAC 131-16-060 REPURCHASE OF ANNUITY CONTRACT UNDER CERTAIN CONDITIONS. In the event a participant (~~(in TIAA or TIAA/CREF)~~) leaves the employ of any Washington (~~(community)~~) college district or the state board for reasons other than retirement or disability and requests repurchase of his (~~(annuity)~~) or her TIAA or CREF accumulation, the state board (~~(for community college education)~~) approves such repurchases as are recommended by the appropriate district board of trustees: PROVIDED, That TIAA/CREF agrees to such repurchase: AND PROVIDED FURTHER, That the portion of the repurchase attributable to contributions made by employing (~~(community)~~) college district shall be returned to that district by TIAA/CREF.

The state board will agree to the repurchase of contracts only if all the following conditions are met:

- (a) Payments to the annuitant have not begun;
- (b) The annuity has been in force for five years or less;
- (c) The annuitant requests repurchase of all annuities he or she owns;

(d) The annuitant is neither employed at nor is transferring to an institution having a TIAA/CREF retirement plan;

(e) All educational institutions that contributed any part of the premiums consent to the repurchase;

(f) If the annuitant has more than one annuity, the total value of all TIAA/CREF annuities and the longest duration of any of them shall govern in determining whether a repurchase will be made under this rule.

AMENDATORY SECTION (Amending Order 95, Resolution No. 83-25, filed 9/28/83)

WAC 131-16-061 SUPPLEMENTAL RETIREMENT BENEFITS. (1) A participant is eligible to receive supplemental retirement benefit payments if at the time of retirement the participant is age sixty-two or over and has at least ten years of full-time service in the TIAA/CREF plan at a Washington public institution of higher education(~~(?)~~): PROVIDED, That the amount of the supplemental retirement benefit, as calculated in accordance with the provisions of this section, is a positive amount.

(2) Subject to the provisions of (~~(WAC 131-16-062 and)~~) subdivisions (c), (d), and (e) of this subsection, the annual amount of supplemental retirement benefit payable to a participant upon retirement

is the excess, if any, when the value determined in subdivision (b) is subtracted from the value determined in subdivision (a), as follows:

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

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

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

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

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

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

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

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

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

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

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

(b) Supplemental retirement benefit payments will continue for the lifetime of the retired participant; however, prior to retirement,

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

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

(4) A retired participant who is reemployed shall continue to be eligible to receive retirement income benefits, except that the supplemental retirement benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month or five months duration in any fiscal year. Retirement contributions shall not be made from the salary for such employment, unless the individual once again becomes eligible to participate under the provisions of WAC ~~((+3+-+6-020))~~ 131-16-021.

NEW SECTION

WAC 131-16-062 BENEFIT OPTIONS AFTER TERMINATION OF EMPLOYMENT.

(1) After termination of employment, participants having attained age fifty-five or having completed thirty years of full-time service in this plan or any combination of Washington state sponsored retirement plans may exercise any settlement option for receipt of retirement benefits being made available by TIAA/CREF at that time.

(2) The federal income tax consequences resulting from the exercise of any options of elections provided by this section shall be the sole responsibility of the individual participant, and all federal tax regulations related to the receipt of retirement income benefits shall apply.

(3) The provisions of this section shall apply only to TIAA and CREF account accumulations attributable to contributions made as a result of employment in institutions or agencies subject to the provisions of WAC 131-16-005 through 131-16-066.

AMENDATORY SECTION (Amending Order 28, filed 7/1/74)

WAC 131-16-065 OPTIONAL RETIREMENT TRANSITION BENEFIT.

~~((Employees--participating--in--TIAA/CREF--as--identified--in--WAC--131--16--020))~~ Participants may choose the optional retirement transition benefit that at the time of their retirement permits receipt of not more than ten percent of the accumulated value in each annuity in a lump-sum payment, provided that annuity benefits commence after the participant's fifty-fifth birthday. Benefits from the remainder of the combined annuity value shall be paid in the form of other retirement options then available to the annuitant as now or hereafter permitted by TIAA/CREF. Selection of the option to receive the retirement transition benefit shall be made immediately prior to retirement in such manner as now or hereafter permitted by TIAA/CREF.

AMENDATORY SECTION (Amending Order 28, filed 7/1/74)

WAC 131-16-066 SINGLE SUM DEATH BENEFIT TO SPOUSE BENEFICIARIES. Unless previously indicated to the contrary by the participating employee in writing directly to TIAA/CREF, the surviving spouse or other beneficiary, if applicable, of any TIAA/CREF plan participant who dies before retirement shall be entitled to receive a single sum death benefit in the amount of the then current value of the annuity accumulation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 131-16-020 EMPLOYEES ELIGIBLE TO PARTICIPATE IN RETIREMENT ANNUITY PURCHASE PLAN.

WAC 131-16-030 OPTIONAL PARTICIPATION FOR CERTAIN EMPLOYEES.

WAC 131-16-069 APPLICATION OF RETIREMENT PLAN TO EMPLOYEES OF STATE BOARD.