

WAC 399-10-020 Board meeting. (1) Notice of the times and places of the regular meetings will be published annually in a January edition of the Washington State Register. A copy of the schedule of regular meetings may also be obtained upon request from the board.

(2) Special meetings of the board may be called at any time by the chair of the board or by a majority of the board members. Notice of such meetings will be as provided by law.

[Statutory Authority: RCW 43.155.040(4). 93-22-014, § 399-10-020, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-020, filed 12/4/85.]

WAC 399-10-030 Communications with the board. Any and all written communications with the board, including but not limited to requests for information or copies of agency records, or submittals of any nature, shall be addressed to the public works board, in care of the chair, at the address which appears in WAC 399-10-010(3). Telephonic communications may be initiated by calling the phone number also listed in WAC 399-10-010(3).

[Statutory Authority: RCW 43.155.040(4). 93-22-014, § 399-10-030, filed 10/26/93, effective 11/26/93. Statutory Authority: 1985 c 446 § 10. 85-24-072 (Order 85-17), § 399-10-030, filed 12/4/85.]

Chapter 399-30 WAC PUBLIC WORKS LOANS AND PLEDGES

WAC

399-30-040 Application evaluation procedure and board deliberations.

WAC 399-30-040 Application evaluation procedure and board deliberations. (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) Up to forty points may be awarded in the evaluation of each application's demonstration of need for the proposed project. Responses to questions 3.04, 4.01, 4.021, 4.03, 4.04, and 4.05 will be evaluated to determine this score.

(ii) Up to sixty points may be awarded in the evaluation of the applicant jurisdiction's demonstration of local management effort. Responses to questions 5.01 through 5.141 will be evaluated to determine this score.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application

materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) Type of jurisdiction;

(v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure fair treatment to all applicants, the board will not accept oral testimony from any applicant while deliberating loan priorities, other than information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

[Statutory Authority: RCW 43.155.040(4). 93-22-015, § 399-30-040, filed 10/26/93, effective 11/26/93; 92-03-052, § 399-30-040, filed 1/13/92, effective 2/13/92. Statutory Authority: RCW 43.155.040. 88-10-009 (Order 88-02), § 399-30-040, filed 4/22/88; 87-17-013 (Order 87-16), § 399-30-040, filed 8/10/87; 86-18-009 (Resolution No. 86-12), § 399-30-040, filed 8/21/86. Statutory Authority: 1985 c 446 § 10. 86-03-051 (Resolution No. 85-17), § 399-30-040, filed 1/15/86.]

Title 415 WAC RETIREMENT SYSTEMS, DEPARTMENT OF

Chapters

415-04 Procedure.

415-08 Appeals.

415-104 Law enforcement officers' and fire fighters' retirement system.

415-108 Public employees' retirement system.

415-112 Teachers' retirement board of trustees.

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, disability benefits except as otherwise provided by law, survivor benefits, 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.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-04-010, filed 5/18/93, effective 6/18/93; Order 4, § 415-04-010, filed 7/27/77.]

WAC 415-04-020 Petition—Response—Decision—

Appeal. (1) A person aggrieved by a decision of an administrator may petition to the director's designee for redress. The initial application or petition shall contain the following:

(a) 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;

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

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

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

(2) Upon receipt of the petition, the director will assign the same to the director's designee. The director's designee will, within seven days, give notice of the filing of the petition to either 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 director's designee 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. If at any time the director's designee in his or her role as fact finder determines that additional information is necessary to decide the petition, he or she may request such additional information. The person from whom the information is requested will respond no later than within twenty days from the receipt of such request except upon an extension being granted by the director's designee upon good cause shown.

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

(4) Within thirty days of the expiration of the ten-day period for reply following the director's designee's final request for information, the director's designee shall enter a written decision containing such findings of fact and conclusions of law as he or she deems necessary to dispose of the matter. The decision will be sent to petitioner via certified mail.

(5) The decision of the director's designee may be appealed to the director. An appeal must be filed with the director no later than sixty days after petitioner's receipt of the decision in accordance of the procedures established by chapter 415-08 WAC. An appeal to the director of the director's designee's decision is a necessary prerequisite to appeal to the superior court of the state of Washington.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-04-020, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050. 91-19-064, § 415-04-020, filed 9/16/91, effective 10/17/91; Order 4, § 415-04-020, filed 7/27/77.]

Chapter 415-08 WAC APPEALS

WAC

415-08-010	Scope.
415-08-020	Filing appeals.
415-08-025	Reviewing officer.
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415-08-110	Repealed.
415-08-120	Repealed.
415-08-130	Repealed.
415-08-140	Repealed.
415-08-150	Repealed.
415-08-160	Repealed.
415-08-170	Repealed.
415-08-180	Repealed.
415-08-190	Repealed.
415-08-200	Repealed.
415-08-210	Repealed.
415-08-220	Repealed.
415-08-230	Repealed.
415-08-240	Repealed.
415-08-250	Repealed.
415-08-260	Repealed.
415-08-270	Repealed.
415-08-280	Discovery.
415-08-290	Repealed.
415-08-300	Repealed.
415-08-310	Repealed.
415-08-320	Repealed.
415-08-330	Repealed.
415-08-340	Repealed.
415-08-350	Repealed.
415-08-360	Repealed.
415-08-370	Repealed.
415-08-380	Repealed.
415-08-390	Repealed.
415-08-400	Repealed.
415-08-410	Repealed.
415-08-420	Expert or opinion testimony number and qualifications of witnesses—Procedures at hearings.
415-08-430	Repealed.
415-08-440	Repealed.
415-08-450	Repealed.
415-08-460	Repealed.
415-08-470	Repealed.
415-08-480	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-08-060	Appearance and practice before the board—Solicitation of business unethical. [Order 4, § 415-08-060, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
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- 415-08-110 Appearance and practice before the board—Examiner duties and powers. [Order 4, § 415-08-110, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-120 Informal conference—Purpose. [Order 4, § 415-08-120, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-130 Informal conference—When held. [Order 4, § 415-08-130, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-140 Informal conference—Agreements at informal conferences. [Order 4, § 415-08-140, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-150 Prehearing conference—Purpose. [Order 4, § 415-08-150, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-160 Prehearing conference—When held. [Order 4, § 415-08-160, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-170 Computation of time. [Order 4, § 415-08-170, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-180 Computation of time—Notice of hearing. [Order 4, § 415-08-180, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-190 Computation of time—Upon whom served. [Order 4, § 415-08-190, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-200 Computation of time—Service upon parties. [Order 4, § 415-08-200, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-210 Computation of time—Method of service. [Order 4, § 415-08-210, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-220 Computation of time—When service complete. [Order 4, § 415-08-220, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-230 Computation of time—Filing with board. [Order 4, § 415-08-230, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-240 Computation of time—Fees. [Order 4, § 415-08-240, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-250 Computation of time—Proof of service. [Order 4, § 415-08-250, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-260 Computation of time—Quashing. [Order 4, § 415-08-260, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-270 Computation of time—Enforcement. [Order 4, § 415-08-270, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-290 Computation of time—Documentary evidence. [Order 4, § 415-08-290, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-300 Computation of time—Excerpts from documents. [Order 4, § 415-08-300, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-310 Computation of time—Failure to supply prehearing information. [Order 4, § 415-08-310, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-320 Computation of time—Agreements at prehearing conference. [Order 4, § 415-08-320, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-330 Rules of evidence—Admissibility criteria. [Order 4, § 415-08-330, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-340 Rules of evidence—Official notice—Matters of law. [Order 4, § 415-08-340, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-350 Rules of evidence—Official notice—Material facts. [Order 4, § 415-08-350, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-360 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Order 4, § 415-08-360, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-370 Presumptions. [Order 4, § 415-08-370, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-380 Presumptions—Additional evidence by presiding officer. [Order 4, § 415-08-380, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-390 Stipulations and admissions of record. [Order 4, § 415-08-390, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-400 Expert or opinion testimony number and qualifications of witnesses. [Order 4, § 415-08-400, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-410 Expert or opinion testimony number and qualifications of witnesses—Written sworn statements. [Order 4, § 415-08-410, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-430 Petitions for rule making, amendment or repeal—Who may petition. [Order 4, § 415-08-430, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-440 Petitions for rule making, amendment or repeal—Requisites. [Order 4, § 415-08-440, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-450 Petitions for rule making, amendment or repeal—Agency must consider. [Order 4, § 415-08-450, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-460 Petitions for rule making, amendment or repeal—Notice of disposition. [Order 4, § 415-08-460, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-470 Declaratory rulings. [Order 4, § 415-08-470, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-480 Declaratory rulings—Forms. [Order 4, § 415-08-480, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.

WAC 415-08-010 Scope. This chapter governs the procedure for adjudicative proceedings as defined in RCW 34.05.010. The department adopts the model rules of procedure contained in chapter 10-08 WAC to the extent that

those provisions are not contrary to the provisions of this chapter. These rules shall govern all hearings before the director of retirement systems. These rules shall also govern requests for the promulgation, amendment or repeal of any rule of the director. Where the context requires, reference to a board shall be construed to include the director of retirement systems.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-010, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-010, filed 7/27/77.]

WAC 415-08-020 Filing appeals. (1) Any person aggrieved by a decision rendered pursuant to chapter 415-04 WAC must, before he or she appeals to the superior court, invoke the jurisdiction of the 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:

(a) The name and mailing address of the member or beneficiary, and the employer of the member;

(b) The name and legal residence of the appealing party, together with the mailing address of his or her representative, if any;

(c) In the case of disability claims:

(i) 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; and

(ii) 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;

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

(e) 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;

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

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

(2) The appealing parties shall file with the department by mail or otherwise, the original and two copies of the notice of appeal and the department will acknowledge receipt of the copies filed. The department's stamp placed upon such copies shall be prima facie evidence of the date of receipt. The department may thereafter require additional copies to be filed if necessary.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-020, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-020, filed 7/27/77.]

WAC 415-08-025 Reviewing officer. (1) Either the director or an employee of the department designated by the director, will serve as reviewing officer and render the

department's final decision on the appeal. If the director designates a department employee to render a decision, such employee shall be a different person than director's designee under chapter 415-04 WAC.

(2) In general, an administrative law judge will be appointed to serve as presiding officer and to render a proposed order. The director, or the employee designated by the director, will serve as the reviewing officer. If the parties agree to stipulate to a record, a hearing before and initial decision by an administrative law judge may be waived by agreement of all parties. In the event of such a waiver, the reviewing officer will render the department's final decision on the stipulated record.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-025, filed 5/18/93, effective 6/18/93.]

WAC 415-08-030 Parties. The parties to an appeal shall be the appealing party, the department, all persons who have filed a notice of appearance and made a proper showing of interest in the appeal. The 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 department will forthwith mail him or her a copy of the notice of appeal. There is 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.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-030, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-030, filed 7/27/77.]

WAC 415-08-040 Appearance and practice before the department—Who may appear. No person may appear in a representative capacity before the department 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 department 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.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-040, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-040, filed 7/27/77.]

WAC 415-08-060 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-080 Appearance and practice before the department—Withdrawal or substitution of representatives. An attorney or other representative withdrawing from a case shall immediately so notify the department 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 department and to all parties of record.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-080, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-080, filed 7/27/77.]

WAC 415-08-090 Appearance and practice before the department—Conduct. All persons appearing in a representative capacity in proceedings before the department or its designated examiner 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 department.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-090, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-090, filed 7/27/77.]

WAC 415-08-100 Appearance and practice before the department—Appearance by former employee of agency or former member of attorney general's staff. No former employee of the department or system or former member of the attorney general's staff may at any time after severing his/her employment with the department or the attorney general appear, except with the written permission of the department in compliance with RCW 42.22.040, in a representative capacity on behalf of other parties in a formal proceeding wherein he or she previously took an active part as a representative of the department. No such former employee shall appear where to do would violate RCW 42.18.221.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-100, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-100, filed 7/27/77.]

WAC 415-08-105 Prehearing and posthearing memoranda. A presiding officer shall grant all timely requests to submit prehearing and posthearing memoranda, and shall set a reasonable time for the submission of memoranda. In the event that posthearing briefs are filed, the department reserves the right to file a brief in response to any posthearing brief submitted by another party.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-105, filed 5/18/93, effective 6/18/93.]

WAC 415-08-110 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-130 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-140 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-160 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-170 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-180 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-190 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-210 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-220 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-230 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-240 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-250 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-260 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-270 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-280 Discovery. 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.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-280, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-280, filed 7/27/77.]

WAC 415-08-290 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-300 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-310 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-320 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-330 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-340 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-350 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-360 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-370 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-380 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-390 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-400 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-410 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-420 Expert or opinion testimony number and qualifications of witnesses—Procedures at hearings. (1) **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.

(2) Person appealing or requesting a hearings shall have the burden of proof in the matter.

[Statutory Authority: RCW 41.50.050(5) and 34.05.250. 93-11-079, § 415-08-420, filed 5/18/93, effective 6/18/93; Order 4, § 415-08-420, filed 7/27/77.]

WAC 415-08-430 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-440 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-450 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-460 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-470 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-08-480 Repealed. See Disposition Table at beginning of this chapter.

Chapter 415-104 WAC

LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM

WAC

415-104-011	Definitions.
415-104-782	Option to preserve LEOFF I retirement rights.
415-104-783	Verification of eligibility for preservation of LEOFF plan I membership.
415-104-784	Member contributions for LEOFF plan I elected officials.
415-104-785	Employer contributions for LEOFF plan I elected officials.

WAC 415-104-011 Definitions. (1) The definitions listed in RCW 41.26.030 shall apply to terms used in this chapter.

(2) As used in this chapter, unless a different meaning is required by context:

(a) "LEOFF" means the law enforcement officers' and fire fighters' retirement system created in chapter 41.26 RCW.

(b) "LEOFF plan I elected official" means a LEOFF plan I member who is a civil service employee on leave of absence by reason of having been elected or appointed to an elective public office and who chooses to preserve retirement rights as an active LEOFF member under the procedure described in this chapter.

(c) "Elective employer" means the employer of the LEOFF plan I elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

(d) "LEOFF employer" means the employer, as defined in RCW 41.26.030 (2)(a), who employs the member as a law enforcement officer or fire fighter.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. 93-11-078, § 415-104-011, filed 5/18/93, effective 6/18/93.]

WAC 415-104-782 Option to preserve LEOFF I retirement rights. The following rules describe the process by which a LEOFF plan I member whose retirement rights are protected by RCW 41.04.120 may preserve retirement rights as an active LEOFF member while serving in an elective public office.

A LEOFF plan I member who is elected or appointed to elective office shall have the option to:

(1) Preserve his or her retirement rights as an active member of LEOFF plan I; or

(2) Be considered to be on normal leave of absence from the LEOFF I employer.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. 93-11-078, § 415-104-782, filed 5/18/93, effective 6/18/93.]

WAC 415-104-783 Verification of eligibility for preservation of LEOFF plan I membership. A LEOFF plan I elected official must provide the department with written verification of a leave of absence from the LEOFF employer for the express purpose of serving in the elective public office. The verification must state a beginning date and an ending date for the leave.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. 93-11-078, § 415-104-783, filed 5/18/93, effective 6/18/93.]

WAC 415-104-784 Member contributions for LEOFF plan I elected officials. A LEOFF plan I elected official must pay member contributions directly to the department. Such member contributions will be calculated on the salary for the rank the member held at the time of taking the leave of absence. The department will bill the LEOFF I elected official on a monthly basis. Payment of each month's bill is due to the department by the 15th day of the next month. Failure to pay contributions for two consecutive billing months will result in suspension of LEOFF I elected official status. Such status can be reinstated if overdue contributions are paid within ninety days after notice of suspension.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. 93-11-078, § 415-104-784, filed 5/18/93, effective 6/18/93.]

WAC 415-104-785 Employer contributions for LEOFF plan I elected officials. The elective employer shall pay employer contributions for the LEOFF plan I elected official. Such employer contributions will be calculated on the annual salary paid to the LEOFF I elected official for employment in the elective office. The elective employer will be directly billed by the department for employer contributions for a LEOFF I elected official. The elective employer shall pay employer contributions for LEOFF I elected officials in a timely manner as provided under chapter 415-114 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.04.120. 93-11-078, § 415-104-785, filed 5/18/93, effective 6/18/93.]

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WAC

415-108-010	Definitions.
415-108-100	Repealed.
415-108-110	Repealed.
415-108-120	Repealed.
415-108-130	Repealed.
415-108-150	Repealed.
415-108-160	Repealed.
415-108-620	Requirements for a union to be a PERS I union employer.
415-108-630	Calculation and verification of PERS membership requirement.
415-108-640	Effect of meeting verification requirements.

415-108-650	Effect on unions seeking to maintain union employer status if verification requirement is not met.
415-108-660	Plan I union employer verification form.
415-108-671	Administration of early retirement.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-108-100	Members. [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.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-110	Administration—Officers. [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.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-120	Function. [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.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-130	Location. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-130, filed 2/15/78.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-150	Meetings. [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.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-160	Office of chairman. [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.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).

WAC 415-108-010 Definitions. (1) All definitions in RCW 41.40.010 apply to terms used in this chapter, unless a different meaning is plainly required by the context.

(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Level of union organization" means a union or a lodge or division of a union;

"Union" means a labor guild, labor association, and/or labor organization;

"Union employer" means a union or a union lodge or other division of the union which has verified that it meets the definition of a Plan I employer in RCW 41.40.010.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-010, filed 5/18/93, effective 6/18/93. 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 415-108-100 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-110 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-120 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-130 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-160 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-108-620 Requirements for a union to be a PERS I union employer. (1) In order to establish or maintain status as a PERS I union employer, a union must satisfy the following requirements:

(a) Verify that at least forty percent of the members of the level of union organization are employees of an employer: *Provided however*, That employees of the union organization are not to be considered in the forty percent determination; and

(b) Beginning on the effective date of this rule, annually complete and submit the verification form set forth in WAC 415-108-660 to the department.

(2) Unions which have reported members prior to the effective date of this rule shall be deemed to have met the requirements of this rule with respect to those members.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-620, filed 5/18/93, effective 6/18/93.]

WAC 415-108-630 Calculation and verification of PERS membership requirement. (1) Calculation - Unions applying for union employer status must provide the department with the information specified in WAC 415-108-660.

Each union employer is required to submit to the department the form provided in WAC 415-108-660 in verifying compliance with WAC 415-108-620 on or after November 1 and no later than December 31 of each year.

(2) Union employer status will lapse on January 1 if a union does not submit verification by December 31 of the preceding year. The union may regain union employer status by subsequently submitting verification of compliance with WAC 415-108-620 (1)(a). The union shall be responsible for applicable retroactive employer contributions plus interest for any period of lapsed employer status.

(3) Unions submitting timely verification of qualifications for union employer status are considered Plan I union employers for the succeeding calendar year (January 1 to December 31).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-630, filed 5/18/93, effective 6/18/93.]

WAC 415-108-640 Effect of meeting verification requirements. (1) Plan I union employer status applies only to the level of union organization that meets the requirements of WAC 415-108-620(1). Therefore, if only a single union lodge of a union with multiple lodges has been verified to meet the requirements of WAC 415-108-620(1), only that union lodge is a Plan I union employer.

(2) Plan I union employers employing persons who have previously established Plan I membership must report those persons for participation in the retirement system if those persons opt into membership under RCW 41.40.023.

(3) Plan I members who are employed by union employers shall have an irrevocable election to reenter membership. If this option is not exercised when the employee first enters an eligible position with the union employer, it is waived. The union employer has the duty to notify new employees of the option to enter Plan I. Failure of the union employer to provide notification shall not obviate a person's waiver of the right to participate in Plan I under this section. Union employers and their Plan I employees who opt into membership will be subject to the same statutory and regulatory requirements as other Plan I nonstate agency employers and employees.

(4) Union employers shall elicit on a written form from all new employees whether the employee has ever been a Plan I member.

(5) A union employer may not report employees for participation in Plan II.

(6)(a) Upon first establishing union employer status the union must pay the prior service liability as determined by the department under RCW 41.40.363 or 41.40.045, as applicable for union elective officials and employees who opt into membership under RCW 41.40.023 and are eligible for Plan I.

(b) If employer and employee contributions have been erroneously submitted and the union subsequently establishes retroactive union employer status for the period in question, the contributions on deposit with the retirement system will be considered ratified to the extent that the periods of erroneous contributions coincide with periods for which the union has established union employer status.

(7) Notwithstanding any provisions of WAC 415-108-620 Plan I retirees who enter into employment with a union employer in an eligible position are subject to the provisions of RCW 41.40.150 (5)(a).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-640, filed 5/18/93, effective 6/18/93.]

WAC 415-108-650 Effect on unions seeking to maintain union employer status if verification requirement is not met. (1) A union employer which does not verify that it meets the criteria for union employer status shall not report any employee hired during that succeeding calendar year for retirement system participation. A union employee who previously terminated retirement system membership under RCW 41.40.150 cannot reestablish retirement system membership during a year the hiring union failed to maintain union employer status.

(2) The failure of a union employer to meet the requirements of WAC 415-108-620 and 415-108-630 will not terminate the retirement system participation of employees already employed in an eligible position with the union employer as of December 31 of the preceding year.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-650, filed 5/18/93, effective 6/18/93.]

WAC 415-108-660 Plan I union employer verification form. Unions must use the following form to verify compliance with the requirements of WAC 415-108-620.

I certify under the penalty of perjury under the laws of the state of Washington that the following is true and correct:

_____, verifies that on the date of _____

Name of Union

the

(Must be a Date in November
or December)

Identify Level of Union
Organization (i.e. lodge)
(hereinafter referred to
as "organization")

possessed the following membership characteristics:

- A. Total number of organization members _____
- B. Total number of organization members who are employees of a public employee retirement system (PERS) employer other than this union _____
- C. Percentage of organization members who are employees of a public employee retirement system employer other than this union _____ %
($B \div A \times 100$)
- D. The percentage identified in "C" is equal to or greater than 40% _____ yes
_____ no

If the answer to "D" is yes, then the organization is eligible to participate in PERS with regard to PERS Plan I union employees employed in an eligible position during the succeeding calendar year. Such employees shall remain eligible for participation while employed with the organization regardless of whether the organization continues to meet the requirements of WAC 415-108-620 and 415-108-630.

If the answer to "D" is no then the level of union organization identified above is not eligible to participate in the public employees' retirement system with regard to union employees employed in an eligible position during the succeeding calendar years.

Signature of Local/Division President or Person
Designated in Writing by President as Having Authority to
Verify

[Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-660, filed 5/18/93, effective 6/18/93.]

WAC 415-108-671 Administration of early retirement. (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 519, Laws of 1993. No department, employer, or member shall apply these provisions except in administering chapter 519, Laws of 1993. The definitions and other statutory provisions of chapter 41.40 RCW shall be used in interpreting this section. "Early retirement" as used in this section means retirement under the provisions of chapter 519, Laws of 1993.

(b) No member shall be eligible for early retirement unless that member meets the application, age and service, and employment status requirements of chapter 519, Laws of 1993.

(c)(i) If a member is employed by a school district and fails to:

(A) Notify his or her employer in writing by July 1, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by July 1, 1993; That member shall not be eligible for early retirement.

(ii) If a member is employed by an employer other than a school district and fails to:

(A) Notify his or her employer in writing by August 31, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by August 31, 1993; That member shall not be eligible for early retirement.

(2) For purposes of administering early retirement:

(a) The following persons shall be considered to be employed by an employer in an eligible position on March 1, 1993:

(i) Persons in an eligible plan I position who reported for work or otherwise provided service to an employer on March 1, 1993;

(ii) Persons who were on paid leave from an eligible plan I position on March 1, 1993;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from an eligible plan I position on March 1, 1993; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in an eligible plan I position for a period that includes March 1, 1993.

(b) The following persons shall not be considered to have been employed by an employer in an eligible position on March 1, 1993:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on March 1, 1993;

(ii) Persons on an unauthorized leave on March 1, 1993.

(c) For purposes of administering chapter 519, Laws of 1993, "retired" means separated from service.

(3) For purposes of administering section 4 (1)(b), chapter 519, Laws of 1993, the following persons meet the age and service requirements of that subsection:

(a)(i) Members employed by a school district who meet the criteria of section 4 (1)(b), chapter 519, Laws of 1993, on or before August 31, 1993;

(ii) Members employed by an employer other than a school district who meet the criteria of section 4 (1)(b), chapter 519, Laws of 1993, on or before December 31, 1993.

(b) Members who, through utilization of applicable laws, are eligible to combine their plan I service with service credit for nonplan I service for purposes of determining retirement eligibility if such combined service meets the eligibility requirements of section 4 (1)(b), chapter 519, Laws of 1993; or

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 4 (1)(b), chapter 519, Laws of 1993.

(4) If a member contacts the department regarding early retirement prior to the early retirement application deadline and:

(a) The department cannot verify prior to the statutory early retirement deadline that the member has earned sufficient service credit to qualify for early retirement; then

(b) The member shall be eligible to retire after the statutory retirement deadline; provided that

(c) The department subsequently determines that the member had sufficient service credit on or before the statutory deadline date to retire under the provisions of early retirement.

(5) For purposes of administering early retirement, written applications for retirement shall be considered to be received by the department by the statutory deadline if the applications are on the form provided by the department and:

(a) The applications are delivered to the department by 5:00 p.m. on the applicable statutory deadline date; or

(b) The application is delivered to the department after 5:00 p.m. on the statutory deadline date, and bears a United States Post Office postmark dated on or before the statutory deadline date.

(6) If a person who retires under early retirement and subsequently enters an eligible position inadvertently or otherwise, he or she shall reenter membership and have his or her pension benefits suspended pursuant to RCW 41.40.150. That person will not be eligible for reretirement until he or she qualifies under RCW 41.40.180.

[Statutory Authority: RCW 41.50.050. 93-20-020, § 415-108-671, filed 9/24/93, effective 10/25/93.]

Chapter 415-112 WAC

TEACHERS' RETIREMENT BOARD OF TRUSTEES

WAC

415-112-015	Definitions.
415-112-535	Repealed.
415-112-561	Administration of early retirement.
415-112-722	Repealed.
415-112-810	Bona fide employee.
415-112-820	Bona fide part-time position—How determined.
415-112-830	Adjusting earnable compensation earned in a bona fide part-time position.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-112-535	Definitions for administering RCW 41.32.570. [Statutory Authority: RCW 41.50.050 and 41.32.570. 91-21-084, § 415-112-535, filed 10/18/91, effective 11/18/91.] Repealed by 93-20-021, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 41.32.345 and 41.50.050.
415-112-722	Definitions for purposes of WAC 415-112-720 through 415-112-727. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-722, filed 1/7/91, effective 2/7/91.] Repealed by 93-20-021, filed 9/24/93, effective 10/25/93. Statutory Authority: RCW 41.32.345 and 41.50.050.

WAC 415-112-015 Definitions. (1) All definitions in RCW 41.32.010 apply to terms used in this chapter, unless a different meaning is plainly required by the context.

(2) As used in this chapter, unless a different meaning is plainly required by the context:

"Contract period" for Plan I members as used in RCW 41.32.345 means the period from July 1 to June 30 of the following year.

"Day" for purposes of administering RCW 41.32.570 means seven compensated hours. "Seventy-five days" means five hundred twenty-five cumulative compensated hours;

"Duly executed" means that all required forms or documents have been completed, signed and notarized, and filed with the department;

"Insurable interest" means a reasonable expectation of monetary benefit from the continued life of the member; or a relation of the parties to each other by blood or marriage;

"Pension benefit" means that portion of a retiree's monthly retirement allowance that is funded by the state of Washington and the retiree's former employer or employers;

"Public educational institution" means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community colleges;

"School year" for Plan I members means the fiscal year running from July 1 to June 30;

"Single life annuity" means an annuity based solely on the expected remaining life of the member, without regard to any benefits for the member's designated beneficiary or spouse;

"Spousal consent" means written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, when such application is duly executed and filed with the department, shall constitute "spousal consent";

"Survivor" means a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement.

[Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-015, filed 9/24/93, effective 10/25/93.]

WAC 415-112-535 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-561 Administration of early retirement. (1)(a) The provisions of this section are enacted for the specific purpose of administering chapter 519, Laws of 1993. No department, employer, or member shall apply these provisions except in administering chapter 519, Laws of 1993. The definitions and other statutory provisions of chapter 41.32 RCW shall be used in interpreting this section. "Early retirement" as used in this section means retirement under the provisions of chapter 519, Laws of 1993.

(b) No member shall be eligible to retire under early retirement unless that member meets the application, age and service, and employment status requirements of chapter 519, Laws of 1993.

(c)(i) If a member is employed by a school district and fails to:

(A) Notify his or her employer in writing by July 1, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by July 1, 1993; That member shall not be eligible for early retirement.

(ii) If a member is employed by an employer other than a school district and fails to:

(A) Notify his or her employer in writing by August 31, 1993, of his or her intent to retire under early retirement; and

(B) Submit an application for early retirement on the form supplied by the department by August 31, 1993; That member shall not be eligible for early retirement.

(2) For purposes of administering section 6 (1)(b), chapter 519, Laws of 1993:

(a) The following persons shall be considered to be employed by an employer on March 1, 1993:

(i) Persons in a plan I position who reported for work or otherwise provided service to an employer on March 1, 1993, in a position other than as a substitute teacher;

(ii) Persons who were on paid leave from a plan I position on March 1, 1993;

(iii) Persons who were not rendering personal services to an employer but were on an authorized, unpaid leave from a plan I position on March 1, 1993; or

(iv) Persons retroactively reinstated to employment pursuant to appeal of termination or separation in a plan I position for a period that includes March 1, 1993.

(b) The following persons shall not be considered to be employed by an employer on March 1, 1993:

(i) Persons who were in terminated status pursuant to a reduction in force, lay-off, or other involuntary or voluntary termination on March 1, 1993;

(ii) Persons on an unauthorized leave on March 1, 1993;

(iii) Persons working as substitute teachers on March 1, 1993.

(c) For purposes of chapter 519, Laws of 1993, "retired" means separated from service.

(3) For purposes of administering section 6 (1)(b), chapter 519, Laws of 1993, the following persons meet the age and service requirements of that subsection:

(a)(i) Members employed by a school district who meet the criteria of section 6 (1)(b), chapter 519, Laws of 1993, on or before August 31, 1993;

(ii) Members employed by an employer other than a school district who meet the criteria of section 6 (1)(b), chapter 519, Laws of 1993, on or before December 31, 1993.

(b) Members who, through utilization of applicable laws, are eligible to combine their plan I service with service credit for nonplan I service for purposes of determining retirement eligibility if such combined service meets the eligibility requirements of section 6 (1)(b), chapter 519, Laws of 1993; or

(c) Members who complete restoration of prior withdrawn contributions such that their total creditable service is sufficient to qualify for retirement under section 6 (1)(b), chapter 519, Laws of 1993.

(4) If a member contacts the department prior to the early retirement application deadline and:

(a) The department cannot verify prior to the statutory early retirement deadline, that the member has earned sufficient service credit to qualify for early retirement; then

(b) The member shall be eligible to retire after the statutory deadline date; provided that

(c) The department subsequently determines that the member had sufficient service credit on or before the statutory deadline date to retire under early retirement.

(5) For purposes of administering early retirement, written applications for retirement shall be considered to be

received by the department by the statutory deadline if the applications are on the form provided by the department and:

(a) The applications are delivered to the department by 5:00 p.m. on the statutory deadline date; or

(b) The application is delivered to the department after 5:00 p.m. on the statutory deadline date, and bears a United States Post Office postmark dated on or before the statutory deadline date.

[Statutory Authority: RCW 41.50.050. 93-20-020, § 415-112-561, filed 9/24/93, effective 10/25/93.]

WAC 415-112-722 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-810 Bona fide employee. The purpose of WAC 415-112-800 through 415-112-830 is to implement the intent of the legislature that section 2, chapter 265, Laws of 1987 not be used to unfairly inflate a member's retirement allowance. The department shall apply section 2, chapter 265, Laws of 1987 only to members who are bona fide part-time employees. A member will be deemed a bona fide part-time employee only if the member has received less than one year of service credit and only as necessary to ensure that a member who receives fractional years of service credit receives benefits proportional to those received by members who have received full time service credit.

[Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-810, filed 9/24/93, effective 10/25/93. Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265. 87-20-082 (Order 87-09), § 415-112-810, filed 10/7/87.]

WAC 415-112-820 Bona fide part-time position—How determined. (1) In order for a Plan I member to be considered a bona fide part-time employee for two consecutive fiscal years and to elect to have his or her earnable compensation adjusted under RCW 41.32.345, the Plan I member must be employed for each of the two consecutive fiscal years:

(a) Under contract for an entire school year if the member is employed by a school district, or an educational service district;

(b) Under contract during three academic quarters of a fiscal year if the member is employed by an institution of higher education, the state school for the deaf or the state school for the blind;

(c) By one or more employers for at least twenty days but less than one hundred forty-four days during the fiscal year;

(d) In an instructional position, which is a position in which more than seventy-five percent of the member's time, including office hours, is spent as a classroom instructor, a librarian, or a counselor.

(2) In addition to the factors listed in subsection (1) of this section, in the case of a member who elects to have earnable compensation defined as provided in section 2, chapter 265, Laws of 1987, the department will determine whether the member held a bona fide part-time position during the years used to compute benefits, and what earnable compensation the member would have received if employed on a regular full-time basis in the same position under

section 2, chapter 265, Laws of 1987. The department may consider, but not be limited to considering, the following factors:

(a) The salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district by which the member was employed;

(b) The salary schedule, workload provisions, or related documents, used by the community college district by which the member was employed, including salary schedules or workload provisions contained in a collective bargaining agreement negotiated pursuant to chapter 28B.52 RCW;

(c) Whether the member's position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement, and whether the member's position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, provisions, or collective bargaining agreement;

(d) When the member's position was created, and how long the position was held by the member;

(e) Whether the member has previously retired under the provisions of chapter 41.32 RCW.

(3) Upon the department's request, employers shall provide to the department information addressing the factors listed in subsection (1) of this section and such further information as the department may request.

(4) If a member is employed by more than one employer, all of the member's employment will be combined for purposes of determining whether the member has met the criteria of subsection (1) of this section.

[Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-820, filed 9/24/93, effective 10/25/93. Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265. 87-20-082 (Order 87-09), § 415-112-820, filed 10/7/87.]

WAC 415-112-830 Adjusting earnable compensation earned in a bona fide part-time position. The department will use the following method to determine earnable compensation for members of Plan I employed in a bona fide part-time positions as determined under WAC 415-112-820, who elect to have their earnable compensation determined under RCW 41.32.345. The purpose of the calculation is to determine what a member would have earned in his or her position if employed on a regular full-time basis for the same contract period under their same classification.

(1) The member's employer or employers will provide written verification of the following:

(a) The number of hours in a full school day for the member's employer. In the absence of an indication in employment contracts or elsewhere concerning what constitutes one day of employment, the department will designate seven hours as the length of a school day;

(b) The number of work days in a school year under a regular full-time contract. As provided in RCW 41.32.345 (3)(a), only work days identified in contracts adopted pursuant to RCW 28A.405.200 shall be counted under this subsection. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a regular full-time contract;

(c) The number of hours in a school year ((a) of this subsection multiplied by (b) of this subsection).

(d) If a bona fide part-time employee was employed by more than one employer during the school year in question, the department will average the number of hours in a full school day and the number of school days in a year in order to determine the average number of hours in a school year for purposes of applying this section.

(2) The member's employer will provide the following written information regarding the bona fide part-time employment of the Plan I member during each of the two consecutive years for which the member elects to have his or her compensation adjusted under RCW 41.32.345:

(a) Total hours worked by the employee under all employment contracts;

(b) Total earnable compensation earned under all employment contracts entered into by the employee;

(c) If applicable, the percent or portion of a full-time contract worked by the employee; and

(d) Net average hourly wage earned by the employee ((b) of this subsection divided by (a) of this subsection).

(3) To determine the member's adjusted earnable compensation under RCW 41.32.345 the department will multiply the member's average hourly wage as determined in subsection (2) of this section by the number of hours in a school year as determined by subsection (1) of this section. The product equals the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

[Statutory Authority: RCW 41.32.345 and 41.50.050. 93-20-021, § 415-112-830, filed 9/24/93, effective 10/25/93.]

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