

WAC 392-165-500 Allocation formula for distribution of eighty-five percent Title VI moneys to local school districts. For the purpose of this section, the term:

(1) "Student enrollment" shall mean the head count for public and private schools submitted by the school districts to the office of the superintendent of public instruction on October 1 of each prior year.

(2) "Low income student enrollment" shall mean those students who are eligible for a free or reduced price lunch.

The eighty-five percent allocation formula to all school districts is based on sixty-seven percent enrollment and thirty-three percent low income based on the number of free and reduced price lunches served.

[Statutory Authority: RCW 28A.300.070. 97-23-011, § 392-165-500, filed 11/7/97, effective 12/8/97; 92-18-067 (Order 92-06), § 392-165-500, filed 8/31/92, effective 10/1/92. Statutory Authority: RCW 28A.02.100. 86-15-048 (Order 86-6), § 392-165-500, filed 7/18/86; 84-06-019 (Order 84-6), § 392-165-500, filed 2/29/84.]

WAC 392-165-510 Program compliance review.

The superintendent of public instruction shall conduct program compliance review of all school districts receiving Title VI funds. Reviews shall occur at least once within a four-year plan as established by the superintendent of public instruction. If a school district is not reviewed due to exceptional or uncontrollable circumstances, these districts will have first priority for review the following year.

Following the review the school district will have thirty days to respond to the superintendent of public instruction if there are exceptions. Substantial noncompliance or failure by the school district to respond and/or initiate corrective action in a timely manner shall be subject to actions prescribed in WAC 392-165-440, 392-165-445, and 392-165-450.

[Statutory Authority: RCW 28A.300.070. 97-23-011, § 392-165-510, filed 11/7/97, effective 12/8/97; 92-18-067 (Order 92-06), § 392-165-510, filed 8/31/92, effective 10/1/92.]

Title 415 WAC RETIREMENT SYSTEMS, DEPARTMENT OF

Chapters

- 415-108 Public employees' retirement system.**
- 415-112 Teachers' retirement board of trustees.**
- 415-200 Employee retirement benefits board.**
- 415-512 Participation in the plan.**

Chapter 415-108 WAC

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WAC

- 415-108-195 Identification.
- 415-108-300 Decodified.
- 415-108-500 Decodified.
- 415-108-530 Decodified.
- 415-108-540 Decodified.
- 415-108-580 Decodified.
- 415-108-730 Membership for city managers.
- 415-108-810 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure.
- 415-108-820 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.
- 415-108-830 Actuarial recomputation of retirement allowance upon retirement following reemployment.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 415-108-300 Identification. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as Later promulgation, see section 415-108-195
- 415-108-500 Public employees' retirement board. [Statutory Authority: RCW 41.40.120(17). 86-13-023 (Order 86-3), § 415-108-500, filed 6/10/86.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-730.
- 415-108-530 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure. [Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-530, filed 5/5/94, effective 6/5/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-810.
- 415-108-540 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. [Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-540, filed 5/5/94, effective 6/5/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-820.
- 415-108-580 Actuarial recomputation of retirement allowance upon retirement following reemployment. [Statutory Authority: RCW 41.50.050. 94-09-040, § 415-108-580, filed 4/19/94, effective 5/20/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-830.

WAC 415-108-195 Identification. Records of members of the retirement system will be filed and identified in part by Social Security number. Each member of the system shall be required to supply his or her Social Security number for such record keeping purposes. Such disclosure shall be voluntary and shall only be used for record keeping and identification purposes. Failure to supply a Social Security number shall not result in the loss of any benefits supplied by this system.

[Recodified as § 415-108-195. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.]

WAC 415-108-300 Decodified. See Disposition Table at beginning of this chapter.

WAC 415-108-500 Decodified. See Disposition Table at beginning of this chapter.

WAC 415-108-530 Decodified. See Disposition Table at beginning of this chapter.

WAC 415-108-540 Decodified. See Disposition Table at beginning of this chapter.

WAC 415-108-580 Decodified. See Disposition Table at beginning of this chapter.

WAC 415-108-730 Membership for city managers. The purpose of the WAC is to implement the provisions of RCW 41.40.120(17) relating to city managers.

Effective immediately and until December 31, 1986 any current member described in RCW 41.40.120(17) may, at his/her option, elect to withdraw from membership in the retirement system provided by chapter 41.40 RCW. Such election is to be made in writing on a form provided for that purpose by the department. Persons making this election will be refunded the contributions and related interest which were credited while in their current position. The effect of such a withdrawal will be to terminate and cancel the service credit acquired while in that position. Such action is final and no service credit may ever be obtained in the future for the period cancelled.

Effective immediately any person described in RCW 41.40.120(17) who is employed in one of the positions described shall not become a member of the system provided by chapter 41.40 RCW unless within thirty days of employment in such position he/she shall submit in writing on a form, provided by the department, a waiver of his/her right to be excluded and requesting his/her inclusion in the system. Such a person may not then subsequently withdraw from the system except as provided by RCW 41.40.260 or 41.40.730 as appropriate.

[Recodified as § 415-108-730. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.40.120(17). 86-13-023 (Order 86-3), § 415-108-500, filed 6/10/86.]

WAC 415-108-810 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems—Eligibility—Procedure.* Pursuant to *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993), the department is required to calculate certain Plan I members' retirement allowances without regard to percentage or ceiling limitations on leave cash outs. *Bowles v. Retirement Systems* does not change the terms contained in collective bargaining agreements negotiated by employers and employees or leave policies promulgated by employers, nor does it apply to state and school district employees who cash out sick leave pursuant to RCW 28A.400.210 or 41.04.340, or annual leave pursuant to RCW 43.01.040 through 43.01.044.

(1) Certain Plan I members' retirement allowances shall be calculated pursuant to this section if they meet the following criteria:

(a) Retire on or after March 11, 1993, from Plan I, or be a surviving spouse or beneficiary of a member who retired or died after March 11, 1993; and

(b) Have average final compensation that is:

(i) Based on employment with a nonstate agency or political subdivision employer; and

(ii) Subject to employer percentage or ceiling limitations on leave cash outs.

(c) If a person meets the eligibility requirements for calculation under (a) and (b) of this subsection, the department shall determine whether the person is entitled to the calculation provided under subsection (2) of this section.

(2) For persons who are eligible under subsection (1) of this section, the department shall calculate the retirement allowance as follows:

(a) Calculate average final compensation twice:

(i) First, by including the amount of leave actually cashed out that is accruable within the member's two year average final compensation period, not taking into consideration any employer percentage or ceiling cash out limitations; and

(ii) Second, by including accrued leave as specified in (a)(i) of this subsection but taking into consideration any employer percentages and ceiling cash out limitations.

(b) Calculate the difference between the retirement allowance under (a)(i) and (ii) of this subsection. The department shall calculate the present value of this difference using its actuarial tables and retain eight percent of the present value of this amount to restore pension fund moneys expended in paying *Bowles* plaintiff class attorney fees. Each member's *Bowles* attorney fee payment shall be made in a one-time deduction from the member's first retirement allowance payment after the final computation of the member's benefit; and

(c) Pursuant to RCW 41.50.150, assess the member's employer for any additional excess compensation added to the member's retirement allowance.

[Recodified as § 415-108-810. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-530, filed 5/5/94, effective 6/5/94.]

WAC 415-108-820 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. (1) At the time of a member's application for retirement, the department does not have all information necessary to make a final computation of the member's retirement allowance. Based upon estimates of the retiree's compensation and earned service credit through the date of retirement, the department shall compute an interim retirement allowance made payable to the member in the interim between the member's date of retirement and the department's final computation of the member's retirement allowance. The interim retirement allowance is an initial, estimated computation of the retiree's retirement allowance subject to adjustment by the department based upon subsequent review of information provided by the member's employer.

(2) In computing the interim retirement allowance, the department shall, subject to later correction, consider only the amount of the member's salary actually reported by the employer up to the date of the interim computation, but shall impute the member's earned service credit for the same period.

(3) Every employer of a member who applies for retirement shall provide the department with a final compensation report for that member. The report shall be completed on a form provided or approved by the department.

(4) Following the department's computation of the interim benefit and receipt of the employer final compensation report, leave cash out information for Plan I retirees, earnings history, and copies of the employment contract and employer compensation policies, the department shall complete a final computation of the member's retirement allowance. The department's final computation may either increase or decrease the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may subsequently adjust a member's retirement allowance to correct any error in retirement system records. For purposes of this subsection, errors in retirement system records include, but are not limited to, the following:

(a) Applying an incorrect retirement allowance formula in computing the retirement allowance;

(b) Including service that is not creditable to the member;

(c) Including payments that do not constitute earnable compensation to a member in the member's retirement allowance computation, or excluding earnable compensation not reported by an employer;

(d) Benefit overpayments and underpayments;

(e) Including an individual in the membership of the retirement system who is not entitled to such membership.

[Recodified as § 415-108-820. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-540, filed 5/5/94, effective 6/5/94.]

WAC 415-108-830 Actuarial recomputation of retirement allowance upon retirement following reemployment. (1) The purpose of this rule is to establish a method to actuarially recompute the retirement allowance of a Plan II member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan II retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.40.690 as follows:

(a) If the member first retired before age sixty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.40.620 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.40.620 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a retiree's retirement allowance is suspended under RCW 41.40.690 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

(i) An amount amortized over the expected term of the recomputed retirement allowance; or

(ii) A lump sum payment equal to the suspended retirement allowance plus interest.

[Recodified as § 415-108-830. 97-19-035, filed 9/9/97, effective 9/9/97. Statutory Authority: RCW 41.50.050. 94-09-040, § 415-108-580, filed 4/19/94, effective 5/20/94.]

Chapter 415-112 WAC

TEACHERS' RETIREMENT BOARD OF TRUSTEES

WAC

415-112-0160	Reportable compensation—Definition.
415-112-330	Calculating service credit for plan I K-12 employees.
415-112-335	Calculating service credit for part-time community and technical college employees.
415-112-410	Repealed.
415-112-411	Repealed.
415-112-414	Repealed.
415-112-444	Purpose and scope of earnable compensation rules.
415-112-445	Reportable compensation table.
415-112-450	What compensation can be reported?
415-112-460	Payments for services rendered.
415-112-4601	Contract salary payments.
415-112-4603	Performance bonuses.
415-112-4604	Cafeteria plans.
415-112-4605	Leave payments earned over time.
415-112-4607	Retroactive salary increases.
415-112-4608	Severance pay earned over time.
415-112-4609	Payments earned by, but not made to a member.
415-112-470	Payments not for services rendered.
415-112-471	Legislative leave.
415-112-473	Paid leave not earned over time.
415-112-475	Union leave.
415-112-477	Reinstatement or payment instead of reinstatement.
415-112-480	Fringe benefits.
415-112-482	Disability insurance.
415-112-483	Workers' compensation.
415-112-485	Illegal payments.

415-112-487	Optional payments.
415-112-489	Reimbursements for expenses.
415-112-490	Retirement bonus or incentive.
415-112-491	Severance pay not earned over time—Contract buy out.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

415-112-410	Earnable compensation for Plan I TRS members. [Statutory Authority: RCW 41.32.010(11), 88-11-031 (Order 88-12), § 415-112-410, filed 5/13/88. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-410, filed 2/15/78. Formerly WAC 462-24-020.] Repealed by 97-03-016, filed 1/6/97, effective 2/6/97. Statutory Authority: RCW 41.50.050.
415-112-411	Earnable compensation for Plan II TRS members. [Statutory Authority: RCW 41.32.010(11), 88-11-031 (Order 88-12), § 415-112-411, filed 5/13/88.] Repealed by 97-03-016, filed 1/6/97, effective 2/6/97. Statutory Authority: RCW 41.50.050.
415-112-414	Back pay award or settlement—Definition—Allocated by the department for retirement system purposes. [Statutory Authority: RCW 41.32.010(11) and 41.32.160, 87-17-060 (Order DRS 87-07), § 415-112-414, filed 8/19/87.] Repealed by 97-03-016, filed 1/6/97, effective 2/6/97. Statutory Authority: RCW 41.50.050.

**WAC 415-112-0160 Reportable compensation—
Definition.** "Reportable compensation" means earnable compensation as that term is defined in RCW 41.32.010(10).

[Statutory Authority: RCW 41.50.050, 97-03-016, § 415-112-0160, filed 1/6/97, effective 2/6/97.]

WAC 415-112-330 Calculating service credit for plan I K-12 employees. For plan I members who are employed by a school district, a school year shall consist of one hundred eighty days. One year of service credit shall be granted to a plan I member who is employed as a classroom teacher for one hundred forty-four or more days during a school year. A fractional year of credit shall be granted to a plan I member who is employed for at least twenty days but less than one hundred forty-four days during a school year. The fraction shall be that produced by using the days employed as the numerator and one hundred eighty as the denominator.

(1) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, a plan I classroom teacher shall be granted one day of credit for every seven hours of compensated employment.

(2) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, plan I K-12 employees other than school district classroom teachers will earn one day of credit for every eight hours of compensated employment.

[Statutory Authority: RCW 41.50.050, 97-09-037, § 415-112-330, filed 4/14/97, effective 5/15/97. Statutory Authority: RCW 41.50.050 and 41.32.570, 91-21-084, § 415-112-330, filed 10/18/91, effective 11/18/91. Statutory Authority: RCW 41.32.270 and 41.32.010 (11)(a)(ii), 88-17-052 (Order 88-13), § 415-112-330, filed 8/17/88.]

WAC 415-112-335 Calculating service credit for part-time community and technical college employees. Most community and technical colleges employ academic employees under contracts expressed in terms of a certain number of contact hours, which are usually limited to actual

time spent in the classroom. Most academic positions require more time to be spent providing services to the college than are reflected in the contact hours. However, actual hours worked are not submitted by the academic employees nor recorded by the college. This subsection adopts a method for estimating hours of work in order to determine membership eligibility and service credit in plan I and plan II. This estimate is to be used solely for that purpose. The estimate is not a representation by the department of actual hours worked and is not to be used as a basis for calculating other benefits or salary for technical college and community college academic employees.

(1) **Plan I.** In order to estimate the number of days worked by a TRS I technical college or community college faculty academic employee for a particular month, the college will:

(a) Determine the number of working days in the month as defined by the college's adopted academic calendar;

(b) Determine the part-time workload for the employee. The part-time workload is the percentage of the part-time employees' weekly in-class teaching hours to the weekly in-class teaching hours required of a full-time instructor in that employee's discipline at the college; and

(c) Multiply the number of working days in the month by the academic employee's part-time workload.

The resulting number is an estimate of days worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan I service credit and/or membership eligibility.

(2) **Plan II.** Determining service credit for plan II requires the college to estimate hours worked rather than days worked. To estimate hours worked, the college uses the steps described in subsection (1) of this section and takes two additional steps:

(a) Determine the number of hours in a full-time work day. In the absence of a definition of the number of hours in a full-time work day in the collective bargaining agreement or elsewhere, the college will use seven hours;

(b) Multiply the estimated days worked as determined in subsection (1) of this section by the number of hours in a full-time work day.

The resulting number is an estimate of hours worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan II service credit and/or membership eligibility.

(3) **Definitions.** "In-class teaching hours" means contact classroom and lab hours in which full-time or part-time academic employees are performing contractually assigned teaching duties. The in-class teaching hours shall not include any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

[Statutory Authority: RCW 41.50.050, 97-09-037, § 415-112-335, filed 4/14/97, effective 5/15/97.]

WAC 415-112-410 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-411 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-414 Repealed. See Disposition Table at beginning of this chapter.

WAC 415-112-444 Purpose and scope of earnable compensation rules. WAC 415-112-445 through 415-112-491 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as earnable compensation in TRS Plan I, TRS Plan II and TRS Plan III. The department has applied and will apply these rules to determine the proper characterization of payments occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-444, filed 1/6/97, effective 2/6/97.]

WAC 415-112-445 Reportable compensation table. The following table is provided as a quick reference guide to help you characterize payments under Plan I, Plan II and Plan III. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines basic salary based upon the nature of the payment, not the name applied to it, see WAC 415-112-450.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-4605	No - WAC 415-112-4605
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 ¹	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482
Employer Provided Vehicle	No - WAC 415-112-413 ²	No - WAC 415-112-413
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Employer taxes/contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Fringe Benefits	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Nonmoney Maintenance	Yes - WAC 415-112-412 ³	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487
Payments in Lieu of Excluded Items	No - WAC 415-112-470	No - WAC 415-112-470
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607

¹A portion of the value of an employer car allowance may be reportable in Plan I only, see WAC 415-112-41301

²A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-112-413.

³A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-112-412.

Type of Payment	TRS I Reportable Compensation?	TRS II/III Reportable Compensation?
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-491	No - WAC 415-112-491
Sick Leave Cash Outs	No - WAC 415-112-4605	No - WAC 415-112-4605
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601 ⁴
Time Off with Pay	Yes - WAC 415-112-473 WAC 415-112-4605	Yes - WAC 415-112-473 WAC 415-112-4605
Union Leave ⁵	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Worker's Compensation	No - WAC 415-112-483	No - WAC 415-112-483

⁴ Reportable only if member is employed in an eligible position.

⁵ Only specific types of union leave are reportable, see WAC 415-112-475.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-445, filed 1/6/97, effective 2/6/97.]

WAC 415-112-450 What compensation can be reported? In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of earnable compensation in RCW 41.32.010(10).

(1) **Payments for services rendered.** To determine whether a payment meets this definition and can be reported, ask the following questions:

(a) Was the payment earned as a salary or wage for services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).

(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, you may report the payment.

(2) **Payments included that are not for services rendered.** The legislature has included certain specific

payments within the definition of earnable compensation even though those payments are not for services rendered by the employee to the employer. (See WAC 415-112-472 through 415-112-477.)

(3) **Reportable compensation is earned when the service is rendered, rather than when payment is made.**

Example: If a member works during June but does not receive payment for the work until July, the earnable compensation was earned during June and must be reported to the department as June earnings.

(4) **Salary characterizations are based upon the nature of the payment.** A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines whether a payment is reportable compensation by considering:

- (a) What the payment is for; and
- (b) Whether the reason for the payment brings it within the statutory definition of earnable compensation.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

(5) Differences in reportable compensation between plans. WAC 415-112-450 through 415-112-491 define reportable compensation for each of the three TRS plans.

(a) "Earnable compensation" is defined in very similar terms for both TRS Plan I and TRS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-112-450 through 415-112-491 is the same for both TRS Plan I and TRS Plan II except as specifically noted.

(b) "Earnable compensation" is defined identically for TRS Plan II and TRS Plan III. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-112-450 through 415-112-491 is the same for both TRS Plan II and TRS Plan III.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-450, filed 1/6/97, effective 2/6/97.]

WAC 415-112-460 Payments for services rendered. WAC 415-112-4601 through 415-112-4609 discuss types of payments for services rendered. Each of the payment types are reportable compensation for TRS Plan I. Certain types of payments for services rendered are excepted from reportable compensation for TRS Plan II and Plan III, see WAC 415-112-4605.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-460, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4601 Contract salary payments. (1) **Base contract.** The base contract establishes the payment for teaching or administrative services provided during each day of the district's school year. For classroom teachers, the base contract authorizes the salary for providing basic education services per RCW 28A.405.200. For administrators and principals, other items may be included. Because services are rendered in exchange for this payment, it is reportable compensation. This does not mean that a payment is reportable compensation solely because it is authorized in an employee's base contract. Rather than relying on the name of a payment or the document where it is authorized, you must evaluate whether services were rendered in exchange for the payment.

(2) **Evening or summer school contracts.** Evening or summer school payments are for additional time worked. These payments are often authorized in a supplemental contract. These payments are for services rendered and are reportable compensation.

(3) **Supplemental or TRI contracts under RCW 28A.400.200.** A school district may compensate an employ-

ee for additional time, responsibility or incentives with a supplemental contract.

(a) If the payment is for additional time, then it is for services rendered and qualifies as reportable compensation.

(b) If the payment is for additional responsibility (i.e., additional service which does not specifically require more time) within the regularly scheduled working day, then it is also for services rendered and is reportable. Examples of additional responsibility include payments linked to extra enrollment or additional duties outside the scope of the base contract.

(c) If the payment is made as an incentive, then it is also for services rendered and is reportable compensation. Incentive payments include payments for meeting performance goals specified by the employer.

(4) **Longevity or educational attainment.** Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.

(a) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is reportable compensation.

(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4601, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4603 Performance bonuses. Bonuses that are based upon meeting certain performance goals or having to work under unusual conditions, such as over enrollment, are earned for services rendered and are reportable compensation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4603, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4604 Cafeteria plans. Compensation received in any form under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code is reportable compensation if the employee has an absolute right to receive cash or deferred cash payments in lieu of the fringe benefits offered. In such an instance, the fringe benefits are being provided in lieu of cash and are considered reportable compensation, just as the cash would be. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not reportable compensation, see WAC 415-112-480.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4604, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4605 Leave payments earned over time. (1) **Sick, annual, and personal leave usage.** Sick leave, annual leave, and personal leave is accumulated over time and paid to a person during a period of excused

absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave was accumulated. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave and personal leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered.

(a) Plan I. Annual leave and personal leave cash outs are reportable for TRS Plan I.

(b) Plan II and Plan III. Although the payments are for services rendered, annual leave and personal leave cash outs are excluded from the definition of reportable compensation in TRS Plan II and TRS Plan III, see RCW 41.32.010(10)(b).

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered. However, these payments are statutorily excluded from reportable compensation for all TRS Plans. See RCW 41.32.010(10), 41.04.340, 28A.400.210 and 28A.310.490.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4605, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4607 Retroactive salary increases. A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in place of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-112-477.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency; or

(c) A collective bargaining agreement.

(2) The payments will be deemed earned in the period in which the work was done.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4607, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4608 Severance pay earned over time. (1) **Plan I.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan I. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain

amount of severance pay will be earned in the coming year in consideration for services rendered.

Example: Mr. Jones is a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his retirement calculation.

(2) **Plans II and III.** All forms of severance pay are excluded from earnable compensation for Plans II and III by RCW 41.32.010(10).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I, II, or III, see WAC 415-112-491.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4608, filed 1/6/97, effective 2/6/97.]

WAC 415-112-4609 Payments earned by, but not made to a member. (1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-112-480.

(2) **Tax withholding.** Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) **Voluntary deductions.** Payments deducted voluntarily, such as 403(b) plan contributions or other authorized deductions, are reportable.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4609, filed 1/6/97, effective 2/6/97.]

WAC 415-112-470 Payments not for services rendered. In general, payments cannot be reported to the retirement system unless they are for services rendered. However, the legislature has identified some types of compensation (in RCW 41.32.010 and 41.32.267) which are reportable even though they are not for services rendered.

(1) WAC 415-112-472 through 415-112-477 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-112-480 through 415-112-491 discuss some payments that are not for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-112-472 through 415-112-477 is not reportable compensation even if it is not listed in WAC 415-112-480 through 415-112-491.

(3) A payment made in lieu of a payment that is not for services rendered (such as a payment made in lieu of a car allowance) will be treated in the same way that the original payment was treated. Such a payment is not for services rendered and is not reportable.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-470, filed 1/6/97, effective 2/6/97.]

WAC 415-112-471 Legislative leave. If an employee takes a leave without pay to serve in the legislature, the member is entitled to service and reportable compensation credit for the period.

(1) **Plan I.** The salary the employee would have earned is reportable compensation if the employee serves at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) **Plan II and Plan III.** The employee may choose between:

(a) The reportable compensation he or she would have earned had the member not served in the legislature; or

(b) The actual reportable compensation received for teaching plus the legislative reportable compensation.

If the employee selects option (a), he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-471, filed 1/6/97, effective 2/6/97.]

WAC 415-112-473 Paid leave not earned over time. If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.32.267, 41.32.810 and 41.32.865 identify payments received from the employer while on paid leave as reportable for TRS. Contributions are due on these payments to the extent they meet the following conditions:

(1) The payment is equal to the salary for the position that the person is on leave from;

(2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.32.267 (Plan I), 41.32.810 (Plan II), 41.32.865 (Plan III), and WAC 415-112-475.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-473, filed 1/6/97, effective 2/6/97.]

WAC 415-112-475 Union leave. If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.32.267 (Plan I), RCW 41.32.810 (Plan II), or RCW 41.32.865 (Plan III), as appropriate, are met.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-475, filed 1/6/97, effective 2/6/97.]

WAC 415-112-477 Reinstatement or payment instead of reinstatement. If an employer makes payments to an employee for periods where the employee was not

employed and those payments are made upon reinstatement of the employee or instead of reinstatement, the payments are not earned for services rendered. However, RCW 41.40.010(10) specifically designates such payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. Any such payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-477, filed 1/6/97, effective 2/6/97.]

WAC 415-112-480 Fringe benefits. Payments made by an employer to a third party to provide benefits for an employee are not part of the employee's salary or wage. Those payments are not reportable compensation. Examples of these types of payments are insurance premiums (other than those made under bona fide cafeteria plans, see WAC 415-112-4604) and employer retirement contributions.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-480, filed 1/6/97, effective 2/6/97.]

WAC 415-112-482 Disability insurance. Disability insurance payments are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they are not reportable compensation. This is true whether the payments come directly from the employer or from an insurance company.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-482, filed 1/6/97, effective 2/6/97.]

WAC 415-112-483 Workers' compensation. Workers' compensation is paid to persons for periods when they are unable to work. Workers' compensation payments, like disability insurance, are not payments for services rendered and are not reportable compensation.

Example: Some employees on unpaid disability leave submit their workers' compensation payments to their employer who then issues the employee a check for the same amount through the payroll system. This exchange of payments does not change the character of the workers' compensation payment. Whether the payments come from the department of labor and industries, a self-insured employer, or have the appearance of coming from the employer, workers' compensation payments are not payments for services rendered and do not qualify as reportable compensation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-483, filed 1/6/97, effective 2/6/97.]

WAC 415-112-485 Illegal payments. Payments made by an employer in excess of the employer's legal authority are not reportable.

Example: School districts are prohibited from increasing an employee's salary to include a payment in lieu of a fringe benefit per RCW 28A.400.220.

If a district increased a person's salary instead of providing a district car, the payment would be illegal and could not be reported.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-485, filed 1/6/97, effective 2/6/97.]

WAC 415-112-487 Optional payments. If an employee can receive an additional payment only on the condition of taking an action other than providing service to the employer, the payment is not for services rendered and is not reportable compensation.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to have a portion of his or her salary deferred. Because the employee does not have a right to receive the contribution based solely on the rendering of service, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-487, filed 1/6/97, effective 2/6/97.]

WAC 415-112-489 Reimbursements for expenses. Reimbursements are not earned for services rendered and thus are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, see WAC 415-112-41301, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-489, filed 1/6/97, effective 2/6/97.]

WAC 415-112-490 Retirement bonus or incentive. A payment made to an employee as a bonus or incentive when retiring or terminating is not a payment for services rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive is not reportable compensation.

Example: A collective bargaining agreement authorizes a school district to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire. Because the payment is in exchange for the agreement to retire and not for services, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-490, filed 1/6/97, effective 2/6/97.]

WAC 415-112-491 Severance pay not earned over time—Contract buy out. Severance pay that is not earned over time is not earned for services rendered and is not reportable. An example of severance pay not earned over time is a payment negotiated as part of termination agreement.

Example: At the time of an administrator's termination, the school district agrees to pay him a lump sum payment equal to two months salary. The school district identifies this payment as "sev-

erance pay." Because the payment was not earned for services rendered, it is not reportable compensation and will not be included in his retirement calculation.

[Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-491, filed 1/6/97, effective 2/6/97.]

Chapter 415-200 WAC

EMPLOYEE RETIREMENT BENEFITS BOARD

WAC

415-200-030	Teachers' retirement system plan III external administrators.
415-200-040	Self-directed investment—Expenses paid by members.
415-200-050	Recusal of board members—Beneficial interest in transaction.
415-200-060	Recusal of board members—Beneficial interest in entity engaged in transaction with the board.
415-200-070	Recusal of board members—Disclosure of reason for recusal.

WAC 415-200-030 Teachers' retirement system plan III external administrators. The employee retirement benefits board may obtain external investment management services to assist with the provision of self-direct investment options. External administrator and investment management services will be obtained through competitive procurement processes to ensure teachers' retirement system plan III members receive quality services and competitive pricing. The department of retirement systems may select external administrators to assist with the administration of the defined contribution portion of the teachers' retirement system plan III established under chapter 41.34 RCW.

[Statutory Authority: RCW 41.50.088 and 41.32.060. 97-16-039, § 415-200-030, filed 7/30/97, effective 7/30/97.]

WAC 415-200-040 Self-directed investment—Expenses paid by members. RCW 41.34.060 allows members of the teachers' retirement system plan III to elect to self-direct their investments using options approved by the employee retirement benefits board. Members electing to self-direct their investments must pay the expenses caused by the self-directed investment program.

(1) **Assessment of member expenses for self-directed investment.** Each month, the third-party administrator will allocate self-directed investment expenses to each participating member. The expenses allocated to members shall include:

- (a) External third party administrator costs;
 - (b) External investment manager and consultant costs;
- and

(c) State investment board investment management operating expenses, in the case of investment options provided through the state investment board.

Each category of expense shall be expressed in terms of basis points. A basis point is equal to one-hundredth of one percent. The administrator will determine the participating member's monthly fee by multiplying the average monthly value of each participating member's self-directed account assets by the basis points for each expense category.

(2) **Adoption of expense charge.** The expense charges used to calculate self-directed investment fees for participat-

ing members shall be established in a memorandum of understanding, interagency agreement, and/or contract. Each expense charge shall be reviewed and approved at a regularly scheduled meeting of the employee retirement benefits board, with opportunity for public testimony. No expense charge may be included in a memorandum of understanding, interagency agreement, and/or contract until such charge has been approved by the employee retirement benefits board. No expense charge which has been approved may be changed unless such change has been approved by the board.

[Statutory Authority: RCW 41.50.088 and 41.32.060. 97-16-039, § 415-200-040, filed 7/30/97, effective 7/30/97.]

WAC 415-200-050 Recusal of board members—Beneficial interest in transaction. (1) When a member of the board is beneficially interested, directly or indirectly, in a contract, sale, lease, purchase or grant that may be made by, through, or is under the supervision of the board, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant, the member shall:

(a) Recuse him or herself from the board discussion regarding the specific contract, sale, lease, purchase or grant;

(b) Recuse him or herself from the board vote on the specific contract, sale, lease, purchase or grant; and

(c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific contract, sale, lease, purchase or grant.

(2) The prohibition against discussion set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3) Under subsection (1) of this section, "any other person" has a beneficial interest in a contract, sale, lease, purchase or grant when the other person bids or otherwise seeks to be awarded the contract, sale, lease, purchase or grant.

Example: The board is composed in part of individuals who are employed by companies which provide investment options to retirement plans. The board is in the process of selecting investment options for the defined contribution portion of the Teachers' Retirement System Plan 3. A company which employs one of the board members has bid on the contract. The board member who is employed by the bidding company may use his general expertise to educate and provide general information to the board regarding investments and defined contribution retirement plans in general. The member is prohibited from participating in the board discussion and analysis implementing the criteria for selecting an investment company, and is prohibited from participating in the board vote to select the company.

Example: The board has a contract with an investment company to provide investment options for the defined contribution portion of Teachers' Retirement System Plan 3 (TRS Plan 3). The

board's contract with the investment company is almost expired, and the board must seek proposals from investment companies for the next contract period. The board issues a request for proposal to various investment companies, including Investment Company "A." Approximately one year ago, a board member worked for Investment Company "A" and received compensation from that company. The board member subsequently retired. The board member is not required to recuse herself from selecting the investment company for TRS Plan 3. Investment Company "A" did not have a beneficial interest in the board's contract until it bid on the contract. Therefore, Investment Company "A" was not beneficially interested in the contract when the board member received the compensation. However, if the board member received compensation from Investment Company "A" after it bid on the contract, the board member would be required to disclose the fact that she received the compensation from the bidder, and to recuse herself from the board's specific discussion and the vote awarding the contract.

[Statutory Authority: RCW 41.50.086. 98-01-109, § 415-200-050, filed 12/17/97, effective 1/17/98.]

WAC 415-200-060 Recusal of board members—Beneficial interest in entity engaged in transaction with the board. (1) When a member of the board either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual which is engaged in a transaction involving the board, the member shall:

(a) Recuse him or herself from the board discussion regarding the specific transaction;

(b) Recuse him or herself from the board vote on the specific transaction; and

(c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific transaction.

(2) The prohibition against discussion and voting set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3)(a) "Transaction involving the board" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the member in question believes, or has reason to believe:

(i) Is, or will be, the subject of board action; or

(ii) Is one to which the board is or will be a party; or

(iii) Is one in which the board has a direct and substantial proprietary interest.

(b) "Transaction involving the board" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the board

that is the basis for the claim, case, or lawsuit. Rule making is not a "transaction involving the board."

(4) "Board action" means any action on the part of the board, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

Example: The board selects investment options for the deferred compensation program. The board currently has a contract with Investment Company "B" which allows program participants to purchase Company "B's" stock. The board is in the process of determining whether to renew Company "B's" contract. One of the board members owns fifty shares of Company "B" stock. That board member must recuse herself from the board's discussion and vote regarding whether to renew Company "B's" contract. The board member also must refrain from attempting to influence the remaining board members in their discussion and vote regarding the contract renewal.

Example: The board selects investment options for the deferred compensation program. The board is in the process of obtaining proposals from mutual fund companies to provide mutual fund options to program participants. Mutual Fund Company "C" bids on the contract. A board member owns one hundred shares of Mutual Fund "C," but does not have any management powers in the mutual fund company. The board member does not have a beneficial interest in Mutual Fund Company "C." RCW 42.52.010(4). The board member thus is not required to recuse himself from the board's discussion and vote on the mutual fund contract.

[Statutory Authority: RCW 41.50.086. 98-01-109, § 415-200-060, filed 12/17/97, effective 1/17/98.]

WAC 415-200-070 Recusal of board members—Disclosure of reason for recusal. If recusal occurs pursuant to WAC 415-200-050 or 415-200-060, the member of the board shall disclose to the public the reasons for his or her recusal from any board action whenever recusal occurs. The board staff shall record each recusal and the basis for the recusal.

[Statutory Authority: RCW 41.50.086. 98-01-109, § 415-200-070, filed 12/17/97, effective 1/17/98.]

Chapter 415-512 WAC PARTICIPATION IN THE PLAN

WAC

415-512-090

Elections regarding distribution.

WAC 415-512-090 Elections regarding distribution.

Each participant (or in the event of death, each beneficiary other than an organization, an estate, or a trust) shall elect when his/her payout will begin and the payout period.

(1) Election regarding time of payment. The election regarding the date when payment will begin shall be made when a participant separates from service (or dies having separated from service and having previously elected when payment will begin).

Once made, the election regarding when payout will begin is irrevocable as to the participant or beneficiary making the election, unless the participant or beneficiary, more than thirty days prior to the elected date payment is to begin, elects to postpone the original date. Only one such postponement is allowed. The election regarding when payment will begin:

(a) By a participant who separates from service other than by reason of death, must be made not later than sixty days after separation from service. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110;

(b) By a beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must be made not later than sixty days after the participant's death. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110.

(2) Election regarding method of payment. The participant (or beneficiary) who makes an election regarding the date payment will begin, may also elect the period over which payments will be made. The payout period election may be made either at the time he/she elects a beginning date for payout or at any time not later than sixty days prior to the date payout is to begin. Once having made this election, the participant (or beneficiary, other than an organization, estate, or trust) may change the payout period election not later than thirty days prior to the date payout is to begin. Such a beneficiary may also make this election where the participant was already receiving payments but, as provided in WAC 415-512-110 (3)(a), must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the payout period election not later than sixty days after the death of the participant and payout will be suspended following the participant's death until the beneficiary either makes a payout period election or begins receiving payment as provided in subsection (4) of this section. Provided, if the participant was receiving payout in the form of an annuity contract, then the successor's right shall be limited by the terms of that contract.

(3) How elections are made. A participant or beneficiary makes elections allowed under this section by completing and filing applicable payment request forms with the department.

(4) Consequences in absence of a timely election regarding time of payment. Absent a timely election

regarding when payout is to begin, payout will begin on the central payroll date nearest the twenty-fifth day of the month following the month in which the election period ends, and will be made, in a lump sum if the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars or, if the accumulated deferrals are twenty-five thousand dollars or more, in equal monthly installments over a period of one hundred twenty months or such lesser period:

(a) As may be necessary under the minimum payout requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(b) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

(5) Effects of certain employment changes. Transfers from the plan are allowed in the circumstances described in WAC 415-512-015(2).

(6) Consequences in absence of a timely election regarding method of payment. In the absence of a timely election regarding the period of time over which payment will be made, payment will be made in the manner described in subsection (4) of this section.

(7) Payment to an organization, estate, or trust. Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-512-110(3).

[Statutory Authority: RCW 41.50.780(1) and 41.50.050. 97-05-009, § 415-512-090, filed 2/7/97, effective 3/10/97. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-090, filed 7/29/96, effective 7/29/96.]

Title 434 WAC SECRETARY OF STATE

Chapters

- 434-09 Selection and notification of persons by secretary of state for citizens' commission for salaries of elected officials.**
- 434-20 Voter registration forms—Manual voter registration.**
- 434-24 Maintenance of voter registration records on electronic data processing systems.**
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Chapter 434-09 WAC

SELECTION AND NOTIFICATION OF PERSONS BY SECRETARY OF STATE FOR CITIZENS' COMMISSION FOR SALARIES OF ELECTED OFFICIALS

WAC

434-09-010 through 434-09-090 Decodified.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 434-09-010 Statement of purpose. [Statutory Authority: RCW 43.03.305. 87-06-009 (Order 87-02), § 434-09-010, filed 2/19/87.] Decodified by 97-21-045, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200.
- 434-09-020 Definitions. [Statutory Authority: RCW 43.03.305. 87-06-009 (Order 87-02), § 434-09-020, filed 2/19/87.] Decodified by 97-21-045, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200.
- 434-09-030 Qualification requirements. [Statutory Authority: RCW 43.03.305. 87-06-009 (Order 87-02), § 434-09-030, filed 2/19/87.] Decodified by 97-21-045, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200.
- 434-09-040 Transmitting and compiling the data file of records of registered voters. [Statutory Authority: RCW 43.03.305. 87-06-009 (Order 87-02), § 434-09-040, filed 2/19/87.] Decodified by 97-21-045, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200.
- 434-09-050 Conducting the selection of names by lot. [Statutory Authority: RCW 43.03.305. 87-06-009 (Order 87-02), § 434-09-050, filed 2/19/87.] Decodified by 97-21-045, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200.
- 434-09-060 Notifying persons selected by lot. [Statutory Authority: RCW 43.03.305. 87-06-009 (Order 87-02), § 434-09-060,