

Title 154 WAC

DEFERRED COMPENSATION, COMMITTEE FOR

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Chapter 154-01 WAC PLAN ESTABLISHED

WAC
154-01-010 Plan established.

WAC 154-01-010 Plan established. In accordance with the provisions of RCW 41.04.250 et seq., and as provided in Section 457 of the Internal Revenue Code, the state of Washington hereby establishes the deferred compensation plan for employees of the state of Washington and approved political subdivisions of the state of Washington, hereinafter referred to as the "plan." Nothing contained in this plan shall be deemed to constitute an employment agreement between the participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employment of the employer.

[Statutory Authority: RCW 41.04.260, 84-23-022 (Order 84-4), § 154-01-010, filed 11/13/84; 82-13-043 (Order 82-3), § 154-01-010, filed 6/11/82.]

Chapter 154-04 WAC DEFINITIONS

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WAC 154-04-010 Employer. "Employer" means:

(1) The state of Washington, one of the fifty states of the United States, as described in Section 1.457-2 (c)(1) of the final regulations promulgated under Section 457 of the Internal Revenue Code; and

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

[Statutory Authority: RCW 41.04.260, 84-23-022 (Order 84-4), § 154-04-010, filed 11/13/84; 83-13-044 (Order 83-2), § 154-04-010, filed 6/10/83; 82-13-043 (Order 82-3), § 154-04-010, filed 6/11/82.]

WAC 154-04-020 Compensation. "Compensation" means all payments made to a public employee by the employer as remuneration for services rendered.

[Statutory Authority: RCW 41.04.260, 82-13-043 (Order 82-3), § 154-04-020, filed 6/11/82.]

WAC 154-04-030 Deferred compensation. "Deferred compensation" means the amount of the participant's compensation which the participant and the employer shall mutually agree (prior to the date on which such compensation is earned) will be deferred.

[Statutory Authority: RCW 41.04.260, 82-13-043 (Order 82-3), § 154-04-030, filed 6/11/82.]

WAC 154-04-035 Amounts deferred. "Amounts deferred" means compensation deferred under the plan; plus income attributable to compensation so deferred.

[Statutory Authority: RCW 41.04.260, 83-13-044 (Order 83-2), § 154-04-035, filed 6/10/83.]

WAC 154-04-040 Normal retirement age. "Normal retirement age" means the range of ages:

(1) Ending not later than age seventy and one-half; and

(2) Beginning not earlier than the earliest age at which the participant has the right to retire under the state's basic pension for which he is eligible without consent of the state and under which he will receive immediate retirement benefits without actuarial adjustment due to retirement prior to some later specified age in the state's basic pension plan.

In the case of a participant who continues to work beyond the ages specified above, normal retirement age shall be that date or age designated by the participant or

the date or age at which the participant separates from service with the state.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-04-040, filed 6/10/83; 82-13-043 (Order 82-3), § 154-04-040, filed 6/11/82.]

WAC 154-04-050 Participation agreement. "Participation agreement" means the agreement executed and filed by an eligible employee with the employer pursuant to WAC 154-12-010, in which the eligible employee elects to become a participant in the plan.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-04-050, filed 6/10/83; 82-13-043 (Order 82-3), § 154-04-050, filed 6/11/82.]

WAC 154-04-060 Termination of services. "Termination of services" means the severance of the participant's employment with the employer prior to attainment of normal retirement age, occurring other than by reason of death.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-04-060, filed 6/11/82.]

WAC 154-04-070 Participant. "Participant" means any eligible employee of the employer who executes a participation agreement with the committee assenting to the provisions of this plan, once the agreement has been approved by the committee or its designee.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-04-070, filed 6/10/83; 82-13-043 (Order 82-3), § 154-04-070, filed 6/11/82.]

WAC 154-04-075 Beneficiary. "Beneficiary" means a beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-04-075, filed 6/10/83.]

WAC 154-04-080 Committee. "Committee" means the committee for deferred compensation appointed pursuant to RCW 41.04.260.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-04-080, filed 6/11/82.]

WAC 154-04-090 Includible compensation. "Includible compensation" means for the purposes of the limitation set forth in WAC 154-12-020, compensation for services performed for the employer which (after applying exclusions pursuant to RCW 41.04.440, 41.04.445, and 41.04.450, and Sections 403(b) and 457 of the Internal Revenue Code) is includible in the participant's gross income for Internal Revenue Service tax purposes for the taxable year. The amount of includible compensation shall be determined without regard to any community property laws.

[Statutory Authority: RCW 41.04.260. 84-23-022 (Order 84-4), § 154-04-090, filed 11/13/84; 83-13-044 (Order 83-2), § 154-04-090, filed 6/10/83; 82-13-043 (Order 82-3), § 154-04-090, filed 6/11/82.]

WAC 154-04-100 Eligible employee. "Eligible employee" means any person who is employed by and receives any type of compensation from the employer for whom services are rendered, and who is a full-time, permanent part-time working half-time, or more, or career seasonal employee of the employer, whether or not covered by civil service; an elected or appointed official of the executive branch of the government, including any full-time member of a board, commission, or committee; a justice of the supreme court, or a judge of the court of appeals or of a superior court; or a member of the state legislature.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-04-100, filed 6/10/83; 82-13-043 (Order 82-3), § 154-04-100, filed 6/11/82.]

WAC 154-04-110 Deferred compensation revolving fund. "Deferred compensation revolving fund" means the special fund created in the treasury of the state of Washington pursuant to RCW 41.04.260 into which shall be paid all deferred compensation hereunder and from which shall be paid as necessary costs of administration and staffing of the plan, expenses of the committee, and such other amounts determined by the committee and permitted by law; and benefits payable hereunder to participants or their respective beneficiary or beneficiaries unless otherwise paid.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-04-110, filed 6/11/82.]

Chapter 154-08 WAC ADMINISTRATION

WAC

- 154-08-010 Administered by committee.
- 154-08-020 Committee to adopt rules and regulations.
- 154-08-030 Committee action fair and reasonable.
- 154-08-040 Committee to maintain records of accounts.
- 154-08-050 Deferred compensation revolving fund.

WAC 154-08-010 Administered by committee. This plan shall be administered by the committee which shall represent the employer in all matters concerning the administration of this plan.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-08-010, filed 6/11/82.]

WAC 154-08-020 Committee to adopt rules and regulations. The committee shall have full power and authority to adopt rules and regulations for the administration of the plan, and to interpret, alter, amend, or revoke any rules and regulations so adopted.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-08-020, filed 6/11/82.]

WAC 154-08-030 Committee action fair and reasonable. Every action taken by the committee shall be presumed to be fair and reasonable exercise of the authority vested in or the duties imposed upon it. The committee and its individual members shall be deemed

to have exercised reasonable care, diligence and prudence and to have acted impartially as to all persons interested, unless the contrary be proven by affirmative evidence.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-08-030, filed 6/11/82.]

WAC 154-08-040 Committee to maintain records of accounts. To facilitate an orderly administration of the plan, the committee shall maintain or cause to be maintained a deferred compensation ledger account with respect to each participant.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-08-040, filed 6/11/82.]

WAC 154-08-050 Deferred compensation revolving fund. All deferred compensation hereunder shall be paid into the deferred compensation revolving fund. All costs of administration and staffing of the plan, expenses of the committee, and such other amounts determined by the committee and permitted by law, shall be paid as necessary out of the deferred compensation revolving fund. Amounts in the deferred compensation revolving fund may be invested pursuant to RCW 41.04.250 as directed by the committee. All benefits payable to participants or their respective beneficiary or beneficiaries shall be paid from the deferred compensation revolving fund unless otherwise paid.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-08-050, filed 6/11/82.]

Chapter 154-12 WAC PARTICIPATION IN THE PLAN

WAC

154-12-010	Enrollment.
154-12-015	Acceptance of interplan transfers.
154-12-020	Deferral limitations.
154-12-030	Catch-up provision.
154-12-040	Committee may disallow deferral.
154-12-050	Modification of deferral.
154-12-060	Revocation of deferral.
154-12-070	Reinstatement of deferral.
154-12-080	Designation of beneficiaries.
154-12-090	Election.
154-12-100	Investment mode election.
154-12-110	Distribution of deferrals.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

154-12-105	Change of investment mode. [Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-12-105, filed 6/10/83.] Repealed by 84-17-033 (Order 84-2), filed 8/8/84. Statutory Authority: RCW 41.04.260.
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WAC 154-12-010 Enrollment. Enrollment in the plan.

(1) An eligible employee may become a participant by executing a participation agreement. Compensation will be deferred for any calendar month only if a participation agreement providing for such deferral is executed by the participant and approved by the committee or its designee before the beginning of such month.

(2) In signing the participation agreement, the participant elects to participate in this plan and consents to the employer deferring the amount specified in the participation agreement from the participant's gross compensation for each pay period. The dollar amount deferred ("deferred compensation") must equal at least thirty dollars per month. Once a participant has specified an amount of deferral, such specification shall continue unless changed or revoked pursuant to WAC 154-12-050 or 154-12-060 of this plan. Participants must have at least one monthly deferral.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-12-010, filed 6/10/83; 82-13-043 (Order 82-3), § 154-12-010, filed 6/11/82.]

WAC 154-12-015 Acceptance of interplan transfers. Pursuant to Section 1.457-(2)(k) of the final regulations promulgated under section 457 of the code, this plan will allow for the acceptance of amounts deferred by participants under plans having met the transfer requirements of section 457 and said regulations.

[Statutory Authority: RCW 41.04.260. 84-23-022 (Order 84-4), § 154-12-015, filed 11/13/84; 83-13-044 (Order 83-2), § 154-12-015, filed 6/10/83.]

WAC 154-12-020 Deferral limitations. Except as provided in WAC 154-12-030, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of (1) \$7,500 or (2) 33 1/3% of the participant's includible compensation for the taxable year, or as may be otherwise provided in Section 457 of the Internal Revenue Code or any successor statute of similar import.

[Statutory Authority: RCW 41.04.260. 84-23-022 (Order 84-4), § 154-12-020, filed 11/13/84; 83-13-044 (Order 83-2), § 154-12-020, filed 6/10/83; 82-13-043 (Order 82-3), § 154-12-020, filed 6/11/82.]

WAC 154-12-030 Catch-up provision. For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of (1) \$15,000 for the taxable year, reduced by any amount excludible from the participant's gross income for the taxable year under Section 403(b) on account of contributions made by your employer, or (2) the sum of (a) the limitations established for purposes of WAC 154-12-020 of the plan for the taxable year (determined without regard to this section), plus (b) so much of the limitation established under WAC 154-12-020 for taxable years before the taxable year as has not theretofore been used under WAC 154-12-020 or 154-12-030; or as may be otherwise provided in Section 457 of the Internal Revenue Code or any successor statute of similar import. A prior taxable year shall be taken into account only if: (i) It begins after December 31, 1978; (ii) the participant was eligible to participate in the plan during all or any portion of the taxable year, and; (iii) compensation deferred (if any) under the plan during the taxable year was subject to a maximum limitation (as established under WAC 154-12-020).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity, providing that the other entity sponsoring the plan is located within the state of Washington. In no event can the participant elect to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

[Statutory Authority: RCW 41.04.260. 84-23-022 (Order 84-4), § 154-12-030, filed 11/13/84; 83-13-044 (Order 83-2), § 154-12-030, filed 6/10/83; 82-13-043 (Order 82-3), § 154-12-030, filed 6/11/82.]

WAC 154-12-040 Committee may disallow deferral.

The participant acknowledges the right of the committee or the administrator to disallow deferral of compensation under the plan in excess of the limitations stated above. However, neither the committee nor the administrator shall have any duty to assure that amounts deferred are in compliance with such limitations. In the case of a person who participates in more than one deferred compensation plan governed by Section 457 of the Internal Revenue Code, the limitations set forth in WAC 154-12-020 and 154-12-030 shall apply to all such plans considered together.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-12-040, filed 6/11/82.]

WAC 154-12-050 Modification of deferral. A participant may modify his/her deferral no more frequently than twice in any calendar year, unless the committee by specific action authorizes a special additional open change period. Such change may be in the decreasing of the amount of deferral specified and/or the investment mode pursuant to WAC 154-12-010(2). An increase in the amount of deferral would not count as a change. A change in the investment mode may apply to the redirection of amounts previously deferred as well as current deferrals. Such change or changes shall be effective as to any calendar month only if a new participation agreement is executed by the participant and approved by the committee or its designee before the beginning of such calendar month. The committee reserves the right to defer the effective date of any such change or changes.

[Statutory Authority: RCW 41.04.260. 86-16-025 (Order 86-1), § 154-12-050, filed 7/30/86; 84-17-033 (Order 84-2), § 154-12-050, filed 8/8/84; 82-13-043 (Order 82-3), § 154-12-050, filed 6/11/82.]

WAC 154-12-060 Revocation of deferral. A participant may at any time direct that deferrals under the participant's participation agreement shall cease by completing the proper form and filing it with the committee prior to the first day of the calendar month for which the deferrals shall cease; however, accrued benefits shall only be paid as provided in chapters 154-16 and 154-20 WAC.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-12-060, filed 6/11/82.]

WAC 154-12-070 Reinstatement of deferral. A participant who has directed the cessation of deferrals under the participant's participation agreement as set forth in WAC 154-12-060, may resume deferrals for

any calendar month commencing no sooner than six months after such deferrals ceased by executing a new participation agreement to defer compensation.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-12-070, filed 6/11/82.]

WAC 154-12-080 Designation of beneficiaries.

Each participant shall have the right to designate a beneficiary or beneficiaries to receive any benefit to which said participant may be entitled in the event of death prior to the complete distribution of benefits. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change beneficiary designation at any time by filing a change of beneficiary form with the committee.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-12-080, filed 6/11/82.]

WAC 154-12-090 Election. Each participant (or in the event of death, the participant's beneficiary) may elect the payout method and the payout period for each event stated in chapters 154-16 and 154-20 WAC. The payout period must be selected prior to the time any amounts become payable in the plan, and must be set to a fixed or determinable future time. Such election once made is irrevocable. If such election is made, the payout method from among options provided by rule by the committee need not be selected, or if selected, may be changed until the date not later than sixty days before the date upon which payments are to commence. In the absence of such election a payout option of one hundred twenty monthly installments, or such lesser number of monthly installments as is required by treasury regulations promulgated from time to time under Section 457 of the Internal Revenue Code or any successor statute of similar import shall be automatically invoked by the committee: *Provided*, That the mode of payment of a deceased participant's benefit shall be determined by the committee within the limitations of WAC 154-16-020 and 154-20-020.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-12-090, filed 6/10/83; 82-13-043 (Order 82-3), § 154-12-090, filed 6/11/82.]

WAC 154-12-100 Investment mode election. Each participant shall designate on his participation agreement his selected investment mode. Such designation shall continue unless changed pursuant to this section. The investment mode shall be selected from those modes made available for this purpose from time to time by the committee, in its sole discretion.

The committee may make available as modes for investment (1) a fixed rate of interest product or (2) specified mutual fund shares, deposits with a credit union, savings and loan association, bank, or mutual savings bank, life insurance, shares of an investment company, or fixed and/or variable annuities or other modes permitted by law and selected by the committee. The committee may from time to time change the available

modes for investment. In the event that the selected investment mode experiences a loss, the participant's benefits payable hereunder shall likewise reflect loss, rather than income, for the period. Nothing in this section shall require the employer to invest any amount in the investments and if the employer should so invest, no participant shall have any right, title, or interest in the assets so invested.

For purposes of determining the amount of benefits payable to a participant or the participant's beneficiary or beneficiaries under the plan, the amount payable shall be reduced by costs of the plan paid from the deferred compensation revolving fund pursuant to WAC 154-08-050, and any investment income which would otherwise have been earned thereon.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-12-100, filed 6/10/83; 82-13-043 (Order 82-3), § 154-12-100, filed 6/11/82.]

WAC 154-12-110 Distribution of deferrals. Distribution of deferrals:

(1) Notwithstanding anything in this plan to the contrary, payment of amounts deferred shall commence not later than the latest of (a) sixty days after the close of the plan year in which the participant attains (or would have attained) normal retirement age; (b) sixty days after the close of the plan year in which the participant separates from service with the employer.

(2) Amounts deferred under this plan shall be paid according to options provided by rule by the committee pursuant to WAC 154-12-090, but such options shall provide payment of amounts deferred primarily for the benefit of participants (or former participants). Benefits paid to a beneficiary are not to be more than incidental, within the meaning of Section 1.457-2 (i)(2).

(3) Notwithstanding anything in this plan to the contrary, once payments have commenced to the participant, in accordance with WAC 154-12-090, said participant may not elect to accelerate the payment schedule. However, upon the occurrence of an unforeseeable emergency (as defined in WAC 154-24-010), the participant may accelerate the amount remaining payable in the amount not exceeding that described in WAC 154-24-010.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-12-110, filed 6/10/83; 82-13-043 (Order 82-3), § 154-12-110, filed 6/11/82.]

Chapter 154-16 WAC BENEFITS ON RETIREMENT

WAC

154-16-010 Normal retirement.
154-16-020 Upon death of participant.

WAC 154-16-010 Normal retirement. If the participant continues in the service of the employer until or beyond normal retirement age, the employer shall pay to such participant a retirement benefit equal to the sum of all compensation theretofore deferred under the plan, together with investment income or loss thereon to the

date of payment, calculated in accordance with WAC 154-12-100 by the mode set forth in the participant's participation agreement(s) under which such compensation was deferred. The participant's retirement benefit may be paid in one or more installments as elected by the participant pursuant to WAC 154-12-090. Payment of a participant's retirement benefit shall commence on or before the earlier of:

(1) The first day of any month commencing after the date of the participant's retirement as designated by the participant by written notice to the committee; provided, the committee must receive said written notice no fewer than sixty days prior to the date on which payments are to commence; or

(2) The latest date on which payments are required to commence pursuant to WAC 154-12-110(1).

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-16-010, filed 6/10/83; 82-13-043 (Order 82-3), § 154-16-010, filed 6/11/82.]

WAC 154-16-020 Upon death of participant. Should the participant die at any time after retirement, whether prior to or after the participant has begun to receive the retirement payment(s) provided by WAC 154-16-010, or if payment has commenced to the participant's surviving spouse and such surviving spouse dies before the entire amount is paid, the participant's designated beneficiary or beneficiaries shall be entitled to receive the balance remaining of such payment(s). If no beneficiary is designated as provided in the participation agreement, or if the designated beneficiary does not survive by a period of thirty days, then there shall be paid, in accordance with WAC 154-12-080, to the surviving spouse or to the estate of the participant, a lump sum amount, or such other mode of payment as is determined by the committee if the beneficiary or beneficiaries request it, equal to the current value of such payment(s), pursuant to WAC 154-12-090. The entire amount payable under this section shall be paid over:

(1) The life of the beneficiary (or any shorter period), if the beneficiary is the participant's surviving spouse; or

(2) A period not in excess of fifteen years, if the beneficiary is not the participant's spouse.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-16-020, filed 6/10/83; 82-13-043 (Order 82-3), § 154-16-020, filed 6/11/82.]

Chapter 154-20 WAC BENEFITS ON TERMINATION OF SERVICES OR DEATH PRIOR TO RETIREMENT

WAC

154-20-010 Termination of services.
154-20-020 Death of participant.

WAC 154-20-010 Termination of services. In the event of the participant's termination of services as defined in WAC 154-04-060, an amount equal to the sum of all compensation theretofore deferred under the plan, together with investment income or loss thereon to the date of payment, calculated in accordance with WAC

154-12-100 by the mode set forth in the participant's participation agreement(s), shall be paid to the participant in such a manner as the participant may elect pursuant to WAC 154-12-090. In no event shall the committee be required to cause payments to commence until it has been given at least sixty days written notice by the participant of the participant's termination of services.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-20-010, filed 6/10/83; 82-13-043 (Order 82-3), § 154-20-010, filed 6/11/82.]

WAC 154-20-020 Death of participant. In the event the participant dies before retirement or prior to receiving all the benefits provided for in WAC 154-20-010, or if payment has commenced to the participant's surviving spouse and such surviving spouse dies before the entire amount is paid, the participant's designated beneficiary or beneficiaries shall be entitled to receive the balance remaining of such payment(s). If no beneficiary is designated as provided in the participation agreement or if the designated beneficiary does not survive the participant for a period of thirty days, then there shall be paid, in accordance with WAC 154-12-080, to the surviving spouse or to the estate of the participant, a lump sum amount, or such other mode of payment as is determined by the committee if the beneficiary or beneficiaries request it, equal to the current value of such payment(s), pursuant to WAC 154-12-090. The entire amount payable under this section shall be paid over:

- (1) The life of the beneficiary (or any shorter period) if the beneficiary is the participant's surviving spouse; or
- (2) A period not in excess of fifteen years, if the beneficiary is not the participant's surviving spouse.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-20-020, filed 6/10/83; 82-13-043 (Order 82-3), § 154-20-020, filed 6/11/82.]

Chapter 154-24 WAC UNFORESEEABLE EMERGENCY

WAC
154-24-010 Unforeseeable emergency.

WAC 154-24-010 Unforeseeable emergency. Notwithstanding any other provisions herein, in the event of an unforeseeable emergency, a participant may request the committee to pay benefits. If the application for payment is approved by the committee, payment will be made as soon as possible following such an approval. Benefits to be paid shall be limited strictly to that amount reasonably necessary to satisfy emergency need. Any remaining benefits shall be paid in accordance with chapters 154-16 and 154-20 WAC of the plan.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant, loss of the participant's property due to casualty,

or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment shall not be made to the extent that such hardship is or may be relieved (1) through reimbursement or compensation by insurance or otherwise; (2) by liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or (3) by cessation of deferrals under the plan. Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-24-010, filed 6/11/82.]

Chapter 154-28 WAC LEAVE OF ABSENCE

WAC
154-28-010 Leave of absence.

WAC 154-28-010 Leave of absence. If a participant is on an approved leave of absence from the employer, participation in this plan shall continue.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-28-010, filed 6/11/82.]

Chapter 154-32 WAC AMENDMENT OF TERMINATION OF PLAN

WAC
154-32-010 Termination of plan.
154-32-020 Amendment of plan.

WAC 154-32-010 Termination of plan. The employer or the committee may at any time terminate this plan. Upon such termination, benefits will be paid to each participant pursuant to chapter 154-20 WAC of the plan. Each participant's full compensation on a non-deferred basis will thereupon be restored.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-32-010, filed 6/11/82.]

WAC 154-32-020 Amendment of plan. The committee may also amend the provisions of this plan at any time: *Provided, however,* That no amendment shall affect the rights of participants or their beneficiaries to the receipt of payment of benefits, to the extent of any compensation deferred before the time of the amendment and investment income or loss thereon accrued to the date of the amendment, calculated in accordance with WAC 154-12-010.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-32-020, filed 6/11/82.]

Chapter 154-36 WAC
RELATIONSHIP TO OTHER PLANS

WAC
154-36-010 Retirement and Social Security not reduced.

WAC 154-36-010 Retirement and Social Security not reduced. It is intended that, pursuant to Section 457 of the Internal Revenue Code, the amount of deferred compensation will not be considered as current compensation for purposes of federal income taxation. Such amounts will, however, be included as compensation in determining benefits or rights under the employer's group insurance, other retirement plans and FICA. Payments under this plan will supplement retirement and death benefits payable under the employer's group insurance and other retirement plans.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-36-010, filed 6/11/82.]

Chapter 154-40 WAC
TRANSFER IN LIEU OF BENEFITS

WAC
154-40-010 Assets in lieu of cash.

WAC 154-40-010 Assets in lieu of cash. Upon the occurrence of any event requiring the payment of benefits under this plan, the committee may, in its sole discretion, elect to honor a request from the participant to substitute the transfer in kind and assignment of any asset which the employer has acquired, at fair market value.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-40-010, filed 6/11/82.]

Chapter 154-44 WAC
NONASSIGNABILITY CLAUSE

WAC
154-44-010 Benefits not assignable.

WAC 154-44-010 Benefits not assignable. It is agreed that neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the employer shall have no further liability hereunder, nor shall any unpaid benefits be subject to attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, insolvency, except to the extent otherwise required by law.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-44-010, filed 6/11/82.]

(1986 Ed.)

Chapter 154-48 WAC
ASSETS

WAC
154-48-010 Plan assets.

WAC 154-48-010 Plan assets. All amounts of compensation deferred under the plan, all property and rights to property (including rights as a beneficiary of a contract providing life insurance protection) purchased with such amounts, and all income attributable to such amounts, property or rights to property shall remain (until paid or made available to the participant or the participant's beneficiary or beneficiaries under the plan) solely the property and rights of the employer, (without being restricted to the benefits under the plan) and shall be subject only to the claims of general creditors of the employer.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-48-010, filed 6/10/83; 82-13-043 (Order 82-3), § 154-48-010, filed 6/11/82.]

Chapter 154-52 WAC
PARTICIPATION BY COMMITTEE MEMBERS

WAC
154-52-010 Participation by committee members.

WAC 154-52-010 Participation by committee members. Members of the committee, who are otherwise eligible, may participate in the plan under the same terms and conditions as apply to other participants but an individual member shall not participate in any committee action taken with respect to that member's participation.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-52-010, filed 6/11/82.]

Chapter 154-56 WAC
EMPLOYER PARTICIPATION

WAC
154-56-010 Employer contributions.

WAC 154-56-010 Employer contributions. The employer may, pursuant to a changed or new participation agreement filed by a participant as specified in WAC 154-12-050 or 154-12-070, add additional deferred compensation for services to be rendered by the employee to the employer during any calendar month, provided:

(1) The employee has elected to have such additional compensation deferred, invested, and distributed, pursuant to this plan, prior to the calendar month in which the compensation is earned; and

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by chapter 154-12 WAC.

[Title 154 WAC—p 7]

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-56-010, filed 6/11/82.]

Chapter 154-60 WAC INVESTMENT RESPONSIBILITY

WAC
154-60-010 Investment responsibility.

WAC 154-60-010 Investment responsibility. The employer may, but is not required to, invest funds held pursuant to participation agreements between participants and the employer in accordance with the requests made by each participant. The committee shall retain the right to approve or disapprove such investment requests. Any action by the committee in investing funds, or approving of any such investment of funds, shall not be considered to be either an endorsement or guarantee of any investment, nor shall it be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-60-010, filed 6/11/82.]

Chapter 154-64 WAC COMMITTEE POWERS

WAC
154-64-010 Plan prevails.
154-64-020 Decision binding.
154-64-030 Committee to interpret.
154-64-040 Tax status not guaranteed.
154-64-050 Committee may require court order.
154-64-060 Delegation of authority.

WAC 154-64-010 Plan prevails. In the event any form or other document used in administering this plan, including but not limited to enrollment forms and marketing materials, conflict with the terms of the plan, the terms of the plan shall prevail.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-64-010, filed 6/11/82.]

WAC 154-64-020 Decision binding. The committee is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding on the participant and any beneficiary thereof.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-64-020, filed 6/11/82.]

WAC 154-64-030 Committee to interpret. The committee is authorized to construe this plan and resolve any ambiguity in the plan. The plan and any form or other document used in administering the plan shall be interpreted, and this plan shall be administered, so as to comply with Section 457 of the Internal Revenue Code and the regulations of the treasury department promulgated thereunder.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-64-030, filed 6/11/82.]

[Title 154 WAC—p 8]

WAC 154-64-040 Tax status not guaranteed. The committee does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of the participant's participation in this plan. The participant should consult with the participant's own representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in this plan.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-64-040, filed 6/11/82.]

WAC 154-64-050 Committee may require court order. The committee or the employer, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend that benefit until satisfied as to the correctness of the payment or the person to receive the payment or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the benefits to be paid and the persons to receive them. The committee and the employer shall comply with the final orders of the court in any such suit and the participant, for the participant and the participant's beneficiary or beneficiaries, consents to be bound thereby.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-64-050, filed 6/11/82.]

WAC 154-64-060 Delegation of authority. The committee may delegate its functions to be performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-64-060, filed 6/11/82.]

Chapter 154-68 WAC APPLICABLE LAW

WAC
154-68-010 Plan to conform to state law.
154-68-020 Plan to conform to federal law.

WAC 154-68-010 Plan to conform to state law. This plan shall be construed under the laws of the state of Washington.

[Statutory Authority: RCW 41.04.260. 82-13-043 (Order 82-3), § 154-68-010, filed 6/11/82.]

WAC 154-68-020 Plan to conform to federal law. This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code, and Section 1.457-2(a), and shall be interpreted consistent with such sections and all regulations promulgated thereunder.

[Statutory Authority: RCW 41.04.260. 83-13-044 (Order 83-2), § 154-68-020, filed 6/10/83; 82-13-043 (Order 82-3), § 154-68-020, filed 6/11/82.]

(1986 Ed.)