

Title 415 WAC

DEPARTMENT OF RETIREMENT SYSTEMS

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Chapter 415-02 WAC GENERAL PROVISIONS

WAC

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

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

(2) The department of retirement systems is divided, structurally, into two divisions. Each division is headed by an assistant director answerable to the director. The two divisions are:

(a) The administrative services division which is headed by the assistant director for administrative services; and

(b) The program services management division which is headed by the assistant director for program services.

(3) Members of the public may obtain information, make submittals or requests, or obtain copies of agency decisions by addressing their requests or submittals to the director of the Department of Retirement Systems at 1025 East Union, Olympia, Washington, 98504. Upon receipt of such a request or submittal, the director shall forward the same to the proper officer or employee of the department of retirement systems for an appropriate response.

(4) Members of the public who wish to inspect and/or copy public records maintained by the agency pursuant to chapter 42.17 RCW shall do so in accordance with the methods and procedures established in WAC 415-06-010 through 415-06-110 of these rules. [Order 4, § 415-02-010, filed 7/27/77.]

WAC 415-02-020 Authority. (1) The department of retirement systems is vested with the authority to administer, in accordance with chapter 105, Laws of 1975-'76 2nd ex. sess., as now or hereafter amended, the Washington public employees' retirement system created by chapter 41.40 RCW, the Washington state teachers' retirement system created by chapter 41.32 RCW, the Washington law enforcement officers' and fire fighters' retirement system, created by chapter 41.25 RCW, the Washington state patrol retirement system, created by chapter 43.43 RCW, the Washington judicial retirement system, created by chapter 2.10 RCW, and the judges retirement fund created by chapter 2.12 RCW.

(2) The director of retirement systems and the state finance committee are empowered to provide for the investment of all funds of the Washington public employees' retirement systems, the Washington teachers' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges retirement fund, pursuant to RCW 43.84.150, with the approval of the respective boards of the retirement systems and funds above listed. The state finance committee will execute all such transactions.

(3) The director is empowered to propose rules pursuant to RCW 2.10.050, 2.10.070, 41.26.060, 41.32.160, 41.40.020, and 43.43.140, with the approval of the appropriate retirement board.

(4) The director has no authority to perform functions vested in the various retirement boards by law with respect to applications for benefits paid upon either temporary or permanent disability, except to see that such staff assistance is provided by the department to the boards as may be required.

(5) The director is required to evaluate all proposed legislation to be submitted by a retirement board as a departmental request. When such legislation is submitted to the director, he will obtain an initial actuarial estimate of the cost of each systems of the changes contained in the proposed legislation as if the legislation were applicable to each retirement system under his jurisdiction. The results of that estimate will then be transmitted to the retirement board which has requested the proposed legislation. That board may then modify its legislative proposal into final form for introduction as a bill on the basis of the estimate. The final form for the legislative proposal shall then be returned to the director who shall obtain a final actuarial estimate of the costs applied in the same manner as the initial estimate. On or before September 1, the director will transmit the final legislative proposal together with the actuarial estimates to the governor for consideration in his budget requests

and shall also transmit the same to the chairman of the ways and means committees of the legislature. [Order 4, § 415-02-020, filed 7/27/77.]

WAC 415-02-030 Definitions. (1) Unless the context requires otherwise, the following terms shall have the meanings established below:

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

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

(3) "Clerk" means the director, any assistant director of the department of retirement systems, or the confidential secretary to the director of retirement systems, when used in reference to requests, submittals, papers or pleadings which must be filed with the clerk of one of the retirement boards established by chapters 2.10, 41.26, 41.32, 41.40, and 43.43 RCW or the director of the department of retirement systems.

(4) "Retirement board" means either the Washington judicial retirement board, the Washington law enforcement officers' and fire fighters' retirement board, the board of trustees of the Washington state teachers' retirement system, the Washington public employees retirement board, or the Washington state patrol retirement board.

(5) "Member" means a person who is entitled to membership in one of the retirement systems created by chapters 2.10, 2.12, 41.25, 41.32, 41.40, or 43.43 RCW.

(6) "Employer" means the employer of a particular member.

(7) "Hearings examiner" or "presiding officer" means a person or persons appointed by a retirement board or the director to preside at a contested case hearing and matters related thereto.

(8) "Appeal" means the method by which a party secures a contested case hearing before a retirement board or the director subsequent an initial determination by the board or director of the legal rights, duties or privileges of the specific party.

(9) "Petition" means the method by which a party secures a review of an administrative determination by an assistant director prior to an appeal to the director. [Order 4, § 415-02-030, filed 7/27/77.]

WAC 415-02-040 Definition of Plan II. Wherever used in this title, the term "Plan II" has reference to the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess. The term "Plan I" shall have reference to those plans in existence prior to the enactment of the above-referenced laws. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-040, filed 2/15/78.]

WAC 415-02-050 State Environmental Policy Act--Interface. The actions and activities of the department of retirement systems are not major actions significantly affecting the quality of the environment as described in chapter 43.21C RCW. All of the activities

of the department are exempted from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act (SEPA) by WAC 197-10-175.

The responsible official of the agency for the purposes of SEPA is the director. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-050, filed 2/15/78.]

WAC 415-02-060 Refund of contributions--Application. A request for a refund of contributions will not be honored if it was executed more than thirty days prior to its receipt by the department. A member may cancel the request for a refund of accumulated contributions at any time prior to the mailing of the warrant representing the refund of contributions. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-060, filed 2/15/78.]

WAC 415-02-070 Application of particular rules to Plan II members. The following provisions of chapters 415-104, 415-108, and 415-112 WAC do not have application to Plan II members of the Washington state teachers' retirement system, the public employees' retirement system or the law enforcement officers' and fire fighters' retirement system: WAC 415-112-200, 415-112-210, 415-112-220, 415-112-230, 415-112-240, 415-112-250, 415-112-270, 415-112-290, 415-112-420, 415-112-430, 415-112-500, 415-112-510, 415-112-520, 415-112-540, 415-112-550, 415-112-600, 415-112-610, 415-112-620, 415-112-630, 415-112-700, and 415-112-710; 415-104-210, 415-104-220, 415-104-250, 415-104-310, 415-108-070, 415-108-210 and 415-108-220. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-070, filed 2/15/78.]

WAC 415-02-080 Identification of members. Records of members of the retirement systems will be filed and identified in part by Social Security number. Each member of the systems shall be required to supply his or her Social Security number for such record keeping purposes. Such disclosure shall be voluntary and shall only be used for record keeping and identification purposes. Failure to supply a Social Security number shall not result in the loss of any benefits supplied by these systems. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-080, filed 2/15/78.]

Chapter 415-04 WAC PROCEDURE

WAC

415-04-010 Petition--Procedure.

415-04-020 Petition--Response--Decision--Appeal.

WAC 415-04-010 Petition--Procedure. All petitions concerning applications for service credits, service retirement benefits, membership and membership credits in the retirement systems, and for decisions relating to

benefit increases provided by RCW 41.16.145 or 41.18.104 shall follow the procedure established in this chapter. [Order 4, § 415-04-010, filed 7/27/77.]

WAC 415-04-020 Petition--Response--Decision--Appeal. The initial application or petition shall contain the following: (1) A complete and detailed statement of the factual situation underlying the application or petition; which may include all relevant documents and sworn statements deemed appropriate by the petitioner.

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

(3) An identification of the individual or individuals filing the petition, as well as an identification of legal counsel if such persons are represented by the same.

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

(5) Upon receipt of the petition, the director will assign the same to the assistant director for program services. The assistant director will, within seven days, notify the employer(s) if the petitioner is a member(s) or the affected member(s) if the applicant or petitioner is an employer(s). Said notification shall request the employer(s) or member(s) to submit any written response to the petition no later than 20 days from the date of receipt of the notice, except upon an extension being granted by the assistant director upon good cause shown. The response shall generally take the form of and contain information required of the original petition as described in this section.

(6) Upon receipt of the response, the assistant director shall forward a copy of the response to the original petitioner who shall have ten days in which to reply to the same.

(7) Within 20 days of the expiration of the 10 day period for reply, the assistant director shall enter a written decision containing such findings of fact and conclusions of law as he deems necessary to dispose of the matter.

(8) The decision of the assistant director may be appealed to the director in accordance of the procedures established by WAC 415-08-010 through 415-08-480. An appeal of the assistant director's decision to the director shall be a necessary prerequisite to appeal to the superior court of the state of Washington. [Order 4, § 415-04-020, filed 7/27/77.]

Chapter 415-06 WAC PUBLIC RECORDS

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

415-06-110 Adoption of form.

WAC 415-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of retirement systems with the provisions of chapter 1, Laws of 1973, (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; now codified as chapter 42.17 RCW. [Order 4, § 415-06-010, filed 7/27/77.]

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

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

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

(4) "Director" means the director of retirement systems. [Order 4, § 415-06-020, filed 7/27/77.]

WAC 415-06-030 Public records officer. The department's records shall be in the charge of the public records officer designated by the department. The person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the departments rules and regulation regarding release of public records, coordinating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973. [Order 4, § 415-06-030, filed 7/27/77.]

WAC 415-06-040 Office hours. Public records shall be available for inspection and copying during the customary office hours of the department. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. [Order 4, § 415-06-040, filed 7/27/77.]

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

(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to

the public records officer; or to any member of the department's staff, if the public records office is not available, at the administrative office of the department during customary office hours. The request shall include the following information:

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

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested. [Order 4, § 415-06-050, filed 7/27/77.]

WAC 415-06-060 Copying. No fee shall be charged for the inspection of public records. The department shall charge a fee equal to the amount necessary to reimburse the department for its actual costs incident to any copying. [Order 4, § 415-06-060, filed 7/27/77.]

WAC 415-06-070 Exemptions. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 415-06-050 is exempt under the provisions of § 31, chapter 1, Laws of 1973.

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

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. [Order 4, § 415-06-070, filed 7/27/77.]

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

(2) Immediately after receiving a written request for review of a decision denying a public record, the public

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

(3) Administrative remedies shall not be considered exhausted until the director has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order 4, § 415-06-080, filed 7/27/77.]

WAC 415-06-090 Records index. (1) INDEX. The director has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

"(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

"(c) Administrative staff manuals and instructions to staff that affect a member of the public;

"(d) Planning policies and goals, and interim and final planning decisions;

"(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

"(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party."

(2) AVAILABILITY. The current index promulgated by the director shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order 4, § 415-06-090, filed 7/27/77.]

WAC 415-06-100 Request for records by mail—Address. All communications with the director including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the director's or board's decisions and other matters, shall be addressed as follows: Director of Retirement Systems, Department of Retirement Systems, 1025 East Union, Olympia, Washington 98504. [Order 4, § 415-06-100, filed 7/27/77.]

WAC 415-06-110 Adoption of form. The director hereby adopts for use by all persons requesting inspection and/or copying or copies of the department records,

the form attached hereto as Appendix A, entitled "Request for public record."

APPENDIX A

REQUEST FOR PUBLIC RECORDS

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

- 415-08-170 Computation of time.
415-08-180 Computation of time—Notice of hearing.
415-08-190 Computation of time—Upon whom served.
415-08-200 Computation of time—Service upon parties.
415-08-210 Computation of time—Method of service.
415-08-220 Computation of time—When service complete.
415-08-230 Computation of time—Filing with board.
415-08-240 Computation of time—Fees.
415-08-250 Computation of time—Proof of service.
415-08-260 Computation of time—Quashing.
415-08-270 Computation of time—Enforcement.
415-08-280 Computation of time—Discovery.
415-08-290 Computation of time—Documentary evidence.
415-08-300 Computation of time—Excerpts from documents.
415-08-310 Computation of time—Failure to supply prehearing information.
415-08-320 Computation of time—Agreements at prehearing conference.
415-08-330 Rules of evidence—Admissibility criteria.
415-08-340 Rules of evidence—Official notice—Matters of law.
415-08-350 Rules of evidence—Official notice—Material facts.
415-08-360 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
415-08-370 Presumptions.
415-08-380 Presumptions—Additional evidence by presiding officer.
415-08-390 Stipulations and admissions of record.
415-08-400 Expert or opinion testimony number and qualifications of witnesses.
415-08-410 Expert or opinion testimony number and qualifications of witnesses—Written sworn statements.
415-08-420 Expert or opinion testimony number and qualifications of witnesses—Procedures at hearings.
415-08-430 Petitions for rule making, amendment or repeal—Who may petition.
415-08-440 Petitions for rule making, amendment or repeal—Requisites.
415-08-450 Petitions for rule making, amendment or repeal—Agency must consider.
415-08-460 Petitions for rule making, amendment or repeal—Notice of disposition.
415-08-470 Declaratory rulings.
415-08-480 Declaratory rulings—Forms.

For Office Use Only:

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

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

Chapter 415-08 WAC
APPEALS

- WAC
415-08-010 Scope.
415-08-020 Filing appeals.
415-08-030 Parties.
415-08-040 Appearance and practice before the board—Who may appear.
415-08-050 Appearance and practice before the board—Appearance in certain proceedings may be limited to attorneys.
415-08-060 Appearance and practice before the board—Solicitation of business unethical.
415-08-080 Appearance and practice before the board—Withdrawal or substitution of representatives.
415-08-090 Appearance and practice before the board—Conduct.
415-08-100 Appearance and practice before the board—Appearance by former employee of agency or former member of attorney general's staff.
415-08-110 Appearance and practice before the board—Examiner duties and powers.
415-08-120 Informal conference—Purpose.
415-08-130 Informal conference—When held.
415-08-140 Informal conference—Agreements at informal conferences.
415-08-150 Prehearing conference—Purpose.
415-08-160 Prehearing conference—When held.

WAC 415-08-010 Scope. These rules shall govern all hearings before the retirement boards (where those boards' rules so provide) created by chapters 2.10, 41.26, 41.32, 41.40, 43.43 RCW and before the director of retirement systems. These rules shall also govern requests for declaratory rulings pursuant to RCW 34.04.080 and requests for the promulgation, amendment or repeal of any rule of such boards or the director. Where the context requires, reference to a board shall be construed to include the director of retirement systems. [Order 4, § 415-08-010, filed 7/27/77.]

WAC 415-08-020 Filing appeals. Any person aggrieved by any final decision of the board or the director must, before he appeals to the superior court invoke the jurisdiction of the board or director by filing with the director personally or by mail, within sixty days from the date such decision was communicated to such person, a notice of appeal before the board or director. The notice of appeal must contain:

- (1) The name and mailing address of the member of beneficiary, and the employer of the member;
(2) The name and legal residence of the appealing party, together with the mailing address of his representative, if any;

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

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

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

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

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

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

(9) The appealing parties shall file with the clerk by mail or otherwise, the original and two copies of the notice of appeal and the clerk shall forthwith acknowledge receipt of the copies filed with him and his stamp placed upon such copies shall be prima facie evidence of the date of receipt. The board may thereafter require additional copies to be filed if necessary. [Order 4, § 415-08-020, filed 7/27/77.]

WAC 415-08-030 Parties. The parties to an appeal shall be the appealing party, the board or director, all persons who have filed a notice of appearance after the receipt of a copy of the notice of appeal under WAC 415-08-020, and all persons who have otherwise filed a notice of appearance and made a proper showing of interest in the appeal. The board or director may exclude from the appeal any party who has unreasonably delayed the filing of a notice of appearance. Upon determination that a person has made a proper showing of interest the director or clerk will forthwith mail him a copy of the notice of appeal. There shall be no obligation to serve notices, pleadings or correspondence upon any person who has not entered an appearance as provided herein. Service upon the representative of a party shall constitute service upon such party. [Order 4, § 415-08-030, filed 7/27/77.]

WAC 415-08-040 Appearance and practice before the board—Who may appear. No person may appear in a representative capacity before the board or director or his or its designated hearings examiner other than the following:

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

(2) Attorneys-at-law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys-at-law of the state of Washington

are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

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

(4) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation. [Order 4, § 415-08-040, filed 7/27/77.]

WAC 415-08-050 Appearance and practice before the board—Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the board or its examiner determines that representation in such hearing requires a high degree of legal training, experience, and skill, the board or its examiner may limit those who may appear in a representative capacity to attorneys-at-law. [Order 4, § 415-08-050, filed 7/27/77.]

WAC 415-08-060 Appearance and practice before the board—Solicitation of business unethical. It shall be unethical for persons acting in a representative capacity before the board to solicit business by circulars, advertisements or by personal communication or interviews not warranted by personal relations, provided that such representatives may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind. [Order 4, § 415-08-060, filed 7/27/77.]

WAC 415-08-080 Appearance and practice before the board—Withdrawal or substitution of representatives. An attorney or other representative withdrawing from a case shall immediately so notify the clerk of the board and all parties of record in writing, or shall state such withdrawal for the record at a conference or hearing. Any substitution of an attorney or representative shall be accomplished by written notification to the clerk of the board and to all parties of record, together with the written consent of the prior attorney or representative, and if such consent cannot be obtained, a written statement of the reason therefor shall be supplied. [Order 4, § 415-08-080, filed 7/27/77.]

WAC 415-08-090 Appearance and practice before the board—Conduct. All persons appearing in a representative capacity in proceedings before the board shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the examiner may, in his/her discretion and depending on all the circumstances, admonish or reprimand such person, or exclude such person from further participation in the

proceedings and adjourn the same, or report the matter to the board which may, in its discretion, after notice and hearing, take appropriate disciplinary action including, but not limited to, a letter of reprimand, and refusal to permit such person to appear in a representative capacity in any proceeding before the board. [Order 4, § 415-08-090, filed 7/27/77.]

WAC 415-08-100 Appearance and practice before the board--Appearance by former employee of agency or former member of attorney general's staff. No former employee of the board, system or member of the attorney general's staff may at any time after severing his/her employment with the board or the attorney general appear, except with the written permission of the board in compliance with RCW 42.22.040, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the board. No such former employee shall appear where to do would violate RCW 42.18.220. [Order 4, § 415-08-100, filed 7/27/77.]

WAC 415-08-110 Appearance and practice before the board--Examiner duties and powers. The board or the director may appoint a hearing examiner to act as presiding officer. It shall be the duty of the presiding officer to conduct conferences or hearings in cases assigned to him/her in an impartial and orderly manner, and he/she shall have the authority, subject to the other provisions of these rules:

- (1) To administer oaths and affirmations.
- (2) To issue subpoenas as provided in RCW 34.04-.105. A subpoena may also be issued by the attorney of record, or any person making an appearance as authorized by these rules as provided in RCW 34.04.105 (2)(a).
- (3) To rule on all procedural matters, objections and motions.
- (4) To rule on all offers of proof and receive relevant evidence.
- (5) To interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter.
- (6) To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as he/she deems necessary to fairly and equitably decide the matter.
- (7) To take appropriate disciplinary action with respect to representatives of parties appearing before the board.
- (8) To issue orders joining other parties, on motion of any party, or on his/her own motion when it appears that such other parties may have an interest in, or may be affected by, the proceedings.
- (9) To consolidate matters for hearing when such consolidation will expedite disposition of the matters and avoid duplication of testimony and when the rights of the parties will not be prejudiced thereby. [Order 4, § 415-08-110, filed 7/27/77.]

WAC 415-08-120 Informal conference--Purpose. The purpose of an informal conference shall be to determine the feasibility of a settlement of the contested matter. The presiding officer shall be present at the opening and closing of a scheduled informal conference, but since the absence of the presiding officer may facilitate, on occasion, the achievement of an agreement or a settlement, he/she may, on the request of either party, or his/her own volition, absent himself/herself from the conference from time to time. [Order 4, § 415-08-120, filed 7/27/77.]

WAC 415-08-130 Informal conference--When held. At any time prior to the formal hearing, any party thereto may file a written application with the clerk of the board, requesting an informal conference. The board may thereupon, at its discretion or any time on its own motion, order an informal conference on not less than seven days' notice mailed to each party to the request, at a time and place fixed by the board. At any time prior to hearing, the presiding officer to whom the case is assigned, may, pursuant to agreement of all parties, convene and preside at an informal conference at a time and place agreed upon. [Order 4, § 415-08-130, filed 7/27/77.]

WAC 415-08-140 Informal conference--Agreements at informal conferences. (1) All agreements reached at informal conferences shall be set forth in the record by the presiding officer in writing.

(2) If an agreement concerning final disposition of the matter is reached by all the parties present or represented at a conference, an order may be issued in conformity therewith, providing the board finds said agreement is in accordance with the law.

(3) If the board decides that the agreement is not in accordance with the law, it may schedule another informal conference, or direct that a prehearing conference be held.

(4) If no agreement is reached by the parties as to final disposition of a request, a prehearing conference may thereafter be held. [Order 4, § 415-08-140, filed 7/27/77.]

WAC 415-08-150 Prehearing conference--Purpose. The purpose of a prehearing conference shall be to obtain a stipulation of facts to show the board's jurisdiction in the matter; to obtain agreement as to the issues of law and fact presented and the simplification or limitation thereof; to determine the necessity of amendments to the notice for hearing or other pleadings; to determine the possibility of obtaining admissions of facts and authenticity of documents which will avoid unnecessary proof; to determine the admissibility of exhibits; to obtain stipulation as to all or part of the facts in the case; to determine the limitation of the number of witnesses; to obtain information as to the number of expert and lay witnesses expected to be called by the parties and their names when possible; to determine the approximate time necessary for the presentation of the evidence of the respective parties; and to obtain all other information

which may aid in the prompt disposition of the cases. [Order 4, § 415-08-150, filed 7/27/77.]

WAC 415-08-160 Prehearing conference—When held. A prehearing conference shall be held in every case pending before the board or director unless otherwise ordered by the board chairman or the director. Such prehearing conference shall be held at such time as ordered by the chairman or director on not less than seven days' notice to each party. Such prehearing conference may also be held immediately at the conclusion of an informal conference if time permits. [Order 4, § 415-08-160, filed 7/27/77.]

WAC 415-08-170 Computation of time. In computing any period of time prescribed or allowed by the board rules, by order of the board or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. [Order 4, § 415-08-170, filed 7/27/77.]

WAC 415-08-180 Computation of time—Notice of hearing. (1) **Time.** If the board or director orders a hearing, he or it shall mail a written notice thereof to all parties not less than twenty days prior to the hearing date.

(2) **Contents.** The notice shall identify the cases to be heard, the names of the parties and the representatives, if any, and shall specify the time and place of hearing, and that the hearing is to be held pursuant to these rules. [Order 4, § 415-08-180, filed 7/27/77.]

WAC 415-08-190 Computation of time—Upon whom served. All papers served by either the board, or director or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. [Order 4, § 415-08-190, filed 7/27/77.]

WAC 415-08-200 Computation of time—Service upon parties. The final order, and any other paper required to be served by the board or director upon a party, shall be served upon such party or upon the agent designated by him/her or by law to receive service of such papers, and a copy shall be furnished to counsel of record. [Order 4, § 415-08-200, filed 7/27/77.]

WAC 415-08-210 Computation of time—Method of service. Service of papers shall be made personally, or, unless otherwise provided by law, by first-class, registered, or certified mail. [Order 4, § 415-08-210, filed 7/27/77.]

WAC 415-08-220 Computation of time—When service complete. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail, upon deposit in the United States mail properly stamped and addressed. [Order 4, § 415-08-220, filed 7/27/77.]

WAC 415-08-230 Computation of time—Filing with board. Papers required to be filed with the board or director shall not be deemed filed until actual receipt of the papers by the board or director at his or its headquarters, Capitol Plaza Building, 1025 East Union, Olympia, Washington. [Order 4, § 415-08-230, filed 7/27/77.]

WAC 415-08-240 Computation of time—Fees. Witnesses summoned before the board shall be paid by the party at whose instance they appear the same fees and allowances as are authorized by RCW 34.04.105(4). [Order 4, § 415-08-240, filed 7/27/77.]

WAC 415-08-250 Computation of time—Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the board or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than a representative of the board, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service. [Order 4, § 415-08-250, filed 7/27/77.]

WAC 415-08-260 Computation of time—Quashing. Upon motion made promptly, and in any event at least 3 days before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena is issued) the board or its designated examiner may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions. [Order 4, § 415-08-260, filed 7/27/77.]

WAC 415-08-270 Computation of time—Enforcement. Upon application and for good cause shown, the board will seek judicial enforcement of subpoenas which have not been quashed. [Order 4, § 415-08-270, filed 7/27/77.]

WAC 415-08-280 Computation of time—Discovery. Except as may be otherwise provided, any party may obtain discovery in the manners specified in Superior Court Civil Rule 26(a). The attendance of witnesses may be compelled by the use of a subpoena. Such discovery shall be governed generally by the procedures established by Superior Court Civil Rules 26-37, inclusive. [Order 4, § 415-08-280, filed 7/27/77.]

WAC 415-08-290 Computation of time—Documentary evidence. (1) The board or its presiding officer may require:

(a) That all documentary evidence which is to be offered during the taking of evidence be submitted prior to or at any prehearing conference. The evidence shall be submitted sufficiently in advance of the prehearing conference to permit study and preparation for the conference.

(b) That documentary evidence not submitted in advance, as may be required by subsection (1)(a), be not received in evidence in the absence of a clear showing that the offering party had good cause for his/her failure to produce the evidence sooner.

(c) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

(2) The presiding officer may, upon findings made on the record, limit the documentary evidence to that presented at any prehearing conference. For good cause shown any party may submit additional documentary evidence at the time of hearing. [Order 4, § 415-08-290, filed 7/27/77.]

WAC 415-08-300 Computation of time—Excerpts from documents. When portions only of a document are to be relied upon the offering party shall prepare the pertinent excerpts, all identified, and shall supply copies of such excerpts to the presiding officer and to the other parties. Only the excerpts, prepared and submitted, shall be received in the record. How the whole of the original document shall be made available for examination and for use by all parties to the proceeding. [Order 4, § 415-08-300, filed 7/27/77.]

WAC 415-08-310 Computation of time—Failure to supply prehearing information. If any party fails to supply the presiding officer at a prehearing conference the information reasonably necessary to aid the board in properly scheduling hearings, the board or the presiding officer may suspend setting a hearing pending receipt of the required information, or may refuse to grant such party a continuance of the original hearing, or may otherwise restrict the time or location of hearing for receipt of such party's evidence. [Order 4, § 415-08-310, filed 7/27/77.]

WAC 415-08-320 Computation of time—Agreements at prehearing conference. At the conclusion of a prehearing conference, the presiding officer conducting the same shall state for the record the result thereof. The statement shall include the agreements of the parties concerning issues, admissions, witnesses, time and location of hearings, the issues remaining to be determined and other matters that may expedite the subsequent hearing. The statement of agreement and issues, and rulings of the presiding officer, shall control the subsequent course of the proceedings unless modified for good cause by subsequent order. [Order 4, § 415-08-320, filed 7/27/77.]

WAC 415-08-330 Rules of evidence—Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury in the superior courts of the state of Washington. [Order 4, § 415-08-330, filed 7/27/77.]

WAC 415-08-340 Rules of evidence—Official notice—Matters of law. The board and its hearing officers, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decision of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations.

(4) **Agency organization.** The department, commission or board organization, administration, officers, personnel, official publications, and practitioners before its bar. [Order 4, § 415-08-340, filed 7/27/77.]

WAC 415-08-350 Rules of evidence—Official notice—Material facts. In the absence of controverting evidence, the board and its hearing officers, upon request made before or during a hearing may officially notice:

(1) **Board proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board.

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the board as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the presiding officer may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memoranda, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them. [Order 4, § 415-08-350, filed 7/27/77.]

WAC 415-08-360 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.

When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his/her discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. [Order 4, § 415-08-360, filed 7/27/77.]

WAC 415-08-370 Presumptions. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the board, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as

of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence of nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly co-exists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his/her own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact. [Order 4, § 415-08-370, filed 7/27/77.]

WAC 415-08-380 Presumptions—Additional evidence by presiding officer.

The presiding officer may, when all parties have rested, present such evidence, in addition to that presented by the parties, as deemed necessary to decide the appeal fairly and equitably. Any such evidence secured and presented by the presiding officer shall be presented in an impartial manner, and shall be received subject to full opportunity for cross-examination by all parties. If a party desires to present rebuttal evidence to any evidence so presented by the presiding officer, he/she shall make application therefor immediately following the conclusion of such evidence. Such application shall be granted by assignment of a time and place for presentation of such rebuttal evidence. [Order 4, § 415-08-380, filed 7/27/77.]

WAC 415-08-390 Stipulations and admissions of record.

The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, oral argument or by a writing filed and served upon all parties

within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the board or its designated representative, that such stipulation or admission was made inadvertently or under a bona fide mistake or fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding. [Order 4, § 415-08-390, filed 7/27/77.]

WAC 415-08-400 Expert or opinion testimony number and qualifications of witnesses. The board or its designated representative in all classes of cases should, where practicable, make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications. [Order 4, § 415-08-400, filed 7/27/77.]

WAC 415-08-410 Expert or opinion testimony number and qualifications of witnesses--Written sworn statements. The board or its designated representative, shall in all classes, of cases where it is practicable and permissible, require, and when not so permissible, make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him/her and to the other parties to the proceeding by a date determined by the presiding officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses. [Order 4, § 415-08-410, filed 7/27/77.]

WAC 415-08-420 Expert or opinion testimony number and qualifications of witnesses--Procedures at hearings. (1) **Presiding officer.** All hearings shall be conducted by a presiding officer who shall conduct the hearing in an orderly manner and rule on all procedural matters, objections and motions.

(2) **Order of presentation of evidence.** The presiding officer shall determine the proper order of presentation of evidence. As a general rule, the appealing party shall initially introduce all evidence in his/her case-in-chief.

The adverse parties may then introduce the evidence necessary to their cases-in-chief. Rebuttal evidence will then be received.

Witnesses may be called out of turn in contravention of this rule only by agreement of all parties.

(3) **Opening statements.** Unless the presiding officer rules otherwise, all parties shall present an oral opening statement setting out briefly a statement of the basic facts, disputes, and issues of the case.

(4) **Written statement of qualifications of expert witnesses.** Any party who plans to introduce the testimony of any expert witness at the hearing shall submit to the board and all parties at the outset of the hearing a written statement of the qualifications, experience, and expertise of each such expert witness.

(5) **Former employee as an expert witness.** No former employee of the department or the board or the attorney general shall, at any time after severing his/her employment with the department, appear, except when permitted by RCW 42.18.220, as an expert witness on behalf of other parties in a formal proceeding wherein he/she previously took an active part in the investigation as a representative of the department or board.

(6) **Objections and motion to strike.** Objections to the admission or exclusion of evidence shall be in short form, stating the legal grounds of objection relied upon, and the transcript shall not include extended argument or debate.

(7) **Rulings.** The presiding officer on objection or on his own motion, shall exclude all irrelevant or unduly repetitious evidence and all rulings upon objections to the admissibility of evidence shall be made in accordance with the rules of evidence established by these rules.

(8) Person appealing or requesting a hearings shall have the burden of proof in the matter. [Order 4, § 415-08-420, filed 7/27/77.]

WAC 415-08-430 Petitions for rule making, amendment or repeal--Who may petition. Any interested person may petition the director or board requesting the promulgation, amendment, or repeal of any rule. [Order 4, § 415-08-430, filed 7/27/77.]

WAC 415-08-440 Petitions for rule making, amendment or repeal--Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule, together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule. [Order 4, § 415-08-440, filed 7/27/77.]

WAC 415-08-450 Petitions for rule making, amendment or repeal--Agency must consider. All petitions shall be considered by the board or director and the board or director may, in its, or his/her, discretion,

order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule. [Order 4, § 415-08-450, filed 7/27/77.]

WAC 415-08-460 Petitions for rule making, amendment or repeal--Notice of disposition. The board shall notify the petitioning party within a reasonable time of the disposition, if any of the petition. [Order 4, § 415-08-460, filed 7/27/77.]

WAC 415-08-470 Declaratory rulings. As prescribed by RCW 34.04.080, any interested person may petition the board or director for a declaratory ruling. The board or director shall consider the petition and within a reasonable time it shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for a hearing, or submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission of written evidence upon the issues involved.
- (4) If a hearing is held or evidence submitted, the board shall within a reasonable time;
 - (a) Issue a binding declaratory rule; or
 - (b) Issue a nonbinding declaratory ruling; or
 - (c) Notify the person that no declaratory ruling is to be issued. [Order 4, § 415-08-470, filed 7/27/77.]

WAC 415-08-480 Declaratory rulings--Forms. Any interested person petitioning the board or director for a declaratory ruling pursuant to RCW 43.04.080, shall generally adhere to the following form for such purpose.

(1) At the top of the page shall appear the wording "BEFORE THE ----- RETIREMENT BOARD," or "BEFORE THE DIRECTOR OF RETIREMENT SYSTEMS." On the left side of the name below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the statement of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the board. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

(4) Any interested person petitioning the board requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

(5) At the top of the page shall appear the wording "BEFORE THE ----- RETIREMENT BOARD," or "BEFORE THE DIRECTOR OF RETIREMENT SYSTEMS." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

(6) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the names and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by the board rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(7) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size. [Order 4, § 451-08-480, filed 7/27/77.]

Chapter 415-100 WAC JUDICIAL RETIREMENT BOARD

WAC

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GENERAL PROVISIONS

WAC 415-100-010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Judge" means the person elected or appointed to serve as a judge of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW. Said word does not include a person serving as a judge pro tempore.

(2) "Judicial retirement board" means the "Washington judicial retirement board" established by chapter 2.10 RCW.

(3) "Surviving spouse" means the surviving widow or widower of a judge. The words do not include the divorced spouse of a judge.

(4) "Service" means all periods of time served as a judge, as herein defined and all periods of service credited to a judge pursuant to RCW 2.10.220. Any calendar month at the beginning or end of a term in which ten or more days are served shall be counted as a full month of service, but no more than one month's service may be granted for any one calendar month. Only months of service will be counted in the computation of any retirement allowance or other benefit provided for in chapter 2.10 RCW. Years of service shall be determined by dividing the total months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(5) "Retirement allowance" includes retirement allowances, disability allowances, and survivorship benefits, when applying cost-of-living increases or decreases.

(6) "Director" means the director of the department of retirement systems as provided in chapter 41.50 RCW as now existing or hereafter amended.

(7) "Department" means the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-010, filed 11/22/78.]

WAC 415-100-020 Public records. See chapter 415-06 WAC. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-020, filed 11/22/78. Formerly chapter 290-48 WAC.]

WAC 415-100-040 Appeals--Disability retirement applications. Any judge aggrieved by any final decision of the judicial retirement board must, before he appeals to a superior court, file a notice of appeal pursuant to WAC 415-08-020. The appeal shall be governed by the rules established and promulgated in chapter 415-08 WAC. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-040, filed 11/22/78. Formerly chapter 290-28 WAC.]

WAC 415-100-050 Appeals to superior court--Notice of appeal. Upon an appeal from any decision or order of the judicial retirement board to the superior

court, the appealing party within thirty days from the decision and order of the judicial retirement board must perfect his appeal by serving notice of appeal on the chairman of the judicial retirement board by personal service or by mailing a copy thereof and filing the notice of appeal, together with proof of service with the clerk of the court. The service and filing, together with the proof of service of the notice of appeal within thirty days shall be jurisdictional. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-050, filed 11/22/78. Formerly chapter 290-28 WAC.]

WAC 415-100-060 Appeals to superior court--Certification of record. The director shall promptly serve upon the appellant or his attorney of record and file with the clerk of a superior court a certified copy of the complete record of the hearing before the judicial retirement board which shall upon being so filed become the record in such case. Appeal shall lie from the judgment of the superior court to the court of appeals or the supreme court as in other cases. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-060, filed 11/22/78. Formerly chapter 290-28 WAC.]

GENERAL ADMINISTRATION

WAC 415-100-100 Members. The judicial retirement board is an independent agency of the state of Washington and is composed of the members specified by chapter 2.10 RCW as now existing or hereafter amended. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-100, filed 11/22/78. Formerly WAC 290-16-010.]

WAC 415-100-110 Officers. The judicial retirement board shall annually at its July meeting or at the first meeting after July if there is no July meeting, elect a chairman and a vice chairman, one of whom must be a judge and one an appointed judicial retirement board member. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-110, filed 11/22/78. Formerly WAC 290-16-020.]

WAC 415-100-120 Function. The judicial retirement board shall be responsible for making effective the provisions of chapter 2.10 RCW. Rules and regulations will be adopted by the director pursuant to chapter 41.50 RCW.

The administration of the judicial retirement system is vested in the director of the department. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-120, filed 11/22/78. Formerly WAC 290-16-030.]

WAC 415-100-130 Duties. The judicial retirement board shall perform the duties retained by it pursuant to chapter 2.10 RCW as affected by chapter 41.50 RCW,

relating to proposed legislation, rules, investment, and disability retirement benefits. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-130, filed 11/22/78. Formerly WAC 290-16-040.]

WAC 415-100-140 Location. The judicial retirement board shall meet in the office of the department at the Capital Plaza Building, Union and Eastside, Olympia, Washington, or at such other place as from time to time may be designated. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-140, filed 11/22/78. Formerly WAC 290-16-050.]

WAC 415-100-150 Meetings. The judicial retirement board shall meet annually in July and such other times as the chairman or vice chairman of the judicial retirement board shall direct. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-150, filed 11/22/78. Formerly WAC 290-16-060.]

WAC 415-100-160 Office of the chairman. The office of the chairman of the judicial retirement board is located in the headquarters of the department at the Capital Plaza Building, Union and Eastside, Olympia, Washington. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-160, filed 11/22/78. Formerly WAC 290-16-070.]

WAC 415-100-170 Business hours. The office of the department is open between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-170, filed 11/22/78. Formerly WAC 290-16-080.]

WAC 415-100-180 Correspondence. All correspondence and official communications, including notices, appeals, and pleadings must be in writing, served, and filed with the director at the department's offices. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-180, filed 11/22/78. Formerly WAC 290-16-090.]

Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT BOARD

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WAC 415-104-010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" has the meaning established by RCW 41.26.030(1) as now existing or hereafter amended;

(2) "Employer" has the meaning established by RCW 41.26.030(2) as now existing or hereafter amended;

(3) "Law enforcement officer" has the meaning established by RCW 41.26.030(3) as now existing or hereafter amended;

(4) "Fire fighter" has the meaning established by RCW 41.26.030(4) as now existing or hereafter amended;

(5) "LEOFF retirement board" means the law enforcement officer and fire fighters' retirement board as provided in RCW 41.26.030(5) as now existing or hereafter amended;

(6) "Employee" has the meaning established by RCW 41.26.030(10) as now existing or hereafter amended;

(7) "Disability board" has the meaning established by RCW 41.26.030(18) as now existing or hereafter amended;

(8) "Disability leave" has the meaning established by RCW 41.26.030(19) as now existing or hereafter amended;

(9) "Disability retirement" has the meaning established by RCW 41.26.030(20) as now existing or hereafter amended;

(10) "Director" means the director of the department of retirement systems as provided in chapter 41.50 RCW as now existing or hereafter amended;

(11) "Department" means the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended;

(12) "Legal adviser" means the attorney general of the state of Washington or a designated member of his staff assigned to the department. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-010, filed 2/15/78. Formerly WAC 297-15-010.]

WAC 415-104-020 Public records. See chapter 415-06 WAC. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-020, filed 2/15/78.]

WAC 415-104-030 Deductions from pension payments for insurance purposes. Deductions for any insurance premiums will only be authorized (pursuant to RCW 41.26.180) where the preliminary authorization and information is coordinated by a representative of the

insurer acceptable to the director. Where such deductions are withheld, the retirement system is not responsible or liable for any failure to make premium payments on time or in the proper amount. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-030, filed 2/15/78. Formerly WAC 297-60-010.]

GENERAL ADMINISTRATION

WAC 415-104-100 Members. The LEOFF retirement board is an independent agency of the state of Washington and is composed of the members specified by RCW 41.26.050 as now existing or hereafter amended. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-100, filed 2/15/78. Formerly WAC 297-20-010.]

WAC 415-104-105 Election of LEOFF member to LEOFF retirement board. The election of the law enforcement officer and the fire fighter member of the Washington law enforcement officers' and fire fighters' retirement board, as provided for in RCW 41.26.050, as now existing or as hereafter amended, shall be conducted as provided in this section.

(1) The first regular election will be held during April, 1970, to elect a representative of the law enforcement officer members for a one-year term, and a representative of the fire fighter members for a two-year term. The second regular election shall be held during April, 1971, to elect a representative of the law enforcement officer members for a two-year term. Thereafter, a regular election shall be held during each ensuing April to elect, alternatively, a fire fighter member representative and a law enforcement officer representative for two-year terms respectively.

(2) All terms of office shall commence on the first day of May of the year of election, and the representatives elected shall serve until their successors are duly elected and qualified unless they shall die, resign, or cease to be members of the retirement system except while on disability leave in the classification represented. In the event of a vacancy thus occurring prior to the normal expiration of the term, a special election shall be called by the LEOFF retirement board for a date certain for the election of a successor from the same service to fill out the remaining part of the term.

(3) Any member desiring to become a candidate to represent members in his classification may, during the third week of March of the year in which the election for representative of his classification is to occur (or in the event of a special election to fill a vacancy, during such period as the LEOFF retirement board in its call shall specify) file with the director of the retirement system a typewritten statement that he desires to be a candidate for the LEOFF retirement board. The letter supporting his candidacy must be signed by at least twenty active members of the retirement system in his classification.

(4) Each regular or special election shall be conducted under the supervision of the Washington law enforcement officers' and fire fighters' retirement board, but shall be so conducted that the voting shall be secret and the ballots may be returned by mail. In order to be counted, ballots shall be received by the director not later than the fourth Tuesday in April in the case of a regular election, and at least one full week prior to the date specified in the call in the case of a special election to fill a vacancy. The LEOFF retirement board shall thereupon proceed to count the ballots and shall certify to the secretary of state the candidate receiving the highest number of votes, who shall be deemed to have been elected. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-105, filed 2/15/78. Formerly WAC 297-10-010.]

WAC 415-104-110 Administration. The administration of the retirement system is vested in the director as provided in in chapter 41.50 RCW as now existing or hereafter amended, and in the rules adopted in accordance with that chapter and codified in Title 415 WAC. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-110, filed 2/15/78.]

WAC 415-104-120 Function. The LEOFF retirement board shall be vested with those powers retained by the LEOFF retirement board pursuant to chapter 41.50 RCW relating to proposed legislation, rules, investments, and disability retirements.

All final orders, decisions, or awards of the LEOFF retirement board pertaining to administration of the retirement system and to disposition of disability retirement applications, shall be in the form of resolutions passed by a majority vote of members of the LEOFF retirement board and subscribed to by the director or an assistant director. A majority of the LEOFF retirement board shall constitute a quorum for transaction of business at any meetings of the LEOFF retirement board. For the purpose of this chapter, all final orders, decisions, or awards of the LEOFF retirement board shall be passed by resolutions.

Service retirement awards shall be processed and made by the director, assistant director, or administrative officer of the law enforcement officers' and fire fighters' retirement system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-120, filed 2/15/78.]

WAC 415-104-140 Location. The LEOFF retirement board shall meet in the office of the department at the Capitol Plaza Building, Union and Eastside, Olympia, Washington. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-140, filed 2/15/78. Formerly WAC 297-25-100.]

WAC 415-104-150 Meetings. The LEOFF retirement board shall meet on the third Monday each month unless that is a holiday, or when the board determines

otherwise, in advance, in which case another date may be established by the director. The LEOFF retirement board may also meet on more frequent occasions if deemed advisable, on a convenient day set by the director. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-150, filed 2/15/78. Formerly WAC 297-25-020.]

WAC 415-104-160 Office of the chairman. The office of the chairman of the LEOFF retirement board is located in the headquarters of the department at the Capitol Plaza Building, Union and Eastside, Olympia, Washington. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-160, filed 2/15/78. Formerly WAC 297-25-030.]

WAC 415-104-170 Business hours. The office of the department is open between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-170, filed 2/15/78. Formerly WAC 297-25-030.]

WAC 415-104-180 Correspondence. All correspondence and official communications, including notices, appeals, and pleadings must be in writing, served and filed with the director at the department's offices. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-180, filed 2/15/78. Formerly WAC 297-25-040.]

WAC 415-104-190 Identification. The record of each member of the retirement system will be filed and identified in part by Social Security number. Each member of the system shall be required to supply his or her Social Security number for such record keeping purposes. Such disclosure shall be voluntary and shall only be used for record keeping and identification purposes. Failure to supply a Social Security number shall not result in the loss of any benefits supplied by this system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-190, filed 2/15/78. Formerly WAC 297-25-050.]

DISABILITY ORDER AND DENIALS

WAC 415-104-200 Decision and order of the local disability board. Every decision and order of a local disability board granting a disability retirement allowance shall be forwarded to the LEOFF retirement board through the director. The LEOFF retirement board shall review such decision and order in compliance with RCW 41.26.120, and the decision and order shall be affirmed or reversed and remanded to the local disability board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-200, filed 2/15/78. Formerly WAC 297-30-010.]

WAC 415-104-210 Processing applications. The processing of disability applications shall commence when the director receives the written decision and order

required by RCW 41.26.120. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-210, filed 2/15/78. Formerly WAC 297-30-020.]

WAC 415-104-220 Recording. The director shall examine the materials and forms for completeness, make arrangements for filing and docketing the same, and refer them to the legal adviser for examination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-220, filed 2/15/78. Formerly WAC 297-30-030.]

WAC 415-104-230 Legal examination of application. The director or the legal adviser shall examine the member's file for adequacy of the information presented to support the legal basis of the application. If it is felt that certain statements may be subject to question or that additional information may be needed, the director or the legal adviser shall attempt to obtain such information. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-230, filed 2/15/78. Formerly WAC 297-30-040.]

WAC 415-104-240 Recommendation and conclusion. The director or the legal adviser shall prepare a summary and recommendation, based on all the facts in the member's file, and submit it to the LEOFF retirement board for review. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-240, filed 2/15/78. Formerly WAC 297-30-050.]

WAC 415-104-250 LEOFF retirement board decision on application. The LEOFF retirement board shall act on appeals for acts of the LEOFF retirement board or local disability board as follows:

- (1) Affirmance, by resolution;
- (2) Reversal or reversal and remand, by resolution;
- (3) Referral back to the director for further investigation or information. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-250, filed 2/15/78. Formerly WAC 297-30-060.]

WAC 415-104-260 Notification of member. The director shall forthwith notify the member and his employer of the LEOFF retirement board's action. If the decision of the LEOFF retirement board is adverse to the member's position, the director shall notify the member of his right to appeal. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-260, filed 2/15/78. Formerly WAC 297-30-070.]

WAC 415-104-270 Miscellaneous applications. Miscellaneous applications from decisions involving payment or nonpayment of benefits, requiring the LEOFF retirement board's decision shall be subject to the same general procedures as are set forth in WAC 415-104-200 through 415-104-260. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), §

415-104-270, filed 2/15/78. Formerly WAC 297-30-080.]

WAC 415-104-300 Disability retirement applications—Appeals. (See RCW 41.26.200 through 41.26.210.) Any person aggrieved by any final decision of the retirement board must, before he appeals to a superior court, invoke the jurisdiction of the LEOFF retirement board by filing with the director or an assistant director, either personally or by mail, within sixty days from the date such decision was communicated to such person, a notice of appeal before the board. The notice of appeal must comply with the provisions of WAC 415-08-020. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-300, filed 2/15/78. Formerly WAC 297-35-010.]

WAC 415-104-310 Grievances. Any person aggrieved by an order of the local disability board must submit a notice of appeal, as set forth in WAC 415-08-020, within thirty days in accordance with RCW 41.26.200. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-310, filed 2/15/78. Formerly WAC 297-35-020.]

WAC 415-104-320 Rules on appeals. All appeals from decisions of the LEOFF retirement board will be governed by the rules of the department of retirement systems as set forth in chapter 415-08 WAC.

Appeals from decisions of the local disability boards will be reviewed on the basis of the record established by the local disability board in accordance with RCW 41.26.120 as now existing or hereafter amended. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-320, filed 2/15/78. Formerly WAC 297-35-030.]

APPEALS TO THE SUPERIOR COURT

WAC 415-104-400 Notice of appeal to the superior court. Upon an appeal from the decision and order of the LEOFF retirement board to the superior court pursuant to RCW 41.26.210, the appealing party within thirty days from the decision and order of the LEOFF retirement board must perfect his appeal by serving notice of appeal on the director of the LEOFF retirement board by personal service or by mailing a copy thereof and filing the notice of appeal together with proof of service with the clerk of the superior court. The service and the filing together with proof of service of the notice of appeal all within thirty days shall be jurisdictional. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-400, filed 2/15/78. Formerly WAC 297-45-010.]

WAC 415-104-410 Certification of record. The director shall promptly serve upon the appellant or his attorney of record and file with the clerk of the court a certified copy of the complete record of the hearing before the LEOFF retirement board which shall, upon being so filed, become the record in such case. Appeal

shall lie from the judgment of the superior court to the court of appeals or the supreme court as in other cases. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-410, filed 2/15/78. Formerly WAC 297-45-020.]

MINIMUM MEDICAL AND HEALTH STANDARDS

WAC 415-104-500 Purpose. The regulations contained in WAC 415-104-510 through 415-104-750 are adopted as the minimum medical and health standards which must be met or exceeded before a law enforcement officer or firefighter may become a member of the retirement system contained in chapter 41.26 RCW as now existing or hereafter amended. Such regulations are adopted pursuant to chapter 41.26 RCW (chapter 257, Laws of 1971 1st ex. sess.) and are to be applied consistent with the provisions of that act. The minimum medical and health standards are not hiring standards. They relate only to membership in the LEOFF system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-500, filed 2/15/78. Formerly WAC 297-50-010.]

WAC 415-104-510 Minimum standards for membership—Physical examination. (1) **Requirements:** (a) Medical examination administered by a licensed physician or surgeon as set forth under provisions of chapter 18.71 RCW. Physician or surgeon to be appointed by the appropriate city or county disability board. Causes for rejection will be consistent with recommendations outlined in these standards.

(b) A medical history will be supplied by each applicant to the examining physician. The medical history will include information on past and present diseases, injuries, and operations.

(c) The applicant must possess normal vision. He must demonstrate normal visual functions and visual acuity not less than 20/100 vision in each eye without correction and corrected to 20/20 in the better eye and 20/30 in the lesser eye. He must possess normal color vision.

(d) Applicant must possess normal hearing. Hearing acuity level to be determined by audiometric hearing test.

(e) Applicant must be at least eighteen years of age, and shall not have reached thirty-five years of age at the time of appointment.

(f) Retention on a permanent basis by the employer of the results of the physical examination on all applicants employed under these standards is required.

(2) **Procedure:** (a) Completion of the report of medical history by the applicant.

(b) The physical examination will be conducted by a licensed physician or surgeon after a review of the report of medical history completed by the applicant.

(c) The physician shall record his findings on the report of medical history and shall note thereon, for evaluation by the hiring authority, any past or present

physical defects, diseases, injuries, operations, or conditions of an abnormal or unusual nature and whether applicant is or is not qualified. Reports of medical history shall be typewritten or printed, and the summary of defects and diagnosis shall refer to the applicable section of these standards as cause for rejection.

(d) Physical examination reports shall be placed in permanent files by the employer and must be available for examination at any reasonable time by representatives of the retirement system board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-510, filed 2/15/78. Formerly WAC 297-50-020.]

WAC 415-104-520 Abdomen and gastrointestinal system. The following conditions of the abdomen and gastrointestinal system are causes for rejection of membership:

(1) **Cholecystectomy**, sequelae of, such as postoperative stricture of common bile duct, reforming of stones in hepatic or common bile ducts, or incisional hernia, or postcholecystectomy syndrome when symptoms are so severe as to interfere with normal performance of duty;

(2) **Cholecystitis**, acute or chronic, with or without cholelithiasis if diagnosis is confirmed by usual laboratory procedures or authentic medical records;

(3) **Cirrhosis**, regardless of the absence of manifestations such as jaundice, ascites or known esophageal varices, abnormal liver function tests with or without history of chronic alcoholism;

(4) **Fistula**, in ano;

(5) **Gastritis**, chronic hypertrophic, severe;

(6) **Hemorrhoids:** (a) External hemorrhoids producing marked symptoms;

(b) Internal hemorrhoids, if large or accompanied with hemorrhage or protruding intermittently or constantly;

(7) **Hepatitis**, within the preceding six months, or persistence of symptoms after a reasonable period of time with objective evidence of impairment of liver function;

(8) **Hernia:** (a) Hernia other than small asymptomatic umbilical or hiatal;

(b) History of operation for hernia within the preceding sixty days;

(9) **Intestinal obstruction**, or authenticated history of more than one episode, if either occurred during the preceding five years, or if resulting conditions remain which produces significant symptoms or requires treatment;

(10) **Megacolon**, of more than minimal degree, diverticulitis, regional enteritis, and ulcerative colitis. Irritable colon of more than moderate degree;

(11) **Pancreas**, acute or chronic disease of, if proven by laboratory tests, or authenticated medical records;

(12) **Rectum**, stricture or prolapse of;

(13) **Resection, gastric or of bowel; or gastroenterotomy**, but minimal intestinal resection in infancy or childhood is acceptable if the individual has been

asymptomatic since the resection and if surgical consultation (to include upper and lower gastrointestinal series) gives complete clearance. For example: Intussusception or pyloric stenosis;

(14) **Scars:** (a) Scars, abdominal, regardless of cause, which show hernial bulging or which interfere with movements;

(b) Scar pain associated with disturbance of function of abdominal wall or contained visceral;

(15) **Sinuses**, of the abdominal wall;

(16) **Splenectomy**, except when accomplished for the following:

(a) Trauma;

(b) Causes unrelated to diseases of the spleen;

(c) Hereditary spherocytosis;

(d) Disease involving the spleen when followed by correction of the condition for a period of at least two years;

(17) **Tumors**, see WAC 415-104-720 and 415-104-725;

(18) **Ulcer:** (a) Ulcer of the stomach or duodenum if diagnosis is confirmed by x-ray examination, or authenticated history thereof;

(b) Authentic history of surgical operation(s) for gastric or duodenal ulcer;

(19) **Other congenital or acquired abnormalities and defects** which preclude satisfactory performance of duties or which require frequent and prolonged treatment. [Statutory Authority: RCW 41.50.050(6) and 41.50.090: 78-03-023 (Order IV), § 415-104-520, filed 2/15/78. Formerly WAC 297-50-030.]

WAC 415-104-530 Blood and blood-forming tissue diseases. The following conditions of the blood and blood-forming tissue diseases are causes for rejection of membership:

(1) **Anemia:** (a) Blood loss anemia—until both condition and basic cause are corrected;

(b) Deficiency anemia, not controlled by medication;

(c) Abnormal destruction of RBC's: Hemolytic anemia;

(d) Faulty RBC construction: Hereditary hemolytic anemia, thalassemia and sickle cell anemia;

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

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

(2) **Hemorrhagic states:** (a) Due to changes in coagulation system (hemophilia, etc.);

(b) Due to platelet deficiency;

(c) Due to vascular instability;

(3) **Leukopenia**, chronic or recurrent, associated with increased susceptibility to infection;

(4) **Myeloproliferative disease** (other than leukemia): (a) Myelofibrosis;

(b) Megakaryocytic myelosis;

(c) Polycythemia vera;

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

(6) **Thromboembolic disease** except for acute, nonrecurrent conditions. [Statutory Authority: RCW

41.50.050(6) and 41.50.090: 78-03-023 (Order IV), § 415-104-530, filed 2/15/78. Formerly WAC 297-50-040.]

WAC 415-104-540 Dental. The following dental conditions are causes for rejection of membership:

(1) **Diseases of the jaws or associated tissues**, which are not easily remediable and which will incapacitate the individual or prevent the satisfactory performance of duty;

(2) **Malocclusion**, severe, which interferes with the mastication of a normal diet;

(3) **Orthodontic appliances:** Individuals with orthodontic appliances attached to the teeth are administratively unacceptable so long as active treatment is required. Individuals with retainer orthodontic appliances who are not considered to require active treatment are administratively acceptable;

(4) **Oral tissues**, extensive loss of, in an amount that would prevent replacement of missing teeth with a satisfactory prosthetic appliance;

(5) Relationship between the mandible and maxilla of such a nature as to preclude future satisfactory prosthetic replacement. [Statutory Authority: RCW 41.50.050(6) and 41.50.090: 78-03-023 (Order IV), § 415-104-540, filed 2/15/78. Formerly WAC 297-50-050.]

WAC 415-104-550 Ears. The following conditions of the ear are causes for rejection of membership:

(1) **Auditory canal:** (a) Atresia or severe stenosis of the external auditory canal;

(b) Tumors of the external auditory canal except mild exostoses;

(c) Severe external otitis, acute or chronic;

(2) **Auricle:** Agenesis, severe; or severe traumatic deformity, unilateral or bilateral;

(3) **Mastoids:** (a) Mastoiditis, acute or chronic;

(b) Residual or mastoid operation with marked external deformity which precludes or interferes with the wearing of a gas mask or helmet;

(c) Mastoid fistula;

(4) **Meniere's syndrome;**

(5) **Middle ear:** (a) Acute or chronic suppurative otitis media. Individuals with a recent history of acute suppurative otitis media will not be accepted unless the condition is healed and a sufficient interval of time subsequent to treatment has elapsed to insure that the disease is in fact not chronic;

(b) Adhesive otitis media associated with hearing level by audiometric test of 20 db or more average for the speech frequencies (500, 1000, and 2000 cycles per second) in either ear regardless of the hearing level in the other ear;

(c) Acute or chronic serous otitis media;

(d) Presence of attic perforation in which presence of cholesteatoma is suspected;

(e) Repeated attacks of catarrhal otitis media; intact greyish, thickened drum(s);

(6) **Tympanic membrane:** (a) Any perforation of the tympanic membrane;

(b) Severe scarring of the tympanic membrane associated with hearing level by audiometric test of 20 db or more average for the speech frequencies (500, 1000, and 2000 cycles per second) in either ear regardless of the hearing level in the other ear;

(7) **Other diseases and defects of the ear** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-550, filed 2/15/78. Formerly WAC 297-50-060.]

WAC 415-104-555 Hearing. The following hearing condition is cause for rejection of membership: Hearing acuity level by audiometric testing (regardless of conversational or whispered voice hearing acuity) greater than that described in WAC 415-104-560 (Table 1).

There is no objection to conducting the whispered voice test or the spoken voice test as a preliminary to conducting the audiometric hearing test. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-555, filed 2/15/78.]

WAC 415-104-560 Table 1--Table of acceptable audiometric hearing level.

Acceptable Audiometric Hearing Level (Present American Standard) For Appointment								
250	500	1000	2000	3000	4000	6000	8000	
256	512	1024	2048	2896	4096	6144	8192	

a. Both ears—(1) Average of six readings in these speech frequencies not greater than 20 decibels with no level greater than 25 decibels. (divide by six) (2) 50 (2) (1)

or

b. Better ear—(1) 15 15 15 (2) 30 (2) (1)
Worse ear—(1) (1) (1) (1) (1) (1) (1) (1)

(1) No requirement
(2) Not yet standardized

"Better ear" is interpreted to mean the ear with better hearing at the frequency level being tested.

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

CONVERSION TABLE

ASA		ISO	
Hz	Db	Hz	Db
500	15	500	30
1000	15	1000	25
2000	15	2000	25
4000	30	4000	35

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-560, filed 2/15/78. Formerly WAC 297-50-070.]

WAC 415-104-570 Endocrine and metabolic disorders. The following endocrine and metabolic disorders or conditions are causes for rejection of membership:

- (1) **Adrenal gland**, malfunction of, of any degree;
- (2) **Cretinism**;
- (3) **Diabetes insipidus**;
- (4) **Diabetes mellitus**;
- (5) **Gigantism or acromegaly**;
- (6) **Glycosuria**, persistent, regardless of cause;
- (7) **Goiter**: (a) Simple goiter with definite pressure symptoms or so large in size as to interfere with the wearing of a uniform or fire fighting equipment;
- (b) Thyrotoxicosis;
- (8) **Gout**;
- (9) **Hyperinsulinism**, confirmed, symptomatic;
- (10) **Hyperparathyroidism and hypoparathyroidism**;
- (11) **Hypopituitarism**, severe;
- (12) **Myxedema**, spontaneous or postoperative with clinical manifestations and not based solely on low basal metabolic rate;

(13) **Nutritional deficiency diseases**, (including spru, beriberi, pellagra, and scurvy) which are more than mild and not readily remediable or in which permanent pathological changes have been established;

(14) **Other endocrine or metabolic disorders** which obviously preclude satisfactory performance of duty which require frequent and prolonged treatment. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-570, filed 2/15/78. Formerly WAC 297-50-080.]

WAC 415-104-580 Upper extremities. The following conditions of the upper extremities are causes for rejection of membership:

(1) **Limitation of motion**: An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;

(a) **Shoulder**: (i) Forward elevation to 90°; (ii) Abduction to 90°;

(b) **Elbow**: (i) Flexion to 100°; (ii) Extension to 15°;

(c) **Wrist**: A total range of 15° (extension plus flexion);

(d) **Hand**: Pronation to the first quarter of the normal arc;

(e) **Fingers**: Inability to clench fist, pick up a pin or needle, and grasp an object;

(2) **Hand and fingers**: (a) Absence (or loss) of more than 1/3 of the distal phalanx of either thumb;

(b) Absence or loss of distal and middle phalanx of an index, middle, or ring finger of either hand irrespective of the absence (or loss) of little finger;

(c) Absence of more than the distal phalanx of any two of the following fingers: index, middle, or ring finger, of either hand;

(d) Absence of hand or any portion thereof except for fingers as noted above;

(e) **Hyperdactylia**;

(f) Scars and deformities of the fingers and/or hand which impair circulation, are symptomatic, are so disfiguring as to make the individual objectionable in ordinary social relationships, or which impair normal function to such a degree as to interfere with the satisfactory performance of duty;

(3) **Wrist, forearm, elbow, arm, and shoulder:** Healed disease or injury of wrist, elbow, or shoulder with residual weakness or symptoms of such a degree as to preclude satisfactory performance of duty. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-580, filed 2/15/78. Formerly WAC 297-50-090.]

WAC 415-104-584 Lower extremities. See WAC 415-104-588. The following conditions of the lower extremities are causes for rejection of membership:

(1) **Limitation of motion:** An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;

(a) **Hip:** (i) Flexion to 90°; (ii) Extension to 10° (beyond 0);

(b) **Knee:** (i) Full extension; (b) Flexion to 90°;

(c) **Ankle:** (i) Dorsiflexion to 10°;

(ii) Plantar flexion to 10°;

(2) **Foot and ankle:** (a) Absence of one or more small toes of one or both feet, if function of the foot is poor or running or jumping is precluded, or absence of foot or any portion thereof except for toes as noted herein;

(b) Absence (or loss) of great toe(s) or loss of dorsal flexion thereof if function of the foot is impaired;

(c) Claw toes precluding the wearing of service boots;

(d) Clubfoot;

(e) Flatfoot, pronounced cases, with decided eversion of the foot and marked bulging of the inner border, due to inward rotation of the astragalus, regardless of the presence or absence of symptoms;

(f) Flatfoot, spastic;

(g) Hallux valgus, if severe and associated with marked exostosis or bunion;

(h) Hammer toe which interferes with the wearing of boots;

(i) Healed disease, injury, or deformity including hyperdactylia which precludes running, is accompanied by disabling pain, or which prohibits wearing of service boots;

(j) Ingrowing toe nails, if severe, and not remediable;

(k) Obliteration of the transverse arch associated with permanent flexion of the small toes;

(l) Pes cavus, with contracted plantar fascia, dorsiflexed toes, tenderness under the metatarsal heads, and callosity under the weight bearing areas;

(3) **Leg, knee, thigh, and hip:** (a) Dislocated semilunar cartilage, loose or foreign bodies within the knee joint, or history of surgical correction of same if—

(i) Within the preceding six months;

(ii) Six months or more have elapsed since operation without recurrence, and there is instability of the knee ligaments in lateral and anteroposterior directions in comparison with the normal knee or abnormalities noted on x-ray, there is significant atrophy or weakness of the

thigh musculature in comparison with the normal side, there is not acceptable active motion in flexion and extension, or there are other symptoms of internal derangement;

(b) Authentic history or physical findings of an unstable or internally deranged joint causing disabling pain or seriously limiting functions. Individuals with verified episodes of buckling or locking of the knee who have not undergone satisfactory surgical correction or if, subsequent to surgery, there is evidence of more than mild instability of the knee ligaments in lateral and anteroposterior directions in comparison with the normal knee, weakness or atrophy of the thigh musculature in comparison with the normal side, or if the individual requires medical treatment of sufficient frequency to interfere with the performance of duty;

(4) **General:** (a) Deformities of one or both lower extremities which have interfered with function to such a degree as to prevent the individual from following a physically active vocation in life or which would interfere with the satisfactory completion of prescribed training and performance of duty;

(b) Diseases or deformities of the hip, knee, or ankle joint which interfere with walking, running, or weight bearing;

(c) Pain in lower back or leg which is intractable and disabling to the degree of interfering with walking, running, and weight bearing;

(d) Shortening of a lower extremity resulting in any limp of noticeable degree. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-584, filed 2/15/78. Formerly WAC 297-50-090.]

WAC 415-104-588 Miscellaneous extremities. See also WAC 415-104-580 and 415-104-584. The following conditions of the miscellaneous extremities are causes for rejection of membership:

(1) **Arthritis:** (a) Active or subacute arthritis, including Marie-Strumpell type;

(b) Chronic osteoarthritis or traumatic arthritis of isolated joints of more than minimal degree, which has interfered with the following of a physically active vocation in civilian life or which precludes the satisfactory performance of duty;

(c) Documented clinical history of rheumatoid arthritis;

(d) Traumatic arthritis of a major joint of more than minimal degree;

(2) **Disease of any bone or joint,** healed, with such resulting deformity or rigidity that function is impaired to such a degree that it will interfere with service;

(3) **Dislocation,** old unreduced; substantiated history of recurrent dislocations of major joints; instability of a major joint, symptomatic and more than mild; or if, subsequent to surgery, there is evidence of more than mild instability in comparison with the normal joint, weakness or atrophy in comparison with the normal side, or if the individual requires medical treatment of sufficient frequency to interfere with the performance of duty;

(4) **Fractures:** (a) Malunited fractures that interfere significantly with function;

(b) Ununited fractures;

(c) Any old or recent fracture in which a plate, pin, or screws were used for fixation and left in place and which may be subject to easy trauma, i.e., as a plate tibia, etc;

(5) **Injury of a bone or joint** within the preceding six weeks, without fracture or dislocation, of more than a minor nature;

(6) **Muscular paralysis**, contracture, or atrophy, if progressive or of sufficient degree to interfere with service;

(7) **Myotonia congenita**, confirmed;

(8) **Osteomyelitis**, active or recurrent, of any bone or substantiated history of osteomyelitis of any of the long bones unless successfully treated two or more years previously without subsequent recurrence or disqualifying sequelae as demonstrated by both clinical and x-ray evidence;

(9) **Osteoporosis**;

(10) **Scars**, extensive, deep or adherent, of the skin and soft issues or neuromas of an extremity which are painful, which interfere with muscular movements, which preclude the wearing of equipment, or that show a tendency to break down;

(11) **Chondromalacia**, manifested by verified history of joint effusion, interference with function, or residuals from surgery. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-588, filed 2/15/78. Formerly WAC 297-50-090.]

WAC 415-104-590 Eyes. The following conditions of the eye are causes for rejection of membership:

(1) **Lids:** (a) Blepharitis, chronic, more than mild. Cases of acute blepharitis will be rejected until cured;

(b) Blepharospasm;

(c) Dacryocystitis, acute or chronic;

(d) Destruction of the lids, complete or extensive, sufficient to impair protection of the eye from exposure;

(e) Disfiguring cicatrices and adhesions of the eyelids to each other or to the eyeball;

(f) Growth or tumor of the eyelid other than small early basal cell tumors of the eyelid, which can be cured by treatment, and small nonprogressive symptomatic benign lesions;

(g) Marked inversion or eversion of the eyelids sufficient to cause unsightly appearance or watering of eyes (entropion or ectropion);

(h) Lagophthalmos;

(i) Ptosis interfering with vision;

(j) Trichiasis, severe;

(2) **Conjunctive:** (a) Conjunctivitis, chronic, including vernal catarrh and trachoma. Individuals with acute conjunctivitis are unacceptable until the condition is cured;

(b) Pterygium:

(i) Pterygium recurring after three operative procedures;

(ii) Pterygium encroaching on the cornea in excess of three millimeters or interfering with vision;

(3) **Cornea:** (a) Dystrophy, corneal, of any type including keratoconus of any degree;

(b) Keratitis, acute or chronic;

(c) Ulcer, corneal; history of recurrent ulcers or corneal abrasions (including herpetic ulcers);

(d) Vascularization or opacification of the cornea from any cause which interferes with visual function or is progressive;

(4) **Uveal tract:** Inflammation of the uveal tract except healed traumatic choroiditis;

(5) **Retina:** (a) Angiomas, phakomas, retinal cysts, and other congenito-hereditary conditions that impair visual function;

(b) Degenerations of the retina to include macular cysts, holes and other degenerations (hereditary as acquired degenerative changes) and other conditions affecting the macula. All types of pigmentary degenerations (primary and secondary);

(c) Detachment of the retina or history of surgery for same;

(d) Inflammation of the retina (retinitis or other inflammatory conditions of the retina to include Coat's disease, diabetic retinopathy, Earles' disease, and retinitis proliferans);

(6) **Optic nerve:** (a) Congenito-hereditary conditions of the optic nerve or any other central nervous system pathology affecting the efficient function of the optic nerve;

(b) Optic neuritis, neuroretinitis, or secondary optic atrophy resulting therefrom or document history of attacks of retrobulbar neuritis;

(c) Optic atrophy (primary or secondary);

(d) Papilledema;

(7) **Lens:** (a) Aphakia (unilateral or bilateral);

(b) Dislocation, partial or complete, of a lens;

(c) Opacities of the lens which interfere with vision or which are considered to be progressive;

(8) **Ocular mobility and motility:** (a) Diplopia, documented, constant or intermittent from any cause or of any degree interfering with visual function (i.e., may suppress);

(b) Diplopia, monocular, documented, interfering with visual function;

(c) Mystagmus, with both eyes fixing, congenital or acquired;

(d) Strabismus of forty prism diopters or more, uncorrectable by lenses to less than forty diopters;

(e) Strabismus of any degree accompanied by documented diplopia;

(f) Strabismus, surgery for the correction of, within the preceding six months;

(9) **Miscellaneous defects and diseases;**

(a) Abnormal conditions of the eye or visual fields due to diseases of the central nervous system;

(b) Absence of an eye;

(c) Asthenopia severe;

(d) Exophthalmos, unilateral or bilateral;

(e) Glaucoma, primary or secondary;

(f) Hemianopsia of any type;

(g) Loss of normal pupillary reflex reactions to light or accommodation to distance or Adies syndrome;

- (h) Loss of visual fields due to organic disease;
- (i) Night blindness associated with objective disease of the eye. Verified congenital night blindness;
- (j) Residuals of old contusions, lacerations, penetrations, etc., which impair visual function required for satisfactory performance of duty;
- (k) Retained intra-ocular foreign body;
- (l) Tumors, see WAC 415-104-590 (1)(f), 415-104-720, and 415-104-725;
- (m) Any organic disease of the eye or adnexa not specified above which threatens continuity of vision or impairment of visual functions. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-590, filed 2/15/78. Formerly WAC 297-50-100.]

WAC 415-104-595 Vision. The following vision conditions are causes for rejection of membership:

- (1) **Distant visual acuity** not less than 20/100 vision in each eye without correction and corrected to 20/20 in the better eye and 20/30 in the lesser eye within eight diopters of plus or minus refractive error;
- (2) **Near visual acuity:** Near visual acuity of any degree which does not correct to at least J-6 in the better eye;
- (3) **Refractive error:** Any degree of refractive error in spherical equivalent of over -8.00 or +8.00; or if ordinary spectacles cause discomfort by reason of ghost images, prismatic displacement, etc.; or if an ophthalmological consultation reveals a condition which is disqualifying;
- (4) **Contact lens:** Complicated cases requiring contact lens for adequate correction of vision as keratoconus, corneal scars, and irregular astigmatism. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-595, filed 2/15/78. Formerly WAC 297-50-100.]

WAC 415-104-600 Genitalia. The following conditions of the genitalia are causes for rejection of membership:

- (1) **Bartholinitis**, Bartholin's cyst;
- (2) **Cervicitis**, acute or chronic manifested by leukorrhea;
- (3) **Dysmenorrhea**, incapacitating to a degree which necessitates recurrent absences of more than a few hours from routine activities;
- (4) **Endometriosis**, or confirmed history thereof;
- (5) **Hemaphroditism**;
- (6) **Menopausal syndrome**, either physiologic or artificial if manifested by more than mild constitutional or mental symptom, or artificial menopause if less than thirteen months have elapsed since cessation of menses. In all cases of artificial menopause, the clinical diagnosis will be reported; if accomplished by surgery, the pathological report will be obtained and recorded;
- (7) **Menstrual cycle**, irregularities of, including menorrhagia, if excessive; metrorrhagia; polymenorrhea; amenorrhea, except as noted in WAC 415-104-600(6);
- (8) **New growths of the internal or external genitalia** except single uterine fibroid, subserous, asymptomatic,

less than three centimeters in diameter, with no general enlargement of the uterus, see also WAC 415-104-720 and 415-104-725;

- (9) **Oophoritis**, acute or chronic;
- (10) **Ovarian cysts**, persistent and considered to be of clinical significance;
- (11) **Pregnancy**;
- (12) **Salpingitis**, acute or chronic;
- (13) **Testicle(s):** (a) Absence or nondescent of both testicles;
- (b) Undiagnosed enlargement or mass of testicle or epididymis;
- (c) Undescended testicle;
- (14) **Urethritis**, acute or chronic, other than gonorrheal urethritis without complications;
- (15) **Uterus:** (a) Cervical polyps, cervical ulcer, or marked erosion;
- (b) Endocervicitis, more than mild;
- (c) Generalized enlargement of the uterus due to any cause;
- (d) Malposition of the uterus if more than mildly symptomatic;
- (16) **Vagina:** (a) Congenital abnormalities or severe lacerations of the vagina;
- (b) Vaginitis, acute or chronic, manifested by leukorrhea.
- (17) **Varicocele or hydrocele**, if large or painful;
- (18) **Vulva:** (a) Leukoplakia;
- (b) Vulvitis, acute or chronic.
- (19) Major abnormalities and defects of the genitalia such as a change of sex, a history thereof, or complications (adhesions, disfiguring scars, etc.) residual to surgical correction of these conditions. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-600, filed 2/15/78. Formerly WAC 297-50-110.]

WAC 415-104-605 Urinary system. See WAC 415-104-570(1), 415-104-720, and 415-104-725. The following conditions of the urinary system are causes for rejection of membership:

- (1) **Albuminuria** if persistent or recurrent including so-called orthostatic or functional albuminuria;
- (2) **Cystitis, chronic:** Individuals with acute cystitis are unacceptable until the condition is cured;
- (3) **Enuresis** determined to be a symptom of an organic defect not amendable to treatment, see also WAC 415-104-688;
- (4) **Epispadias or hypospadias** when accompanied by evidence of infection of the urinary tract or if clothing is soiled when voiding;
- (5) **Hematuria, cylindruria**, or other findings indicative of renal tract disease;
- (6) **Incontinence** of urine;
- (7) **Kidney:** (a) Absence of one kidney, regardless of cause;
- (b) Acute or chronic infections of the kidney;
- (c) Cystic or polycystic kidney, confirmed history of;
- (d) Hydronephrosis or pyonephrosis;
- (e) Nephritis, acute or chronic;
- (f) Pyelitis, pyelonephritis;

(8) **Penis**, amputation of, if the resulting stump is insufficient to permit micturition in a normal manner;

(9) **Peyronie's disease**;

(10) **Prostate gland**, hypertrophy of, with urinary retention;

(11) **Renal calculus**: (a) Substantiated history of bilateral renal calculus at any time;

(b) Verified history of renal calculus at any time with evidence of stone formation within the preceding twelve months, current symptoms or positive x-ray for calculus;

(12) **Skeneitis**;

(13) **Urethra**: (a) Stricture of the urethra;

(b) Urethritis, acute or chronic, other than gonorrheal urethritis without complications;

(14) **Urinary fistula**;

(15) **Other diseases and defects of the urinary system** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-605, filed 2/15/78. Formerly WAC 297-50-110.]

WAC 415-104-610 Head. The following conditions of the head are causes for rejection of membership:

(1) **Abnormalities** which are apparently temporary in character resulting from recent injuries until a period of three months has elapsed. These include severe contusions and other wounds of the scalp and cerebral concussion;

(2) **Deformities** of the skull in the nature of depressions, exostoses, etc., of a degree which would prevent the individual from the wearing of a gas mask or headgear;

(3) **Deformities of the skull of any degree** associated with evidence of disease of the brain, spinal cord, or peripheral nerves;

(4) **Depressed fractures near central sulcus** with or without convulsive seizures;

(5) **Loss or congenital absence** of the bony substance of the skull, except that the examiner may find individuals acceptable when—

(a) The area does not exceed 2.5 centimeters square, and does not overlie the motor cortex or a dural sinus;

(b) There is no evidence of alteration of brain function in any of its several spheres (intelligence, judgment, perception, behavior, motor control, sensory function, etc.);

(c) There is no evidence of bone degeneration, disease, or other complications of such a defect;

(6) **Unightly deformities**, such as large birthmarks, large hairy moles, extensive scars, and mutilations due to injuries or surgical operations; ulcerational fistulae, atrophy, or paralysis of part of the face or neck. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-610, filed 2/15/78. Formerly WAC 297-50-120.]

WAC 415-104-615 Neck. The following conditions of the neck are causes for rejection of membership:

(1) **Cervical ribs** if symptomatic, or so obvious that they are found on routine physical examination. (Detection based primarily on x-ray is not considered to meet this criterion);

(2) Congenital cysts of branchial cleft origin or those developing from the remnants of the thyroglossal duct, with or without fistulous tracts;

(3) **Fistula**, chronic draining, of any type;

(4) **Healed tuberculosis lymph nodes** when extensive in number or densely calcified;

(5) **Nonspastic contraction** of the muscles of the neck or cicatricial contracture of the neck to the extent that it interferes with the wearing of a uniform or equipment or is so disfiguring as to make the individual objectionable in common social relationships;

(6) **Spastic contraction** of the muscles of the neck, persistent, and chronic;

(7) **Tumor of thyroid or other structures of the neck**, see WAC 415-104-720 and 415-104-725. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-615, filed 2/15/78. Formerly WAC 297-50-120.]

WAC 415-104-620 Heart. The following conditions of the heart are causes for rejection of membership:

(1) **All organic valvular diseases of the heart**, including those improved by surgical procedures;

(2) **Coronary artery disease** or myocardial infarction, old or recent or true angina pectoris, at any time;

(3) **Electrocardiographic evidence** of major arrhythmias such as—

(a) Atrial tachycardia, flutter, or fibrillation, ventricular tachycardia or fibrillation;

(b) Conduction defects such as first degree atrio-ventricular block and right bundle branch block (These conditions occurring as isolated findings are not unfitting when cardiac evaluation reveals no cardiac disease.);

(c) Left bundle branch block, second and third degree aV block;

(d) Unequivocal electrocardiographic evidence of old or recent myocardial infarction; coronary insufficiency at rest or after stress; or evidence of heart muscle disease;

(4) **Hypertrophy or dilation of the heart** as evidenced by clinical examination or roentgenographic examination and supported by electrocardiographic examination. Care should be taken to distinguish abnormal enlargement from increased diastolic filling as seen in the well conditioned subject with a sinus bradycardia;

(5) **Myocardial insufficiency** (congestive circulatory failure, cardiac decompensation) obvious or covert, regardless of cause;

(6) **Paroxysmal tachycardia** within the preceding five years, or at any time if recurrent or disabling or if associated with electrocardiographic evidence of accelerated aV conduction (Wolff-Parkinson-White);

(7) **Pericarditis; endocarditis; or myocarditis**, history or finding of, except for a history of a single acute idiopathic or coxsackie pericarditis with no residuals;

(8) **Tachycardia** persistent with a resting pulse rate of 100 or more, regardless of cause. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-620, filed 2/15/78. Formerly WAC 297-50-130.]

WAC 415-104-624 Vascular system. The following conditions of the vascular system are causes for rejection of membership:

(1) **Congenital or acquired lesions of the aorta and major vessels**, such as syphilitic aortitis, demonstrable atherosclerosis which interferes with circulation, congenital or acquired dilatation of the aorta (especially is associated with other features of Marfan's syndrome), and pronounced dilatation of the main pulmonary artery;

(2) **Hypertension** evidenced by preponderant blood pressure readings of 150-mm or more systolic in an individual over thirty-five years of age or preponderant readings of 140-mm or more systolic in an individual thirty-five years of age or less. Preponderant diastolic pressure over 90-mm diastolic is cause for rejection at any age;

(3) **Marked circulatory instability** as indicated by orthostatic hypotension, persistent tachycardia, severe peripheral vasomotor disturbances, and sympatheticotonia;

(4) **Peripheral vascular disease** including Raynaud's phenomena, Buerger's disease (thromboangitis obliterans), erythromelalgia, arteriosclerotic and diabetic vascular diseases. Special tests will be employed in doubtful cases;

(5) **Thrombophlebitis:** (a) History of thrombophlebitis with persistent thrombus or evidence of circulatory obstruction or deep venous incompetence in the involved veins;

(b) Recurrent thrombophlebitis;

(6) **Varicose veins**, if more than mild, or if associated with edema, skin ulceration, or residual scars from ulceration. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-624, filed 2/15/78. Formerly WAC 297-50-130.]

WAC 415-104-628 Heart and vascular system—Miscellaneous. The following conditions of the heart and vascular system are causes for rejection of membership:

(1) **Aneurysm of the heart or major vessel**, congenital or acquired;

(2) **History and evidence of a congenital abnormality** which has been treated by surgery but with residual abnormalities or complications, for example: Patent ductus arteriosus with residual cardiac enlargement or pulmonary hypertension; resection of a coarctation of the aorta without a graft when there are other cardiac abnormalities or complications; closure of a secundum type atrial septal defect when there are residual abnormalities or complications;

(3) **Major congenital abnormalities and defects of the heart and vessels** unless satisfactorily corrected without residuals or complications. Uncomplicated dextrocardia and other minor asymptomatic anomalies are acceptable;

(4) **Substantiated history of rheumatic fever or chorea** within the previous two years, recurrent attacks of rheumatic fever or chorea at any time, or with evidence of residual cardiac damage. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-628, filed 2/15/78. Formerly WAC 297-50-130.]

WAC 415-104-630 Height. The following conditions are causes for rejection of membership:

(1) **Men:** Height below ----- inches or over ----- inches, as specified by hiring agency;

(2) **Women:** Height below ----- inches or over ----- inches, as specified by hiring agency. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-630, filed 2/15/78. Formerly WAC 297-50-140.]

WAC 415-104-634 Weight. The following conditions are causes for rejection of membership:

(1) **Weight related to height** which is below the minimum shown in WAC 415-104-650 (Table 2);

(2) **Weight related to age and height** which is in excess of the maximum shown in WAC 415-104-650 (Table 2) for all applicants. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-634, filed 2/15/78. Formerly WAC 297-50-140.]

WAC 415-104-638 Body build. The following conditions of body build are causes for rejection of membership:

(1) **Congenital malformation of bones and joints;**

(2) **Deficient muscular development** which would interfere with the completion of required training;

(3) **Evidence of congenital asthenia** (slender bones; weak thorax; visceroptosis, severe chronic constipation; or "drop heart" if marked in degree);

(4) **Obesity:** Even though the individual's weight is within the maximum shown in WAC 415-104-650 (Table 2) he will be reported as medically unacceptable when the medical and musculature, constitutes obesity of such a degree as to interfere with the satisfactory completion of prescribed training. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-638, filed 2/15/78. Formerly WAC 297-50-140.]

WAC 415-104-640 Lungs and chest wall—General. The following conditions of the lungs and chest are causes for rejection of membership, until study indicates recovery without disqualifying sequelae:

(1) **Abnormal elevation of the diaphragm** on either side;

(2) **Acute abscess** of the lung;

(3) **Acute bronchitis** until the condition is cured;

(4) **Acute fibrinous pleurisy**, associated with acute nontuberculous pulmonary infection;

(5) **Acute mycotic disease** of the lung such as coccidioidomycosis and histoplasmosis;

(6) **Acute nontuberculous pneumonia;**

- (7) Foreign body in trachea or bronchus;
- (8) Foreign body of the chest wall causing symptoms;
- (9) Lobectomy, history of, for a nontuberculous non-malignant lesion with residual pulmonary disease. Removal of more than one lobe is cause for rejection regardless of the absence of residuals;
- (10) Other traumatic lesions of the chest or its contents;
- (11) Pneumothorax, regardless of etiology or history thereof;
- (12) Recent fracture of ribs, sternum, clavicle, or scapula;
- (13) Significant abnormal findings on physical examination of the chest. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-640, filed 2/15/78. Formerly WAC 297-50-150.]

WAC 415-104-644 Lungs and chest—Tuberculous lesions. See also WAC 415-104-710. The following tubercular lesions of the lungs and chest are causes for rejection of membership:

- (1) Active tuberculosis in any form or location;
- (2) Pulmonary tuberculosis, active within the past five years;
- (3) Substantiated history or x-ray findings of pulmonary tuberculosis of more than minimal extent at any time; or minimal tuberculosis not treated with a full year of approved chemotherapy or combined chemotherapy and surgery; or a history of pulmonary tuberculosis with reactivation, relapse, or other evidence of poor host resistance. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-644, filed 2/15/78. Formerly WAC 297-50-150.]

WAC 415-104-648 Lungs and chest—Nontuberculous lesions. The following nontubercular lesions of the lungs and chest are causes for rejection of membership:

- (1) Acute mastitis, chronic cystic mastitis, if more than mild;
- (2) Bronchial asthma, except for childhood asthma with a trustworthy history of freedom from symptoms since the twelfth birthday;
- (3) Bronchitis, chronic with evidence of pulmonary function disturbance;
- (4) Bronchiectasis;
- (5) Bronchopleura fistula;
- (6) Bullous or generalized pulmonary emphysema;
- (7) Chronic abscess of lung;
- (8) Chronic fibrous pleuritis of sufficient extent to interfere with pulmonary function or obscure the lung field in the roentgenogram;
- (9) Chronic mycotic diseases of the lung including coccidioidomycosis; residual cavitation or more than a few small-sized inactive and stable residual modules demonstrated to be due to mycotic disease;
- (10) Empyema, residual sacculation or unhealed sinuses of chest wall following operation for empyema;
- (11) Extensive pulmonary fibrosis from any cause, producing dyspnea on exertion;

- (12) Foreign body of the lung or mediastinum causing symptoms or active inflammatory reaction;
- (13) Multiple cystic disease of the lung or solitary cyst which is large and incapacitating;
- (14) New growth on breast, history of mastectomy;
- (15) Osteomyelitis of rib, sternum, clavicle, scapula, or vertebra;
- (16) Pleurisy with effusion of unknown origin within the preceding five years;
- (17) Sarcoidosis, see WAC 415-104-710;
- (18) Suppurative periostitis of rib, sternum, clavicle, scapula, or vertebra. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-648, filed 2/15/78. Formerly WAC 297-50-150.]

WAC 415-104-650 Table 2—Table of weight.

Table of Acceptable Weight (in Pounds) as Related to Age and Height for Applicants

Height (Inches)	Minimum (regard-less of age)	Maximum			
		19—20 years	21—24 years	25—30 years	31—35 years
60—	94	163	173	173	173
61—	96	171	176	175	175
62—	98	174	178	178	177
63—	100	178	182	181	180
64—	102	183	184	185	185
65—	104	187	190	191	190
66—	106	191	196	197	196
67—	109	196	201	202	201
68—	112	202	207	208	207
69—	115	208	213	214	212
70—	118	214	219	219	218
71—	122	219	224	225	223
72—	125	225	231	232	230
73—	129	231	239	238	237
74—	135	237	246	246	243
75—	140	243	253	253	251
76—	143	248	260	260	257
77—	147	254	267	267	264
78—	149	260	275	273	271

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-650, filed 2/15/78. Formerly WAC 297-50-160.]

WAC 415-104-660 Mouth. The following conditions of the mouth are causes for rejection of membership:

- (1) Hard palate, perforation of;
- (2) Harelip, unless satisfactorily repaired by surgery;
- (3) Leukoplakia, if severe;

(4) **Lips**, unsightly mutilations of, from wounds, burns, or disease;

(5) **Ranula**, if extensive, see also WAC 415-104-720 and 415-104-725. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-660, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-663 Nose and sinuses. The following conditions of the nose and sinuses are causes for rejection of membership:

(1) **Allergic manifestations:** (a) Chronic atrophic rhinitis;

(b) Hay fever if severe; or if not controllable by anti-histamines or by desensitization, or both;

(2) **Choana, atresia, or stenosis of**, if symptomatic;

(3) **Nasal septum, perforation of:** (a) Associated with interference of function, ulceration or crusting, and when the result of organic disease;

(b) If progressive;

(c) If respiration is accompanied by a whistling sound;

(4) **Sinusitis, acute;**

(5) **Sinusitis, chronic**, when more than mild:

(a) Evidenced by any of the following: Chronic purulent nasal discharge, large nasal polyps, hyperplastic changes of the nasal tissues, or symptoms requiring frequent medical attention;

(b) Confirmed by transillumination or x-ray examination or both. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-663, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-666 Pharynx, trachea, esophagus, and larynx. The following conditions of the pharynx, trachea, esophagus, and larynx are causes for rejection of membership:

(1) **Esophagus**, organic disease of, such as ulceration, varices, achalsia; peptic esophagitis; if confirmed by appropriate x-ray or esophagoscopy examinations;

(2) **Laryngeal paralysis**, sensory or motor, due to any cause;

(3) **Larynx**, organic disease of, such as neoplasm, polyps, granuloma, ulceration, and chronic laryngitis;

(4) **Plica dysphonia venricularis;**

(5) **Tracheostomy or tracheal fistula.** [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-666, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-668 Miscellaneous mouth, throat, and nose diseases. The following miscellaneous mouth, throat, and nose diseases are causes for rejection of membership:

(1) **Aphonia;**

(2) **Deformities or conditions of the mouth, throat, pharynx, larynx, esophagus, and nose**, which interfere with mastication and swallowing of ordinary food, with speech, or with breathing;

(3) **Destructive syphilitic disease of the mouth, nose, throat, larynx, esophagus**, see WAC 415-104-730;

(4) **Pharyngitis and nasopharyngitis**, chronic, with positive history of objective evidence, if of such a degree as to result in excessive time lost in the fire or law enforcement environment. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-668, filed 2/15/78. Formerly WAC 297-50-180.]

WAC 415-104-670 Neurological disorders. The following neurological disorders are causes for rejection of membership:

(1) **Degenerative disorders:** (a) Cerebellar and Friedreich's ataxia;

(b) Cerebral arteriosclerosis;

(c) Encephalomyelitis, residuals of, which preclude the satisfactory performance of duties;

(d) Huntington's chorea;

(e) Multiple sclerosis;

(f) Muscular atrophies and dystrophies of any type;

(2) **Miscellaneous:** (a) Congenital malformations if associated with neurological manifestations and meningocele even if uncomplicated;

(b) Migraine when frequent and incapacitating;

(c) Paralysis or weakness, deformity, discoordination, pain, sensory disturbances of consciousness, or personality abnormalities regardless of cause which are of such a nature or degree as to preclude the satisfactory performance of duty;

(d) Tremors, spasmodic torticollis, athetosis or other abnormal movements more than mild;

(3) **Neurosyphilis of any form** (general paresis, tabes dorsalis, meningovascular syphilis);

(4) **Paroxysmal convulsive disorders**, disturbances of consciousness, all forms of psychomotor or temporal lobe epilepsy or history thereof except for seizures associated with toxic states or fever during childhood up to the age of twelve;

(5) **Peripheral nerve disorder:** (a) Polyneuritis;

(b) Mononeuritis or neuralgia which is chronic or recurrent and of an intensity that is periodically incapacitating;

(c) Neurofibromatosis;

(6) **Spontaneous subarachnoid hemorrhage**, verified history of, unless cause has been surgically corrected. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-670, filed 2/15/78. Formerly WAC 297-50-190.]

WAC 415-104-680 Psychoses. The following psychotic conditions are causes for rejection of membership: Psychosis or authenticated history of a psychotic illness other than those of a brief duration associated with a toxic or infectious process. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-680, filed 2/15/78. Formerly WAC 297-50-200.]

WAC 415-104-684 Psychoneuroses. The following psychoneurotic conditions are causes for rejection of membership:

(1) **History of a psychoneurotic reaction** which caused: (a) Hospitalization; (b) Prolonged care by a physician; (c) Loss of time from normal pursuits for repeated periods even if of brief duration, or (d) Symptoms or behavior of a repeated nature which impaired school or work efficiency;

(2) **History of a brief psychoneurotic reaction or nervous disturbance** within the preceding twelve months which was sufficiently severe to require medical attention or absence from work or school for a brief period (maximum of seven days). [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-684, filed 2/15/78. Formerly WAC 297-50-200.]

WAC 415-104-688 Personality disorders. The following personality disorders are causes for rejection of membership:

(1) **Character and behavior disorders**, as evidenced by: (a) Frequent encounters with law enforcement agencies, or anti-social attitudes or behavior which, while not a cause for administrative rejection, are tangible evidence of an impaired characterological capacity to adapt to the service;

(b) Sexual deviant practices such as exhibitionism, transvestism, voyeurism, etc;

(c) Chronic alcoholism or alcohol addiction;

(d) Drug use or addiction;

(2) **Character and behavior disorders** where it is evident by history and objective examination that the degree of immaturity, instability, personality inadequacy, and dependency will seriously interfere with adjustment in the service as demonstrated by repeated inability to maintain reasonable adjustment in school, with employers and fellow workers, and other society groups;

(3) **Other symptomatic immaturity reactions** such as authenticated evidence of enuresis which is habitual or persistent, not due to an organic condition occurring beyond early adolescence (age twelve to fourteen) and stammering or stuttering of such a degree that the individual is normally unable to express himself clearly or to repeat commands;

(4) **Specific learning defects** secondary to organic or functional mental disorders. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-688, filed 2/15/78. Formerly WAC 297-50-200.]

WAC 415-104-690 Skin and cellular tissues. The following conditions of the skin and cellular tissues are causes for rejection of membership:

(1) **Acne:** Severe, when the face is markedly disfigured, or when extensive involvement of the neck, shoulders, chest, or back would be aggravated by or interfere with the wearing of required equipment;

(2) **Atopic dermatitis:** With active or residual lesions in characteristic areas (face and neck, antecubital and popliteal fossae, occasionally wrists and hands), or documented history thereof;

(3) **Cysts:** (a) Pilonidal cysts: If evidenced by the presence of a tumor mass or a discharging sinus;

(b) All other cysts. Of such a size or location as to interfere with the normal wearing of required equipment;

(4) **Dermatitis factitia;**

(5) **Dermatitis herpetiformis;**

(6) **Eczema:** Any type which is chronic and resistant to treatment;

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

(8) **Epidermolyssis bullosa; pemphigus;**

(9) **Fungus infections**, systemic or superficial types: If extensive and not amendable to treatment;

(10) **Furunculosis:** Extensive, recurrent, or chronic;

(11) **Hyperhidrosis** of hands or feet: Chronic or severe;

(12) **Ichthyosis:** Severe;

(13) **Leprosy:** Any type;

(14) **Leukemia cutis;** mycosis fungoides, Hodgkins' disease;

(15) **Lichen planus;**

(16) **Lupus erythematosus** (acute, subacute, or chronic) or any other dermatosis aggravated by sunlight;

(17) **Neurofibromatosis** (Von Recklinghausen's disease);

(18) **Nevi or vascular tumors:** If extensive, unsightly, or exposed to constant irritation;

(19) **Psoriasis** or verified history thereof;

(20) **Radiodermatitis;**

(21) **Scars** which are so extensive, deep, or adherent that they may interfere with the wearing of required equipment, or that show a tendency to ulcerate;

(22) **Scleroderma:** Diffuse type;

(23) **Tuberculosis**, see WAC 415-104-710;

(24) **Warts, plantar**, which have materially interfered with the following of a useful vocation in civilian life;

(25) **Urticaria:** Chronic;

(26) **Xanthoma:** If disabling or accompanied by hypercholesterolemia or hyperlipemia;

(27) **Any other chronic skin disorder** of a degree or nature which requires frequent outpatient treatment or hospitalization, interferes with the satisfactory performance of duty, or is so disfiguring as to make the individual objectionable in ordinary social relationships. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-690, filed 2/15/78. Formerly WAC 297-50-210.]

WAC 415-104-700 Spine and sacroiliac joints. The report of the medical history by the examining physician requires a full back x-ray (cervical-dorsal-lumbar-sacral). See WAC 415-104-588. The following conditions of the spine and sacroiliac joints are causes for rejection of membership:

(1) **Arthritis**, see WAC 415-104-588(1);

(2) **Complaint of disease or injury of the spine or sacroiliac joints** either with or without objective signs and symptoms which have prevented the individual from successfully following a physically active vocation in civilian life. Substantiation or documentation of the complaint without symptoms and objective signs is required;

(3) **Deviation or curvature of spine** from normal alignment, structure, or function (scoliosis, kyphosis, or lordosis, spina bifida occulta, spondylolysis, etc.) if:

- (a) Mobility and weight-bearing power is poor;
- (b) More than moderate restriction of normal physical activities is required;
- (c) Of such a nature as to prevent the individual from following a physically active vocation in civilian life;
- (d) Of a degree which will interfere with the wearing of required equipment;
- (e) Symptomatic, associated with positive physical finding(s) demonstrable by x-ray;
- (4) **Disease of the lumbosacral or sacroiliac joints** of a chronic type and obviously associated with pain referred to the lower extremities, muscular spasm, postural deformities and limitation of motion in the lumbar region of the spine;
- (5) **Granulomatous diseases** either active or healed;
- (6) **Healed fracture of the spine or pelvic bones** with associated symptoms which have prevented the individual from following a physically active vocation in civilian life or which preclude the satisfactory performance of required duties;
- (7) **Ruptured nucleus pulposus** (herniation of intervertebral disk) or history of operation for this condition;
- (8) **Spondylolysis or spondylolisthesis** that is symptomatic or is likely to interfere with performance of duty or is likely to require assignment limitations. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-700, filed 2/15/78. Formerly WAC 297-50-220.]

WAC 415-104-705 Scapulae, clavicles, and ribs. See WAC 415-104-588. The following conditions of the scapulae, clavicles, and ribs are causes for rejection of membership:

- (1) **Fractures**, until well healed, and until determined that the residuals thereof will not preclude satisfactory performance of required duties;
- (2) **Injury within the preceding six weeks**, without fracture, or dislocation, of more than a minor nature;
- (3) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;
- (4) **Prominent scapulae** interfering with function or with the wearing of required equipment. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-705, filed 2/15/78. Formerly WAC 297-50-220.]

WAC 415-104-710 Systemic diseases. The following systemic diseases are causes for rejection of membership:

- (1) **Dermatomyositis**;
- (2) **Lupus erythematosus**; acute, subacute, or chronic;
- (3) **Progressive systemic sclerosis**;
- (4) **Reiter's disease**;
- (5) **Sarcoidosis**;
- (6) **Scleroderma**, diffuse type;
- (7) **Tuberculosis**: (a) Active tuberculosis in any form or location;
- (b) Pulmonary tuberculosis;

(c) Confirmed history of tuberculosis of a bone or joint, genitourinary organs, intestines, peritoneum or mesenteric glands at any time;

(d) **Meningeal tuberculosis**; disseminated tuberculosis. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-710, filed 2/15/78. Formerly WAC 297-50-230.]

WAC 415-104-715 Miscellaneous conditions and defects. The following miscellaneous conditions and defects are causes for rejection of membership:

- (1) **Allergic manifestations**: (a) Allergic rhinitis (hay fever), see WAC 415-104-570(2);
- (b) Asthma, see WAC 415-104-670 (2)(c);
- (c) Allergic dermatoses, see WAC 415-104-690;
- (d) Visceral, abdominal, and cerebral allergy, if severe or not responsive to treatment;
- (2) **Any acute pathological condition**, including acute communicable diseases, until recovery has occurred without sequelae;
- (3) **Any deformity** which is markedly unsightly or which impairs general functional ability to such an extent as to prevent satisfactory performance of duty;
- (4) **Chronic metallic poisoning** especially beryllium, manganese, and mercury. Undesirable residuals from lead, arsenic, or silver poisoning make the examinee medically unacceptable;
- (5) **Cold injury**, residuals, of (example: frostbite, chilblain, immersion foot, or trench foot) such as deep seated acne, paresthesia, hyperhidrosis, easily traumatized skin, cyanosis, amputation of any digit or ankylosis;
- (6) **Positive tests for syphilis** with negative TPI test unless there is a documented history of adequately treated lues or any of the several conditions which are known to give a false-positive S.T.S. (vaccinia, infectious hepatitis, immunizations, a typical pneumonia, etc.) or unless there has been a reversal to a negative S.T.S. during an appropriate follow-up period (three to six months);
- (7) **Filariasis; trypanosomiasis; amebiasis; schistosomiasis**; (hookworm) associated with anemia, malnutrition, etc., if more than mild, and other similar worm or animal parasitic infestations, including the carrier states thereof;
- (8) **Heat pyrexia** (heatstroke, sunstroke, etc.): Documented evidence of predisposition (includes disorders of sweat mechanism and previous serious episode), recurrent episodes requiring medical attention, or residual injury resulting therefrom (especially cardiac, cerebral, hepatic, and renal);
- (9) **Industrial solvent and other chemical intoxication, chronic** including carbon bisulfide, trichloroethylene, carbon tetrachloride, and methyl cellosolve;
- (10) **Mycotic infection of internal organs**;
- (11) **Myositis or fibrositis** severe, chronic;
- (12) **Residuals of tropical fevers and various parasitic or protozoal infestations** which in the opinion of the medical examiner preclude the satisfactory performance of duty. [Statutory Authority: RCW 41.50.050(6) and

41.50.090. 78-03-023 (Order IV), § 415-104-715, filed 2/15/78. Formerly WAC 297-50-230.]

WAC 415-104-720 Tumors. The following tumors are causes for rejection of membership:

(1) **Any tumor** of the: (a) Auditory Canal, if obstructive;

(b) Eye or orbit;

(c) Kidney, bladder, testicle, or penis

(d) Central nervous system and its membranous coverings unless five years after surgery and no otherwise disqualifying residuals of surgery or original lesion;

(2) **Benign tumors of the thyroid or other structures of the neck**, including enlarged lymph nodes, if the enlargement is of such degree as to interfere with the wearing of required equipment;

(3) **Benign tumors of the abdominal wall** if sufficiently large to interfere with required duties;

(4) **Benign tumors of bone** likely to continue to enlarge, be subjected to trauma during service, or show malignant potential;

(5) **Tongue, benign tumor of**, if it interferes with function;

(6) **Breast, thoracic contents, or chest wall tumors**, of other than fibromata lipomata, and inclusion of sebaceous cysts which do not interfere with required duties;

(7) **Tumors of the internal or external female genitalia.** [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-720, filed 2/15/78. Formerly WAC 297-50-240.]

WAC 415-104-725 Malignant diseases and tumors. The following malignant diseases and tumors are causes for rejection of membership:

(1) **Leukemia, acute or chronic;**

(2) **Malignant lymphomata;**

(3) **Malignant tumor of any kind**, at any time, substantiated diagnosis of, even though surgically removed, confirmed by accepted laboratory procedures, except as noted in WAC 415-104-590 (1)(f). [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-725, filed 2/15/78. Formerly WAC 297-50-240.]

WAC 415-104-730 Venereal diseases. In general the finding of acute, uncomplicated venereal disease which can be expected to respond to treatment is not a cause for medical rejection of membership.

However, the following conditions are causes for rejection of membership:

(1) **Chronic venereal disease** which has not satisfactorily responded to treatment. The finding of a positive serologic test for syphilis following adequate treatment of syphilis is not in itself considered evidence of chronic venereal disease which has not responded to treatment. See WAC 415-104-715(6);

(2) **Complications and permanent residuals of venereal disease** if progressive, of such nature as to interfere with the satisfactory performance of duty, or if subject to aggravation in the performance of required duties;

(3) **Neurosyphilis**, see WAC 415-104-670 (1)(c). [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-730, filed 2/15/78. Formerly WAC 297-50-250.]

WAC 415-104-740 Mental examination. The following mental conditions are causes for rejection of membership:

(1) **Psychosis or authenticated history of a psychotic illness** other than those of a brief duration associated with a toxic or infectious process;

(2) **A history of a psychoneurotic reaction** which caused:

(a) Hospitalization;

(b) Prolonged care by a physician;

(c) Loss of time from normal pursuits for repeated periods even if of brief duration;

(d) Symptoms or behavior of a repeated nature which impaired school or work efficiency;

(3) **A history of a brief psychoneurotic reaction or nervous disturbance** within the preceding twelve months which was sufficiently severe to require medical attention or absence from work or school for a brief period;

(4) **Character or behavior (personality) disorders** as evidenced by:

(a) Frequent encounters with the law enforcement agencies, or antisocial attitudes or behavior which, while not a cause for rejection, are tangible evidence of an impaired characterological capacity to adapt to the demands of the service;

(b) Sexual deviant practice such as exhibitionism, transvestism, voyeurism, etc.;

(c) Chronic alcoholism or alcohol addiction;

(d) Drug addiction, including the use of drugs;

(5) **Character and behavior disorders** where it is evident by history and objective examination that the degree of immaturity, instability, personality inadequacy and dependency will seriously interfere with the performance of duties as demonstrated by repeated inability to maintain reasonable adjustment in school, with employers, and fellow workers and other social groups;

(6) **Other symptomatic immaturity reactions** such as authenticated evidence of neurosis which is habitual or persistent, not due to an organic condition occurring beyond early adolescence (age twelve to fourteen) and stammering and stuttering of such degree that the individual is normally unable to express himself clearly or to converse in a normal manner;

(7) **Specific learning defects** secondary to organic or functional mental disorders. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-740, filed 2/15/78. Formerly WAC 297-50-260.]

WAC 415-104-745 Mental examination--Requirement. All applicants must be screened by a licensed physician, who may at his discretion, request the assistance of a psychiatrist or clinical psychologist. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-745, filed 2/15/78. Formerly WAC 297-50-260.]

WAC 415-104-750 Mental examination--Procedure. (1) Applicants will complete preliminary history forms as required by the examiner. The "report of medical history" completed by the applicant will be made available to the examiner.

(2) During the psychiatric interview, the examining physician will evaluate each individual sufficiently to eliminate those with symptoms of a degree that would impair their effective performance of duty.

(a) The applicant's behavior will be observed and an estimate made of his current mental status.

(b) Any evidence of disorganized or unclear thinking, or unusual thought control, or undue suspiciousness, or of apathy or "strangeness" will be noted.

(c) Any unusual emotional expression such as depression, expansiveness, withdrawal, or marked anxiety, which is out of keeping with the content of the interview will be noted and carefully evaluated.

(3) The results of the examination will be recorded and that record or a summary of recommendations will be forwarded to the hiring authority.

(4) The mental examination report will be retained in permanent files by the employing fire department and must be available for examination at any reasonable time by representatives of the retirement system board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-750, filed 2/15/78. Formerly WAC 297-50-270.]

WAC 415-104-755 Mental examination--Retention by employing department. The employing fire department shall permanently retain the results of the mental examination as conducted by the examiner under WAC 415-104-750. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-755, filed 2/15/78. Formerly WAC 297-50-260.]

SERVICE IN STATE ELECTIVE POSITIONS

WAC 415-104-800 Continued LEOFF membership for members in state elective positions. RCW 41.40.010 (9)(b) provides in part as follows: "Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system."

An individual covered by RCW 41.40.010 (9)(b) in order to remain an active member of the retirement system provided by chapter 41.26 RCW and receive service credit therein for elective service must execute a written election to do so in a format provided by the department. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-800, filed 3/10/81.]

WAC 415-104-810 Contributions and service credit for members in state elective positions. When an individual makes the election provided in WAC 415-104-800 the following shall apply:

(1) Service credit earned by virtue of elective service shall be credited in LEOFF together with service earned in LEOFF capacity except that no more than one month's service credit shall be allowed during any one calendar month.

(2) Contributions shall be paid on all basic salary earned either as a law enforcement officer or firefighter, or as an elected official, by the employee at the rate prescribed for employees in the LEOFF retirement system.

(3) Contributions shall be paid on basic salary paid by the LEOFF employer or elected official employer at the rate prescribed for employers in the LEOFF retirement system. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-810, filed 3/10/81.]

WAC 415-104-820 Members in state elective positions--Entitlement to benefits. (1) In the event an individual who has made the election provided by WAC 415-104-800 qualifies and applies for a service or disability retirement or dies while serving in elective office, the basis for establishing the benefit amount shall be an imputed salary equal to the full salary the member would have been receiving according to the member's rank or position if the member had been in full-time service with the member's last LEOFF employer. Regular increases in basic salary will be included but increases based on promotions which might have occurred but which, in fact, did not occur shall not be considered.

(2) An individual who has made the election provided by WAC 415-104-800 shall not be eligible for a service retirement until such member has terminated both service as a law enforcement officer or fire fighter, and service as a state elective official.

(3) An individual who has made the election provided by WAC 415-104-800 shall not be eligible for a disability retirement allowance until such member has terminated both service as a law enforcement officer or fire fighter, and service as a state elective official.

(4) All payments for disability leave or for medical benefits for an individual who has made the election provided by WAC 415-104-800 shall be made by the individual's last LEOFF employer rather than his or her elective service employer. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-820, filed 3/10/81.]

WAC 415-104-830 Operation if in conflict with state law. If any part of WAC 415-104-800 through 415-104-820 shall be found to be in conflict with state law, such conflicting part shall be inoperative to the extent of such conflict. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-830, filed 3/10/81.]

Chapter 415-105 WAC
LOCAL DISABILITY BOARD PROCEDURES

WAC

GENERAL PROVISIONS

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GENERAL PROVISIONS

WAC 415-105-010 Preamble. In adopting the rules contained herein, it is not the intention of the director of department of retirement systems to in any way weaken the existing powers and practices of any local disability board. Further, it is not the intent of these rules to preclude adoption or continuation of any procedures in addition to those set forth herein by any local disability board. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-010, filed 11/16/81.]

WAC 415-105-020 Purpose. These rules are adopted pursuant to section 1, chapter 294, Laws of 1981 [RCW 41.26.115] to implement chapter 41.26 RCW and to provide a basis for uniform administration of disability retirement matters. They shall be followed by each disability board. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-020, filed 11/16/81.]

WAC 415-105-030 Board doctor. (1) A duly licensed and practicing physician or physicians shall be appointed by the board. No disability retirement shall be approved by the board without prior examination of the claimant by the board doctor or a specialist of his selection, on or near the expiration of the disability leave period. The board doctor shall render such other medical service as may be requested by the board.

(2) In order to carry out the duties of this position, each physician appointed or approved by the board is required to be knowledgeable concerning the duties, functions and general demands required of the employee being examined. The disability board shall furnish to the examining physician the job and/or position description of the applicant.

(3) Reexamination of any member on disability retirement shall be conducted by a board appointed or approved physician. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-030, filed 11/16/81.]

WAC 415-105-040 Disability leave. (1) Following receipt of an application for disability benefits, the board shall review all relevant information pertaining to the question of the applicant's fitness for duty, and if, in the

opinion of the majority of the board, the evidence supports the proposition that the member is unfit for duty, such member shall be granted disability leave, unless such leave is waived pursuant to RCW 41.26.120(4). In considering such application, the board shall consider the duties of the position, and any other evidence that is relevant.

(2) The burden of proving the existence of a disabling condition, and whether or not the condition was incurred in line of duty, shall be upon the applicant.

(3) The minimum medical and health standards previously promulgated by the state retirement board for entry or reentry into LEOFF System membership were provided only to safeguard the fiscal integrity of the pension system and are not the applicable standards for any other purpose.

(4) Each application shall be accompanied by a list identifying by name any physician who had been contacted within the last six months for the illness or injury for which disability is claimed.

(5) In the event the board finds that insufficient information is available to make a determination, the matter may be continued to the next regular board meeting or be set for consideration at a special meeting. The board shall also advise the member of the additional information needed, and of the member's obligation to provide additional information and the deadline date by which such information must be provided.

(6) The board shall be authorized to demand the appearance of the member and to request the appearance of such other persons as it deems appropriate. It shall be incumbent upon each member obtaining medical evaluations to be used in connection with such disability leave and subsequent evaluations, to advise each and every examining physician: that such evaluation is being conducted at the direction of the board; that any reports relating thereto are for the benefit of the board; that the doctor-patient privilege may not be invoked with respect thereto; and that the physician may be called upon by the board to testify as to his findings. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-040, filed 11/16/81.]

WAC 415-105-050 Examination for disability retirement. (1) Applicants for disability retirement shall be reexamined during the fifth or sixth month of disability leave in order to determine their eligibility for disability retirement, with the following exceptions: (a) If the board doctor assures the board that the applicant's condition has not and will not be corrected before the end of the sixth month; or (b) if the applicant establishes that the disabling condition will be in existence for a period of at least six months and he/she voluntarily waives disability leave. No applicant will be granted a disability retirement allowance unless the conditions imposed by this subsection are met.

(2) In the event the medical and other relevant evidence is inconclusive, the board may specify in written order a reasonable trial service period to determine the member's fitness for active duty. The reasonable length of such conditional return to service shall be supported

by medical evidence. Such a conditional return to service does not entitle the member to a second six-month period of disability leave for the same disability if, based upon this trial period of service, the member is found to be disabled. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-050, filed 11/16/81.]

WAC 415-105-060 Granting disability retirement.

(1) If the evidence shows to the satisfaction of the board that the member is physically or mentally disabled from further performance of duty and that the disability has been continuous from the date of commencement of disability leave for a period of six months, the board shall enter its written decision and order, accompanied by appropriate findings of fact and conclusions of law in compliance with RCW 41.26.120. Such written decision and order with supporting documentation shall thereafter be forwarded to the director, department of retirement systems, for review. In the event a regular meeting of the board precedes by no more than 40 days the date at which the full six months will conclude and the evidence is clear that the disability can be expected to continue through the full six-month period, the board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period, so as to eliminate unnecessary delay of receipt of retirement benefits.

(2) In order to qualify to receive a disability retirement allowance, the applicant will be required to prove that he or she is physically or mentally disabled to such extent that he or she is unable to discharge with average efficiency the duty of the position held at time of discontinuance of service: *Provided*, That no member shall be entitled to a disability retirement allowance if the appropriate authority advises that there is an available position for which the member is qualified and to which one of such grade or rank is normally assigned and the board determines that the member is capable of discharging, with average efficiency, the duties of the position. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-060, filed 11/16/81.]

WAC 415-105-070 Execution. Every order of the disability board granting or denying a disability retirement allowance shall contain the following presented in clear and concise terms:

(1) Findings of fact supported by evidence in the record supporting the granting or denying of the disability retirement allowance. When a disability retirement is granted, findings of fact shall include:

(a) Whether or not the disability was incurred in the line of duty.

(b) Whether or not the disability was incurred in other employment.

(c) Dates encompassing disability leave and/or dates relating to authorized trial basis return to duty; and, in the case of return to duty on a trial basis, the factual basis for such decision.

(d) Dates encompassing waiver of disability leave, if applicable; and that applicant established that such disability will be in existence for a period of six months.

(2) Conclusions of law in accordance with law on the basis of the facts in the case.

(3) Decision and order. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-070, filed 11/16/81.]

WAC 415-105-080 Appeal. If the board denies disability leave or disability retirement or cancels a previously granted disability leave or retirement, the applicant shall be immediately notified and advised of the right to appeal such decision or order to the director of the department of retirement systems, pursuant to RCW 41.26.200. Such notification shall be in writing and served by personal service or mail. Provided, that written notice need not be given if applicant or his or her duly authorized representative is in attendance at the meeting or hearing and is advised of decision and of the right of appeal. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-080, filed 11/16/81.]

WAC 415-105-090 Reexamination and return to duty.

(1) In the event a member is placed on disability retirement, the board shall determine whether or not the member is so disabled that no possibility exists for return to duty or that there is no possibility that rehabilitation could restore the member to fitness for duty. Further, the board may at any point subsequent to retirement make such a determination. A copy of all such determinations shall be sent to the department of retirement systems. Unless the board has made such a finding, the board's representative shall order a reexamination at six-month intervals and advise the board of the results thereof with a copy to the department of retirement systems: *Provided*, That such reexamination need not be conducted on a member over 49.5 years of age. In the event the retired member is residing at a location more than 100 miles from his former place of employment, the member may be authorized to be examined by a physician in his immediate area, provided, however, such physician shall be first approved by the board and prior to such evaluation the examining physician shall be apprised of the basis upon which the examination is to be conducted and the issues to be addressed in the physician's evaluative report.

(2) In the event such evaluation discloses fitness to perform duties of the rank or position held by the member at the time of disability retirement, the member shall be entitled to a hearing before the board, and further consideration of the matter. Such notice and hearing shall comply with the Administrative Procedure Act, chapter 34.04 RCW.

(3) The hearing provided by RCW 41.26.140(2) is to be held, unless the retiree waives such hearing, prior to actual cancellation of a disability retirement allowance.

(4) The retirement allowance of any member who fails to submit to medical examination as provided herein shall be discontinued and in the event such refusal continues for one year, his retirement allowance shall be cancelled. Failure of the member to affirmatively respond to the request for reexamination shall be

deemed a continuing refusal. [Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-090, filed 11/16/81.]

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT BOARD

WAC

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WAC 415-108-010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Director" means the director of the department of retirement systems as provided in chapter 41.50 RCW as now existing or hereafter amended;

(2) "Department" means the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended;

(3) "Public employees' retirement board" means the Washington public employees' retirement board established by chapter 41.40 RCW;

(4) "Legal adviser" means the attorney general of the state of Washington or a designated member of his staff assigned to the department. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-010, filed 2/15/78. Formerly WAC 184-01-025, 184-01-035.]

WAC 415-108-020 Public records. See chapter 415-06 WAC. [Statutory Authority: RCW 41.50.050(6)

and 41.50.090. 78-03-023 (Order IV), § 415-108-020, filed 2/15/78. Formerly WAC 184-20-010.]

WAC 415-108-030 State-wide cities retirement system. The former state-wide cities retirement system has been merged into the Washington public employees retirement system pursuant to RCW 41.40.405, 41.40.406, and 41.40.407. The statutes and rules applying to the public employees retirement system and the department of retirement systems (as provided in chapters 41.40 and 41.50 RCW and Title 415 WAC) govern the administration and operation of the former state-wide cities retirement system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-030, filed 2/15/78.]

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

Appeals will be governed by the provisions of chapter 415-08 WAC as now existing or hereafter amended. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-040, filed 2/15/78. Formerly WAC 184-05-010.]

WAC 415-108-050 Appeal to superior court--Notice. Upon an appeal from the decision and order of the board to the superior court pursuant to RCW 41.40.420, the appealing party within thirty days from the decision and order of the board must perfect his appeal by serving notice of appeal on the director by personal service or by mailing a copy thereof and filing the notice of appeal together with proof of service with the clerk of a superior court. The service and the filing together with proof of service of the notice of appeal all within thirty days shall be jurisdictional. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-050, filed 2/15/78. Formerly WAC 184-09-010.]

WAC 415-108-060 Appeal to superior court--Certification of record. The director shall promptly serve upon the appellant or his attorney of record and file with the clerk of the court a certified copy of the complete record of the hearing before the board which shall, upon being so filed, become the record in such case. Appeal shall lie from the judgment of the superior court to the supreme court as in other cases. See RCW 41.40.420, 41.40.430, and 41.40.440. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-060, filed 2/15/78. Formerly WAC 184-09-020.]

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

The total contributions of a member of the state employees' retirement system to the employees' savings fund in any calendar year shall in no event exceed ten percent of the member's earnable compensation for that calendar year. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-070, filed 2/15/78. Formerly WAC 184-12-010.]

WAC 415-108-100 Members. The public employees' retirement board is an independent agency of the state of Washington and is composed of members as set forth in RCW 41.40.030 and 41.26.050 as now existing or hereafter amended. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-100, filed 2/15/78. Formerly WAC 184-01-010.]

WAC 415-108-110 Administration--Officers. The director of the department of retirement systems shall be responsible for the administration and operation of the public employees retirement system as provided in chapter 41.50 RCW and Title 415 WAC.

The public employees' retirement board will, normally within the month of February each year, elect a chairman and a vice chairman from its membership. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-110, filed 2/15/78. Formerly WAC 184-01-020.]

WAC 415-108-120 Function. The public employees' retirement board shall be vested with those powers granted it by chapter 41.40 RCW as affected by chapter 41.50 RCW relating to proposed legislation, rules, investments, and disability retirement. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-120, filed 2/15/78. Formerly WAC 184-01-030.]

WAC 415-108-130 Location. The public employees' retirement board shall normally meet in the office of the department at the Capital Plaza Building, Union and Eastside, Olympia, Washington. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-130, filed 2/15/78.]

WAC 415-108-150 Meetings. The public employees' retirement board shall meet on the third Monday of each month except when that date falls upon a holiday, or when the public employees' retirement board determines otherwise, in advance, in which case another meeting date shall be established by the chairman. Other meetings may be called by the chairman as needed. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-150, filed 2/15/78. Formerly WAC 184-01-050.]

WAC 415-108-160 Office of chairman. The office of the chairman of the public employees' retirement board is located in the headquarters of the department at the Capitol Plaza Building, Union and Eastside, Olympia, Washington. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-160, filed 2/15/78. Formerly WAC 184-01-060.]

WAC 415-108-170 Business hours. The office of the department is open between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-170, filed 2/15/78. Formerly WAC 184-01-060.]

WAC 415-108-180 Correspondence. All correspondence and official communications, including notices, appeals, and pleadings must be in writing, served, and filed with the director at the department's office. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-180, filed 2/15/78. Formerly WAC 184-01-070.]

WAC 415-108-190 Nominations. Pursuant to RCW 41.40.030, nominations of candidates for the office of employee representative to the public employees' retirement board shall be conducted as follows: (1) Any employee desiring to become a candidate to represent employees in his classification may during the first two weeks of April of the year in which the vacancy in the classification occurs, file with the director of the system a typewritten statement that he desires to be a candidate for the public employees' retirement board;

(2) The letter supporting his candidacy must be signed by at least twenty active or retired members of the retirement system in his classification;

(3) In those instances in which, at the close of the period for the submission of letters supporting candidacy, nor more than one individual has filed a statement that he desires to become a candidate, with the supporting signatures, that individual shall be deemed to have been elected the employee representative of the classification of employees or retired employees for which he has filed his nomination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-190, filed 2/15/78. Formerly WAC 184-01-07001.]

WAC 415-108-200 Disability and benefit claims. A member, the employer or any other interested person, shall notify the director by written or oral statement when it is considered that a member is suffering a disability or entitled to claim a disability benefit under chapter 41.40 RCW. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-200, filed 2/15/78. Formerly WAC 184-03-010.]

WAC 415-108-210 Disability and benefit claims--Acknowledgment and forms. The director shall forthwith

acknowledge any statement and provide the member and his employer with the following forms for completion: (1) 7812-A, application for disability retirement; (2) 7812-B, certification of employment and employer's statement; (3) 7812-C, examining physician's report. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-210, filed 2/15/78. Formerly WAC 184-03-020.]

WAC 415-108-220 Disability and benefit claims-- Processing applications. The processing of duty disability applications shall commence when the director receives the completed forms required in WAC 415-108-020. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-220, filed 2/15/78. Formerly WAC 184-03-030.]

WAC 415-108-230 Disability and benefit claims-- Recording. The director shall examine the application and forms for completeness, make arrangements for filing and docketing the same, and refer them to the legal adviser for examination. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-230, filed 2/15/78. Formerly WAC 184-03-040.]

WAC 415-108-240 Disability and benefit claims-- Legal examination. The director or the legal adviser shall examine the member's file for adequacy of the information presented to support the legal basis of the application. If it is felt that certain statements may be subject to question or that additional information cannot be supplied through correspondence, then the director shall take the necessary steps to secure the additional information needed. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-240, filed 2/15/78. Formerly WAC 184-03-050.]

WAC 415-108-250 Disability and benefit claims-- Medical examination. The director or the legal adviser shall transmit the member's file to the medical adviser of the department. If the medical adviser concludes that there are insufficient medical facts, then the director shall, at the request of the medical adviser, authorize a special examination of the member in a suitable locality, convenient to all parties. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-250, filed 2/15/78. Formerly WAC 184-03-060.]

WAC 415-108-260 Disability and benefit claims-- Medical recommendation. When the medical adviser has reached a conclusion on the medical facts, he shall return the member's file to the director or legal adviser with his written recommendation regarding the disability application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-260, filed 2/15/78. Formerly WAC 184-03-070.]

WAC 415-108-270 Disability and benefit claims-- Recommendation and conclusion. The director or the legal adviser shall review the conclusion of the medical adviser and prepare a summary and recommendation, based on all the facts in the member's file, and submit it to the board for review. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-270, filed 2/15/78. Formerly WAC 184-03-080.]

WAC 415-108-280 Disability and benefit claims-- Board decision on application. The public employees' retirement board shall act on the application as follows:

(1) Approval or denial by resolution;

(2) Referral back to the director for further investigation or information. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-280, filed 2/15/78. Formerly WAC 184-03-090.]

WAC 415-108-290 Disability and benefit claims-- Notification of member. The director shall forthwith notify the member of the public employees' retirement board's action and, in case the decision is adverse to the member's application, shall notify the member of his right to appeal. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-290, filed 2/15/78. Formerly WAC 184-03-100.]

WAC 415-108-300 Identification. Records of members of the retirement system will be filed and identified in part by Social Security number. Each member of the system shall be required to supply his or her Social Security number for such record keeping purposes. Such disclosure shall be voluntary and shall only be used for record keeping and identification purposes. Failure to supply a Social Security number shall not result in the loss of any benefits supplied by this system. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.]

WAC 415-108-400 Purpose and scope. WAC 186-16-400 through 186-16-440 are hereby promulgated by the director in order to implement and give effect to the provisions of RCW 41.40.380 allowing a beneficiary of a retirement allowance to authorize deductions therefrom for payment of premiums due on any group life or disability insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions, in accordance with rules and regulations that may be promulgated by the director. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-400, filed 2/15/78. Formerly WAC 184-16-010.]

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

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

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

(c) To the extent that they are defined by RCW 41-40.010, all other terms used in WAC 186-16-400 through 186-16-440 which are thereby defined shall be given the same meaning herein as is set forth in the cited statute. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-410, filed 2/15/78. Formerly WAC 184-16-020.]

WAC 415-108-420 Scope of authority. Any beneficiary of a retirement allowance payable for service or disability under the provisions of chapter 41.40 RCW may, in the manner provided for by WAC 415-108-430, authorize the director to deduct therefrom, on a monthly basis only, such amounts as are due as premiums on any group life or disability insurance policy or plan currently covering the beneficiary, issued to the employer by which he was employed prior to his retirement for the benefit of a group comprised of himself and his fellow public employees, under authority granted to the employer by act of the Washington legislature. The department and the director are not and will not be liable for any failure to make such deduction payments on time or in the proper amount. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-420, filed 2/15/78. Formerly WAC 184-16-030.]

WAC 415-108-430 Procedure. Any beneficiary, who desires to authorize a retirement allowance deduction for payment of insurance premiums provided for by these rules, shall notify the retirement board of his intention in writing at least thirty days prior to the date upon which the first deduction is to be made and shall execute and file with the director a formal authorization on such form as may be hereinafter provided by the director. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-430, filed 2/15/78. Formerly WAC 184-16-040.]

WAC 415-108-440 Revocability. No authorization for a retirement allowance deduction for payment of insurance premiums, as made pursuant to WAC 186-16-400 through 186-16-440, shall be revocable except upon submission to the director of an express written revocation, which shall be first applicable to the retirement allowance deduction which would otherwise be made at the end of the calendar month following the month within which the statement of revocation is filed. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-

03-023 (Order IV), § 415-108-440, filed 2/15/78. Formerly WAC 184-16-050.]

Chapter 415-112 WAC

TEACHERS' RETIREMENT BOARD OF TRUSTEES

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WAC 415-112-010 Description of teachers' retirement system. (1) The Washington state teachers' retirement system, established effective April 1, 1938, is an agency of the state of Washington operating under chapter 41.32 RCW, for the benefit of the public school teachers of the state. The teachers' retirement system is a joint-contributory system with the members and the state contributing jointly to provide a variety of benefit

programs, including disability benefits, survivor benefits, death benefits, and retirement benefits. The members and the state share equally in the operating costs of the teachers' retirement system. The liabilities of the teachers' retirement system are funded on an actuarial reserve basis. Reserve funds are invested in long term, high quality securities. The earnings on these investments accrue to the benefit of the members of the teachers' retirement system in a variety of ways and help to meet the state's pension liability.

(2) The teachers' retirement system is governed by a board of nine trustees, including the state superintendent of public instruction, the state insurance commissioner, five members of the teachers' retirement system who are appointed for three-year terms by the state board of education. Three of the appointed members must be classroom teachers. Two former members retired for service or disability who are appointed by the state board of education. The director of the department of retirement systems is responsible for the administration of the teachers' retirement system in accordance with the provisions of state law and the board of trustees policy. The board of trustees meetings are held in the department of retirement system's office in Olympia on the second Monday of the month which is not a holiday of January, April, July, and October.

(3) Anyone desiring information or wishing to submit a request should contact:

Department of Retirement Systems
Capitol Plaza Building
1025 E. Union (Union and Eastside)
Olympia, Washington 98504

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-010, filed 2/15/78. Formerly WAC 462-04-010.]

WAC 415-112-020 Public records. See chapter 415-06 WAC. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-020, filed 2/15/78. Formerly WAC 462-05-001.]

WAC 415-112-030 Appeals--Forms and procedures. Appeals from the board of trustees shall be made in the form and manner required by WAC 415-08-020. The disposition of such appeals shall be governed by the provisions of chapter 415-08 WAC. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-030, filed 2/15/78. Formerly WAC 462-08-010.]

MEMBERSHIP

WAC 415-112-100 Minimum requirement for membership. Ninety calendar days of employment within a fiscal year as a full-time teacher, or the equivalent of ninety days of service within a fiscal year as a teacher employed on a part-time, occasional, hourly, or daily basis, shall be required, together with necessary contributions, before membership in the teachers' retirement

system is established and before the director may approve an application for cancellation of exemption, for the granting of additional credit for previous service, or for the payment of any benefit. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-100, filed 2/15/78. Formerly WAC 462-16-010.]

WAC 415-112-110 Teachers' retirement system employees eligible for membership. New employees of the department who are qualified teachers and former members of the teachers' retirement system will be eligible for membership in the teachers' retirement system with the director's permission. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-110, filed 2/15/78. Formerly WAC 462-16-020.]

SERVICE CREDIT

WAC 415-112-200 Establishing credit for previous service. (1) Additional credit for previous creditable service may be established or reestablished only by a member of the teachers' retirement system. If a member interrupts Washington public school service but does not terminate his membership in the teachers' retirement system, and subsequently renders creditable service such as military service, professional preparation, or other creditable service for which service credit is not established with the teachers' retirement system, he must return to Washington public school service for twenty or more days within a fiscal year in order to establish additional credit for any such creditable service.

(2) Once a member becomes eligible to establish or reestablish additional credit for previous service, he retains the right to establish or reestablish such additional credit while his membership is in effect and whether or not he is continuously employed in Washington public school service, provided he applies to the department, submits satisfactory proof of his service, and makes the required initial payment within the time limit established by law. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-200, filed 2/15/78. Formerly WAC 462-20-005.]

WAC 415-112-210 Withdrawal before final date for establishing additional credit. Any member who withdraws from the teachers' retirement system within the period provided by law for establishing additional service credit may, upon returning to membership, have another opportunity to establish credit for previous creditable service, subject to the laws in effect when his membership is reestablished. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-210, filed 2/15/78. Formerly WAC 462-20-010.]

WAC 415-112-220 Withdrawal before making final payment to establish additional credit. A member who has completed arrangements to establish or reestablish additional credit for previous service, but who withdraws

before the final payment is due and before making the final payment may, upon returning to membership, have another opportunity to establish such additional credit, subject to the laws in effect when he returns to membership. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-220, filed 2/15/78. Formerly WAC 462-20-015.]

WAC 415-112-230 Failure to make final payment to establish credit. When a member enters into an arrangement to establish or reestablish additional credit for previous service and fails to make the final payment within the time limit established by law, such arrangement is terminated, and any payments made for such service credit shall be returned to the member. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-230, filed 2/15/78. Formerly WAC 462-20-020.]

WAC 415-112-240 Service credit to be retroactive. Service rendered during the ninety days of employment or the ninety days of service required to establish membership after July 1, 1964, shall qualify as creditable service after membership has been established, except as to Plan II members. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-240, filed 2/15/78. Formerly WAC 462-20-025.]

WAC 415-112-250 Credit allowed for leave with pay. If a Plan I member is otherwise eligible, service credit shall be allowed for any time subsequent to July 1, 1960, during which a member is on official leave from his position, provided he is still listed as employed by his employer and is receiving compensation for the time of his leave.

Plan II members may receive such credit in accordance with chapter 295, Laws of 1977 ex. sess. as now or hereafter amended. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-250, filed 2/15/78. Formerly WAC 462-20-030.]

WAC 415-112-260 Credit for service in higher institutions. Service credit for teaching in public higher educational institutions shall be evaluated under the same rules and regulations as apply to service credit in public common schools. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-260, filed 2/15/78. Formerly WAC 462-20-035.]

WAC 415-112-270 Evaluating credit for professional preparation. If a member is otherwise eligible, professional preparation credit may be allowed for additional study at an institution of higher learning, or at a commercial or technical school where the courses supplement the member's professional preparation. Thirty-six quarter hours of credit, or the equivalent, shall be

considered a year's work. Any less credits shall be evaluated as a fractional part of a year. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-270, filed 2/15/78. Formerly WAC 462-20-040.]

WAC 415-112-280 Credit for teaching United States military personnel. A member who accepts teaching or educational employment involving service to United States military personnel may be allowed service credit for the same upon application after his return to Washington public school employment and payment of annuity fund contributions within the time limit provided by law, but the service for which credit is requested must be supervised and/or paid for by a public educational institution, and such service rendered for an employer located outside the state of Washington shall be subject to the limitations which govern the granting of credit for out-of-state service.

Military service credits for Plan II members will be governed by the provisions of chapter 293, Laws of 1977 ex. sess. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-280, filed 2/15/78. Formerly WAC 462-20-045.]

WAC 415-112-290 Credit for out-of-state service.

(1) A member who leaves Washington public school service and terminates his membership in the teachers' retirement system by lapsation or withdrawal and who subsequently returns to service and membership may establish or reestablish only such credit for out-of-state service as may be credited under the laws in effect at the time when he reestablishes membership.

(2) Effective July 1, 1964, a new member or a former member who returns to membership after his former membership was cancelled by lapsation or withdrawal may not establish or reestablish out-of-state prior service credit of any kind, including out-of-state prior service credit for teaching, professional preparation, or military service.

(3) Out-of-state membership service credit, regardless of when the service was rendered, may be established or reestablished after July 1, 1964, within the limitations of existing law, only if the out-of-state service was rendered while the member was on official leave of absence granted by a state of Washington employer. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-290, filed 2/15/78. Formerly WAC 462-20-055.]

WAC 415-112-300 Red Cross service. Service credit shall not be allowed for service with the National Red Cross organization. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-300, filed 2/15/78. Formerly WAC 462-20-060.]

WAC 415-112-310 Civilian Conservation Corps service. Service credit shall not be allowed for service as a teacher or educational advisor in the Civilian Conservation Corps camps. [Statutory Authority: RCW

41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-310, filed 2/15/78. Formerly WAC 462-20-065.]

WAC 415-112-320 Service as a Peace Corps volunteer. A member of the teachers' retirement system who serves as a Peace Corps volunteer shall not be considered as employed in public school teaching service and shall, therefore, not be eligible under RCW 41.32.300 and 41.32.320 to establish out-of-state service credit for service rendered as a Peace Corps volunteer. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-320, filed 2/15/78. Formerly WAC 462-20-070.]

EARNABLE COMPENSATION--MEMBER CONTRIBUTIONS

WAC 415-112-400 Salary deductions required by employer. (1) Plan I.

(a) Salary deductions for retirement shall be made from the beginning of the employment of every teacher employed full time (four-fifths or more) when the employment contract of such teacher calls for ninety or more days of employment in a school year. Salary deductions for retirement shall be required for every member employed full time when his employment contract calls for twenty or more days of employment in a school year.

(b) If a teacher who is not a member is employed for less than ninety days in a school year, and thus fails to establish membership, any salary deductions for retirement shall be refunded in full upon termination of his employment as a teacher and upon filing a refund application with the department. If a member is employed by an employer for less than twenty days in a school year, any salary deductions for retirement based on service during that year shall be refunded in full upon termination of his employment for that year and the filing of a refund application with the department.

(2) Plan II.

(a) Salary deductions for retirement shall be made from the beginning of the employment of every teacher employed full time (four-fifths or more) when the employment contract of such teacher calls for ninety or more days of employment in a school year.

(b) If a teacher who is not a member is employed for less than ninety days in a school year, and thus fails to establish membership, any salary deductions for retirement shall be refunded in full upon termination of his employment as a teacher and upon filing a refund application with the department. [Statutory Authority: RCW 41.50.050(6). 79-10-024 (Order 79-02), § 415-112-400, filed 9/10/79. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-400, filed 2/15/78. Formerly WAC 462-24-010.]

WAC 415-112-410 Earnable compensation to include all salary and wages. Earnable compensation for

Plan I members shall be based on salaries and wages paid by the employer to the employee member on the basis of when the service was rendered, rather than when the payment was made, and shall include all salary and wages paid by the employer to the employee member of the teachers' retirement system for personal services rendered during each calendar year, including not only the basic salary for services as a teacher but also all salary or wages paid for extracurricular activity assignments, evening school and summer school teaching, sabbatical leave, paid sick leave, other paid leave, school bus driving, other nonteaching services, and all other personal services for which salaries or wages are paid by the employer to the employee member of the teachers' retirement system. Payment made to a member by an employer for services rendered as a private contractor shall not be regarded as earnable compensation.

Earnable compensation for Plan II members will be governed by chapter 293, Laws of 1977 ex. sess. as now or hereafter amended. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-410, filed 2/15/78. Formerly WAC 462-24-020.]

WAC 415-112-420 Determining the earnable compensation. (1) A member's total contributions to the teachers' retirement system based on salary and wages paid by a Washington employer for services rendered during a fiscal year, beginning July 1, 1967, shall serve as the basis for determining a member's earnable compensation for each fiscal year. Contributions made by the member for out-of-state service, military service, professional preparation, or other service not paid for by a Washington employer shall not be included in determining a member's earnable compensation for computing his retirement allowance.

(2) In determining a member's earnable compensation for any fiscal year prior to July 1, 1967, the director shall in all cases of doubt secure confirmation from the employer of all salary and wages paid to a member for any fiscal year in question. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-420, filed 2/15/78. Formerly WAC 462-24-030.]

WAC 415-112-430 Computing the average earnable compensation. In computing a member's average earnable compensation, the computations shall include only the service during which a member was employed for salary or wages by a state of Washington employer and for which he established Washington membership service credit with the teachers' retirement system. This excludes out-of-state service, military service and professional preparation or other service for which credit may have been established but for which no salary or wages were paid to the member by a state of Washington employer. Contributions based on sabbatical leave, paid sick leave, or other leave paid for by a state of Washington employer and for which credit has been established with the teachers' retirement system

shall be included in computing the earnable compensation. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-430, filed 2/15/78. Formerly WAC 462-24-040.]

WAC 415-112-440 Withdrawal of contributions.

(1) A member who is employed in the public schools of this state for consecutive school years shall be considered as employed during the summer months and, therefore, may not qualify for withdrawal of his accumulated contributions. Termination of Washington public school employment at the close of a school year with one employer to accept employment with another Washington public school employer for the ensuing school year shall not qualify a member for withdrawal of his accumulated contributions.

(2) A member who is on official leave of absence from a Washington public school employer shall not be considered to have terminated his employment and, therefore, shall not be eligible to qualify for withdrawal of his accumulated contributions. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-440, filed 2/15/78. Formerly WAC 462-24-050.]

SERVICE RETIREMENT

WAC 415-112-500 Minimum service required for retirement. In qualifying a member for a retirement allowance the minimum service requirement of "five years of credit for public school service in this state" as set forth in RCW 41.32.470 shall not include credit for professional preparation or credit for military service, but shall be limited to credit for Washington public school service. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-500, filed 2/15/78. Formerly WAC 462-28-005.]

WAC 415-112-510 Eligibility for retirement with less than five years of Washington service credit. A member whose membership was established prior to July 1, 1964, and who continued his membership without interruption beyond July 1, 1964, may, if otherwise eligible, qualify for a retirement allowance even though he has less than five years of credit for public school service in this state, provided he has been a member of the teachers' retirement system, the former state fund or a local fund, or both together, for at least five years. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-510, filed 2/15/78. Formerly WAC 462-28-010.]

WAC 415-112-520 Date from which service retirement allowance accrues. (1) Upon approval by the board of trustees of an application for service retirement, the teachers' retirement allowance shall accrue from the first of the month following that in which a member terminated public school service, unless a full year of Washington service credit is established for the school year in which a member retires, in which case the date of accrual of his retirement allowance shall be July 1st

following the member's final year of service. In no case shall the accrual date be prior to the first of the month following that in which proof and payment are received to establish membership or additional service credit.

(2) If a member terminates public school employment prior to eligibility for a service retirement allowance and at some future date qualifies for a deferred retirement allowance on the basis of age, the accrual date of such member's retirement allowance shall be the date on which the member reaches the minimum age required for such an allowance, provided the member is not employed in public education at the time. (Cross reference: WAC 415-112-620) [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-520, filed 2/15/78. Formerly WAC 462-28-020.]

WAC 415-112-530 Balance of monthly payment due on date of death. In the event of death between allowance payment dates of an individual receiving a monthly retirement allowance, the proportionate amount accrued to and including the date of death shall be paid to the designated beneficiary or to the decedent's estate. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-530, filed 2/15/78. Formerly WAC 462-28-035.]

WAC 415-112-540 Employment in public education limited for retirees. A retiree who returns to any type of service with any public educational institution shall be considered to be employed throughout the time during which he is engaged in such service or is under contract for such employment, even though he does not return to membership in the teachers' retirement system. If a retiree's service in public education exceeds the maximum permitted under RCW 41.32.570 without reduction of pension, his monthly pension shall be reduced by one-twentieth for each day of service rendered beyond the statutory maximum. If a retiree continues in service until he is no longer eligible for monthly pension payments, further pension payments shall be withheld and may not be restored until he terminates his employment in public education and further contracts, written or oral, for continuing employment in public education. Any retiree whose pension payments have been terminated because of employment in public education shall be considered as employed during the summer months if under contract for consecutive school years, and he shall, therefore, not be eligible for pension payments during the summer months. Pension payments shall be resumed effective the day following termination of his employment in public education. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-540, filed 2/15/78. Formerly WAC 462-28-040.]

WAC 415-112-550 Peace Corps volunteers not employed in public education. In administering the provisions of RCW 41.32.570, retired teachers who serve as volunteers in the Peace Corps of the United States shall not be considered as employed in a public educational

institution and shall, therefore, continue to receive pension payments while engaged as Peace Corps volunteers. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-550, filed 2/15/78. Formerly WAC 462-28-045.]

DISABILITY BENEFITS

WAC 415-112-600 Eligibility for temporary disability benefits. A member of the teachers' retirement system shall be covered for benefits under the temporary disability program only while employed on a full-time basis. The disability premium paid by a member during one school year shall afford disability protection until the beginning of the regular school term the following school year. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-600, filed 2/15/78. Formerly WAC 462-32-010.]

WAC 415-112-610 Payment of temporary disability benefits due upon death of a member. Any disability benefits which have accrued and are payable upon the death of a member who had applied for or who had qualified for a temporary disability allowance, shall be paid to the deceased member's designated beneficiary as recorded and filed with the department in connection with his application for temporary disability benefits, or to his estate. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-610, filed 2/15/78. Formerly WAC 462-32-020.]

WAC 415-112-620 Date from which disability retirement allowances accrue. (1) A member who qualifies directly for a disability retirement allowance without first qualifying for temporary disability benefits shall receive a retirement allowance to be effective in accordance with WAC 415-112-520 governing service retirement.

(2) If a member qualifies for a disability retirement allowance after having first qualified for temporary disability benefits, the effective date of his disability retirement allowance shall be the first of the month following termination of his temporary disability allowance, and shall otherwise be consistent with WAC 415-112-520 which governs service retirement. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-620, filed 2/15/78. Formerly WAC 462-32-050.]

WAC 415-112-630 Employment of persons retired for disability. The provisions of RCW 41.32.570 with regard to service in public education by a retired teacher shall apply equally to teachers retired for disability. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-630, filed 2/15/78. Formerly WAC 462-32-060.]

SURVIVOR BENEFITS

WAC 415-112-700 Determining dependency under RCW 41.32.520. In order for a beneficiary under RCW

41.32.520 to qualify as the dependent of a deceased member, the following conditions shall prevail:

(1) The deceased member shall have provided financial support for the beneficiary to the extent of one-half or more of reasonable living expense. Such financial support shall have been in effect at the time of the member's death and shall have been reasonably continuous prior to that time;

(2) The term "financial support" shall include the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-700, filed 2/15/78. Formerly WAC 462-36-010.]

WAC 415-112-710 Accrual date of survivor benefits under RCW 41.32.520. (1) The accrual date of a monthly survivor benefit under RCW 41.32.520(1) shall be the date following the date of the member's death or the fiftieth birthday of the beneficiary if the latter follows the date of the member's death.

(2) The accrual date of a survivor retirement allowance under RCW 41.32.520(2) shall be the day following the date of death of the member who was eligible for retirement, unless the deceased member had established a full year of service credit for his final year of service, in which case the effective date of the survivor retirement allowance shall be July 1st of the ensuing fiscal year. In all cases the rate of the annuity benefit shall be computed as of the date following the date of the member's death. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-710, filed 2/15/78. Formerly WAC 462-36-020.]