

# Title 415 WAC

## RETIREMENT SYSTEMS, DEPARTMENT OF

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-02-090 Actuarial tables, schedules, and factors. [Statutory Authority: RCW 41.04.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200. 88-17-053 (Order 88-14), § 415-02-090, filed 8/17/88; 87-07-013 (Order 87-1), § 415-02-090, filed 3/11/87; 86-13-022 (Order 86-2), § 415-02-090, filed 6/10/86; 86-07-026 (Order 86-1), § 415-02-090, filed 3/13/86; 84-20-043 (Order IV), § 415-02-090, filed 9/27/84.] Repealed by 91-02-019, filed 12/21/90, effective 1/21/91. Statutory Authority: RCW 41.50.050 and 41.26.060.
- 415-02-099 Purpose. [Statutory Authority: RCW 41.40.050, 41.26.060, 41.32.150, 41.40.065 and 43.43.200. 87-17-059 (Order DRS 87-06), § 415-02-099, filed 8/19/87.] Repealed by 96-03-100, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050.

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

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

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

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

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

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

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

[Order 4, § 415-02-010, filed 7/27/77.]

### Chapter 415-02 WAC GENERAL PROVISIONS

WAC  
415-02-010  
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Identification.

**WAC 415-02-020 Authority.** (1) The department of retirement systems is vested with the authority to administer,

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in accordance with chapter 105, Laws of 1975-'76 2nd ex. sess., as now or hereafter amended, the Washington public employees' retirement system created by chapter 41.40 RCW, the Washington state teachers' retirement system created by chapter 41.32 RCW, the Washington law enforcement officers' and fire fighters' retirement system, created by chapter 41.25 RCW, the Washington state patrol retirement system, created by chapter 43.43 RCW, the Washington judicial retirement system, created by chapter 2.10 RCW, and the judges retirement fund created by chapter 2.12 RCW.

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

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

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

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

[Order 4, § 415-02-020, filed 7/27/77.]

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

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

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

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

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

(5) "Employee" under this chapter, means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

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

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

(8) "Independent contractor" under this chapter, means a worker providing services under contract to a retirement system employer for remuneration who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3). Independent contractors are ineligible to participate as members in any state-administered retirement system.

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

(10) "Petition" means the method by which a party secures a review of an administrative determination by an assistant director prior to an appeal to the director.

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

(12) "Retirement system employer" means "employer" as defined in RCW 41.26.030(2), 41.32.010(11), or 41.40.010(4), and a "city" or "cities" as defined in RCW 41.44.030(2).

(13) "Worker" means a person who performs services for a retirement system employer either as an employee or as an independent contractor.

[Statutory Authority: RCW 41.50.050, 94-09-039, § 415-02-030, filed 4/19/94, effective 5/20/94; Order 4, § 415-02-030, filed 7/27/77.]

**WAC 415-02-040 Definition of Plan II.** Wherever used in this title, the term "Plan II" has reference to the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess. The term "Plan I" shall have reference to those plans in existence prior to the enactment of the above-referenced laws.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-02-040, filed 2/15/78.]

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**WAC 415-02-050 State Environmental Policy Act—Interface.** The actions and activities of the department of retirement systems are not major actions significantly affecting the quality of the environment as described in chapter 43.21C RCW. All of the activities of the department are exempted from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act (SEPA) by WAC 197-10-175.

The responsible official of the agency for the purposes of SEPA is the director.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-050, filed 2/15/78.]

**WAC 415-02-060 Refund of contributions—Application.** A request for a refund of contributions will not be honored if it was executed more than thirty days prior to its receipt by the department. A member may cancel the request for a refund of accumulated contributions at any time prior to the mailing of the warrant representing the refund of contributions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-060, filed 2/15/78.]

**WAC 415-02-070 Application of particular rules to Plan II members.** The following provisions of chapters 415-104, 415-108, and 415-112 WAC do not have application to Plan II members of the Washington state teachers' retirement system, the public employees' retirement system or the law enforcement officers' and fire fighters' retirement system: WAC 415-112-200, 415-112-210, 415-112-220, 415-112-230, 415-112-240, 415-112-250, 415-112-270, 415-112-290, 415-112-420, 415-112-430, 415-112-500, 415-112-510, 415-112-520, 415-112-540, 415-112-550, 415-112-600, 415-112-610, 415-112-620, 415-112-630, 415-112-700, and 415-112-710; 415-104-210, 415-104-220, 415-104-250, 415-104-310, 415-108-070, 415-108-210 and 415-108-220.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-070, filed 2/15/78.]

**WAC 415-02-080 Identification of members.** Records of members of the retirement systems will be filed and identified in part by Social Security number. Each member of the systems shall be required to supply his or her Social Security number for such record keeping purposes. Such disclosure shall be voluntary and shall only be used for record keeping and identification purposes. Failure to supply a Social Security number shall not result in the loss of any benefits supplied by these systems.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-080, filed 2/15/78.]

**WAC 415-02-100 Retiree insurance premium deductions for retirees—Enrollment requirements.** Effective December 1, 1984 the department of retirement systems will not accept requests by retirees of any of the systems which the department administers to deduct premiums for any kind of insurance from retirement allowances unless the provider has at least twenty-five such retirees enrolled in a withholding program. Any providers who now have less than twenty-five retirees in their deduction program will have twelve

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months in which to secure at least twenty-five participants. Failing to acquire the required minimum within twelve months will result in suspension of the deduction program for such provider. Any provider presently qualified who drops below twenty-five participants in the future will be suspended if they remain under twenty-five participants for ninety days.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 84-24-017 (Order V), § 415-02-100, filed 11/28/84.]

**WAC 415-02-110 Determination of employee status.**

(1) An employee of a retirement system employer, other than a teachers' retirement system plan I retiree, who otherwise meets the eligibility criteria to participate in a state-administered retirement system is required to establish or continue membership in that system. An independent contractor is not eligible for active membership in any state-administered retirement system.

(2)(a) The department will review the entire relationship between the worker and the retirement system employer in order to determine whether a worker is an independent contractor or an employee. Generally, a worker is an employee if the employing individual or entity has the right to control and direct the work of the worker, not only as to the result to be accomplished, but also as to the means or methods by which the result is accomplished.

(b) Generally, a worker is an independent contractor if the employing entity has the right to control or direct only the result of the labor or services and not the means and methods accomplishing the labor or services.

(c) Whether or not the parties intend to establish an employer-employee relationship, or whether the parties regard the worker as being an independent contractor is not controlling. When the elements of direction and control are present in determining the means and methods of performing the worker's labor or service, any disclaimers to the contrary are not binding on the department for the purpose of determining employer-employee status. The terms of the contract and the actual arrangement under which the labor or services are performed will determine whether a worker is an employee or independent contractor.

(d) In evaluating whether the retirement system employer has direction or control over the means and methods of performing the worker's labor or services, no one factor is determinative. The department will apply several factors, including but not limited to the following:

(i) Is the worker required to comply with detailed work instructions or procedures about when, where and how the worker must perform services? An employer has control if the employer requires or has the right to require the worker to comply with instructions about the manner in which services must be performed.

(ii) Does the employing individual or entity provide free training for the worker, or have the right to train the worker? Typically, an employer would have the right to train an employee but not an independent contractor.

(iii) Are the worker's services an integral part of the employing individual's or entity's business operation? Usually the regular administrative work of a business is performed by employees rather than independent contractors.

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Services outside the usual course of the employer's business may imply independent contractor status.

(iv) Is the worker required to perform the labor or services personally? While employees are typically required to personally perform labor or services, independent contractors are not necessarily required to perform personally, but may subcontract part or all of the required labor or services to another party.

(v) Does the employer hire, supervise or pay others to perform the same job as the worker? Usually a person who works the same job or performs the same function as performed by employees of the employer is an employee rather than an independent contractor.

(vi) Does the worker hire, supervise and pay others on the job under a contract to furnish labor and materials? Independent contractors may or may not be responsible for performing the contracted labor or services themselves, and usually have the right to hire and terminate their own employees who perform the contracted labor or services.

(vii) Does the worker perform continuing services for the retirement system employer? Independent contractors are typically hired for a job of relatively short-term or temporary duration and do not have a continuous relationship with or perform continuing services for the employing entity.

(viii) Are the worker's hours, routine or schedule set by the employing entity? The establishment of a set routine or schedule for the worker by the employer indicates employee status. Independent contractors are typically free to set their own hours of work.

(ix) Is the worker required to devote his or her full time to the business of a single employing individual or entity? A worker who is required to work full time for a single employer is likely to be an employee. Independent contractors are usually free to provide labor or services for two or more employing entities concurrently.

(x) Does the employing individual or entity require the worker to perform labor or services on the employer's premises? The employing entity is likely to have the right of control over the worker's method of work if the work is performed solely on the employer's premises, particularly if the worker could perform the required labor or services elsewhere.

(xi) Does the employing individual or entity require the worker to perform labor or services in a set sequence? A worker is likely to be an employee if the worker must perform work in an order or sequence set by the employer.

(xii) Is the worker required to provide regular, oral or written reports to the employer? Regular reports, for example weekly time sheets, are usually required of employees as opposed to independent contractors.

(xiii) Is the worker paid by unit of time (hour, week or month)? Employees are typically paid by unit of time while independent contractors are typically paid by the job (commission, bid, piecework or lump sum). Payment for labor or services upon completion of the performance of specific portions of a project or on the basis of an annual or periodic retainer usually indicates independent contractor status.

(xiv) Does the employing individual or entity reimburse the worker for the worker's job-related expenses? Independent contractors typically pay their own business or travel

expenses; the regular expenses they incur as part of providing labor or services are generally included in the stipulated contract payment and are not reimbursed by the employing entity.

(xv) Does the worker providing labor or services furnish the tools and supplies necessary for the performance of the contracted labor or service? Generally, an employer furnishes tools and supplies for their employees while independent contractors furnish their own.

(xvi) Has the worker invested in the equipment or facilities used in performing the labor or services? A significant investment by the worker in the equipment or facilities used in performing the labor or services usually indicates independent contractor status.

(xvii) Does the worker have a right to realize a profit or have a significant risk of loss as a result of the worker's services? Having the right to a profit or the risk of loss arising from the worker's services implies independent contractor status. The worker may be presumed to have assumed the risk of loss if the worker assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of a performance bond, warranties, errors, and omissions insurance or liability insurance relating to the labor or services provided.

(xviii) Does the worker perform services for several persons or firms concurrently? Performance of services for a number of different unrelated clients indicates independent contractor status.

(xix) Does the worker offer services to the general public on a regular or consistent basis? An individual actively advertising services to the general public and representing to the public that the labor and services are to be provided by an independently established business is typically an independent contractor. The following are evidence of "actively advertising":

(A) The worker uses commercial advertising or business cards as is customary in operating a similar business, or is a member of a trade association;

(B) The worker uses a telephone listing and service for the business that is separate from the worker's personal residence listing and service.

(xx) Does the employer have the right to discharge the worker at will? An employee is typically subject to discharge or layoff at the will of the employer.

(xxi) Does the worker have the right to terminate the employment relationship without incurring liability? The right to terminate the work relationship at will usually indicates employee status.

(3) Typically, an independent contractor works for an employing individual or entity as a specialist in an independently established occupation, profession, trade or business. While the right of control over the method or means of work is determinative, the department shall also consider the following factors in evaluating independent contractor status. The degree of importance of each factor varies depending on the labor or services to be performed and the context in which the labor or services are performed.

(a) Does the worker perform labor or services only pursuant to written contracts?

(b) Has the worker providing labor or services attained business registrations, professional occupation licenses or certificates required by state law or local government ordinances to perform the contracted labor or services?

(c) Has the worker providing labor or services:

(i) Purchased worker's compensation insurance and paid taxes required for an independent business;

(ii) Filed income tax returns in the name of an independent business; or

(iii) Filed a Schedule of Expenses for the type of business conducted or a Business Schedule C or Farm Schedule F as part of the personal income tax return for the previous year if the worker performed the labor or services as an independent contractor in previous years?

(d) Does the worker providing labor or services maintain a separate set of books or records that reflect all items of business income and expenses as an independently established business?

(e) Has the worker assumed financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of a performance bond, warranties, errors and omissions insurance or liability insurance relating to the labor or services to be provided?

(4) The burden of persuasion in claiming that a worker is an independent contractor or an employee is on the worker or employer making the claim.

[Statutory Authority: RCW 41.50.050, 94-09-039, § 415-02-110, filed 4/19/94, effective 5/20/94.]

**Chapter 415-04 WAC**

**PETITION PROCEDURE**

**WAC**

415-04-010	Petition—Procedure.
415-04-020	Petition—Response—Decision—Appeal.
415-04-030	Contents of petition.
415-04-040	Time period for processing petition.
415-04-050	Appeal of petition decision.

**WAC 415-04-010 Petition—Procedure.** (1) The procedure established in this chapter shall apply to all petitions for:

- (a) Service credits;
- (b) Service retirement benefits;
- (c) Membership and membership credits in the retirement systems;
- (d) Disability benefits, except as otherwise provided by law;
- (e) Survivor benefits; and
- (f) Decisions relating to benefit increases provided by RCW 41.16.145 or 41.18.104.

(2) All applications for review of decisions on requests for pay out of accumulated deferred compensation deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-010, filed 7/29/96, effective 7/29/96. 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) **Time limit for filing appeals.** A person

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aggrieved by a decision of an administrator may appeal the decision by filing a petition to the director's designee for redress. The petition must be filed within one hundred twenty days from the date the administrator's decision was communicated to the person.

(2) If a person fails to file a timely petition, the person waives the right to judicial review due to failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-020, filed 7/29/96, effective 7/29/96. 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.]

**WAC 415-04-030 Contents of petition.** The person's petition must contain:

(1) A complete and detailed statement of the factual situation underlying the application or petition; which may include all relevant documents and sworn statements deemed appropriate by the petitioner;

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

(3) An identification and signature of the individual or individuals filing the petition, as well as an identification of legal counsel, if any; and

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

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-04-040 Time period for processing petition.**

(1) Upon receipt of the petition, the director will assign the same to the director's designee. The director's designee will notify 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) of the filing of the petition within fourteen days. Said notification shall request the employer(s) or member(s) to submit any written response to the petition no later than twenty days from the date of receipt of the notice.

(a) 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.

(b) The director's designee may extend the time limit for response if the requesting party shows good cause to do so.

(2) Upon receipt of the response, the director's designee will forward a copy of the response to the petitioner. The petitioner will have ten days to reply. If the petitioner does not reply within ten days, he or she waives the right to reply.

(3) Within sixty 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. The written decision will contain 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 the petitioner via certified mail.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-04-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-04-050 Appeal of petition decision.** An aggrieved party may appeal the decision of the director's designee to the director.

(1) An appeal must be filed with the director no later than sixty days after petitioner's receipt of the decision in accordance with the procedures established by chapter 415-08 WAC.

(2) If a party fails to file a timely appeal the party waives the right to judicial review due to the failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-04-050, filed 7/29/96, effective 7/29/96.]

## Chapter 415-06 WAC PUBLIC RECORDS

### WAC

415-06-010	Purpose.
415-06-020	Definitions.
415-06-030	Public records officer.
415-06-040	Office hours.
415-06-050	Requests for public records.
415-06-060	Copying.
415-06-070	Exemptions.
415-06-080	Review of denials of public records requests.
415-06-090	Records index.
415-06-100	Request for records by mail—Address.
415-06-110	Adoption of form.

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

[Order 4, § 415-06-010, filed 7/27/77.]

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

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

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

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

[Order 4, § 415-06-020, filed 7/27/77.]

**WAC 415-06-030 Public records officer.** The department's records shall be in the charge of the public records officer designated by the department. The person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the departments rules and regulation regarding release of public records, coordinating the staff of the department in this regard, and gener-

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ally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

[Order 4, § 415-06-030, filed 7/27/77.]

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

[Order 4, § 415-06-040, filed 7/27/77.]

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

(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the department's staff, if the public records office is not available, at the administrative office of the department during customary office hours. The request shall include the following information:

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

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Order 4, § 415-06-050, filed 7/27/77.]

**WAC 415-06-060 Copying.** No fee shall be charged for the inspection of public records. The department shall charge a fee equal to the amount necessary to reimburse the department for its actual costs incident to any copying.

[Order 4, § 415-06-060, filed 7/27/77.]

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

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public

record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Order 4, § 415-06-070, filed 7/27/77.]

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

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

(3) Administrative remedies shall not be considered exhausted until the director has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Order 4, § 415-06-080, filed 7/27/77.]

**WAC 415-06-090 Records index.** (1) Purpose. This rule is intended to implement RCW 42.17.260 (4)(a) and (b), which require state agencies to establish and implement a system of indexing for certain records maintained by state agencies.

(2) Responsibility for department's indexing system. The department's indexing system for records covered under this section is administered by the manager of the files unit. All record indices described in this section shall be located at the department's files unit.

(3) The department shall establish and implement a system of indexing for all records issued before July 1, 1990, for which the department has maintained an index. The department has maintained an index for the following records which have existed before July 1, 1990:

(a) "Final opinions" which include the director's final orders and other final orders in adjudicative proceedings concerning the department;

(b) "Statements and interpretations of law and policy" which include the department's "DRS notices" advising employers of the department's position regarding law and/or policy; and formal and informal opinions by the state attorney general's office, used by the department as the basis for administrative decisions;

(c) "Administrative staff manuals and instructions" which affect members of the public;

(d) "Planning policies and goals";

(1999 Ed.)

(e) "Factual reports and studies" by department staff, consultants, other governmental entities, and private organizations;

(f) "Correspondence" by the department in which the department determines or provides an opinion on the rights of state government, the public, subdivisions of state government, or any private party.

(4) The department shall establish and implement a system of indexing for the following records on or after July 1, 1990:

(a) "Final orders" which are issued in an adjudicative proceeding as defined by RCW 34.05.010(1) containing analyses or decisions of substantial importance to the department;

(b) "Declaratory orders" which are issued pursuant to RCW 34.05.240 containing analyses or decisions of substantial importance to the department;

(c) "Interpretive statements" which are a written expression of an opinion by the department, entitled "interpretive statement" by the department's director, or his or her designee, and relating to the meaning of a statute or other provision of law, court decision, or agency order; and

(d) "Policy statements" which are a written description of the department's current policy, entitled "policy statement" by the department's director, or his or her designee, and implementing a statute or other provision of law, or court decision, or agency order.

(5) The system of indexing the records identified in WAC 415-06-090 (3) and (4) is as follows:

(a) An index will be organized in WAC 415-06-090 (3) and (4).

(b) Staff of the department's legal/legislative affairs unit will select the final orders and declaratory orders to be indexed reviewing all final orders and declaratory orders entered after June 30, 1990, and evaluating the substantial importance of the orders.

(c) Records will be indexed by a phrase describing the record's subject, issue or holding, and by citation of the law involved. Examples of phrases to be used are "service credit," "retirement benefits," "membership," and "contributions."

(6) Availability: The department record index shall be available to all persons in the same manner as public records available for inspection, under chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050 and 42.17.260 (4)(a) and (b). 91-19-061, § 415-06-090, filed 9/16/91, effective 10/17/91; Order 4, § 415-06-090, filed 7/27/77.]

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

[Order 4, § 415-06-100, filed 7/27/77.]

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

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

APPENDIX A
REQUEST FOR PUBLIC RECORDS

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

For Office Use Only:

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

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

Chapter 415-08 WAC
APPEALS

WAC

- 415-08-010 Scope.
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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.

- 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—Requirements. [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 the department follows in conducting adjudicative proceedings under chapter 34.05 RCW. 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 adjudicative proceedings before the department.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-010, filed 5/7/96, effective 6/7/96. Statutory Authority: RCW (1999 Ed.)

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 415-08-015 Appeal of denial for pay out of accumulated deferred compensation deferrals.** WAC 415-524-010 and Section 457 of the Internal Revenue Code authorize pay outs from the deferred compensation plan due to an unforeseeable emergency. If your application for a pay out is denied, you are entitled to have that decision reviewed.

(1) **Filing deadline.** You must apply for review in writing within sixty days of the date you receive the denial.

(2) **Contents of review application.** Your application must contain the items listed in WAC 415-08-023.

(3) **Type of proceeding.** Within twenty days of receipt of your application, the department will notify you in writing that it will conduct either:

(a) A brief adjudicative proceeding under RCW 34.05.482 through 34.05.494; or

(b) A full adjudicative proceeding under this chapter.

(4) **Brief adjudicative proceeding.**

(a) The director's designee will serve as presiding officer. The presiding officer will:

(i) Review the agency's view of the matter, as expressed in the documentation denying your request for a withdrawal;

(ii) Review the materials you have previously submitted, as well as any additional material you wish to submit;

(iii) Give each party an opportunity to be informed of the other's view of the matter;

(iv) Make a decision on the request; and

(v) Within ten days, give the parties a brief written statement of the reasons for the decision and information about any internal review available.

(b) If the presiding officer makes an unfavorable determination in your case, you may request an administrative review provided you do so within twenty-one days after you are served with the presiding officer's written determination. If you seek administrative review, the reviewing officer will be a different person than the presiding officer.

(c) If you do not seek administrative review, you may seek judicial review within thirty days after you are served with the written determination (see RCW 34.05.542).

(5) **Full adjudicative proceeding.** If the department conducts a full adjudicative proceeding, that proceeding will be governed by the Administrative Procedure Act, chapter 34.05 RCW, and rules adopted thereunder. The department will be represented in the proceeding by an assistant attorney general.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-08-015, filed 7/29/96, effective 7/29/96.]

**WAC 415-08-020 Time limit for filing appeals—Procedure.** (1) Any party aggrieved by a petition decision rendered pursuant to chapter 415-04 WAC may appeal the decision by filing a notice of appeal within sixty days from the date such decision was communicated to the party.

(2) The appealing parties shall file the original and two copies of the notice of appeal with the department. 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.

(3) If a party fails to file a timely appeal the party waives the right to judicial review due to failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-020, filed 5/7/96, effective 6/7/96. 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 415-08-023 Contents of the notice of appeal.**

The notice of appeal must contain:

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

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

(3) In the case of disability claims:

(a) 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

(b) 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 the hearing is to be held;

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

(5) 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;

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

(7) 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.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-023, filed 5/7/96, effective 6/7/96.]

**WAC 415-08-025 Presiding officer.** The director will designate a presiding officer to issue an order. The director may issue a general or specific presiding officer designation.

(1) If the director designates a presiding officer to issue a final order, that person shall be a different person than director's designee under chapter 415-04 WAC.

(2) If the director designates a presiding officer to issue a proposed order the director, or a person designated by the director, will be the reviewing officer. In that event, the reviewing officer will issue a final order.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-025, filed 5/7/96, effective 6/7/96. 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 415-08-027 Parties may stipulate to the record on appeal.** If the parties stipulate to a record, a hearing before the presiding officer may be waived by agreement of all par-

ties. The presiding officer will then issue a final order on the stipulated record.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-027, filed 5/7/96, effective 6/7/96.]

**WAC 415-08-030 Parties.** The parties to an appeal shall be the appealing party or parties and the department. There is no obligation to serve notices, pleadings or correspondence upon any person who has not entered an appearance as a party. Service upon the representative of a party shall constitute service upon such party.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-030, filed 5/7/96, effective 6/7/96. 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 Representing another person before the presiding officer.** Only the following persons may appear in a representative capacity before the presiding officer:

(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 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 on behalf of the entity.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-040, filed 5/7/96, effective 6/7/96. 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 415-08-050 Appearance in certain proceedings may be limited to attorneys.** In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the presiding officer determines that representation in such hearing requires a high degree of legal training, experience, and skill, the board or its examiner may limit those who may appear in a representative capacity to attorneys-at-law.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-050, filed 5/7/96, effective 6/7/96; Order 4, § 415-08-050, filed 7/27/77.]

**WAC 415-08-080 Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately so notify the presiding officer 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 accom-

plished by written notification to the presiding officer and to all parties of record.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-080, filed 5/7/96, effective 6/7/96. 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 Ethical conduct required.** All persons appearing in a representative capacity in proceedings before the presiding officer 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 presiding officer may, in his/her discretion and depending on all the circumstances, admonish or reprimand such person, 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, 41.50.060 and 34.05.425. 96-11-036, § 415-08-090, filed 5/7/96, effective 6/7/96. 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 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 appear 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 so would violate RCW 42.52.080.

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-100, filed 5/7/96, effective 6/7/96. 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. 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, 41.50.060 and 34.05.425. 96-11-036, § 415-08-105, filed 5/7/96, effective 6/7/96. 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 415-08-280 Discovery.** Any party may obtain discovery in the manner 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, 41.50.060 and 34.05.425. 96-11-036, § 415-08-280, filed 5/7/96, effective 6/7/96. 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 415-08-420 Presentation of evidence—Burden of proof.** (1) The presiding officer shall determine the proper order of presentation of evidence.

(2) The person appealing or requesting a hearing shall have the burden of proof in the matter.

(1999 Ed.)

[Statutory Authority: RCW 41.50.050, 41.50.060 and 34.05.425. 96-11-036, § 415-08-420, filed 5/7/96, effective 6/7/96. 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.]

## Chapter 415-10 WAC

### PURCHASE OF SERVICE CREDIT AFTER STATUTORY DEADLINE RCW 41.50.165

#### WAC

415-10-010	Can I purchase service credit after the statutory deadline?
415-10-020	Definitions.
415-10-030	Calculation of cost to purchase service credit in LEOFF Plan I, LEOFF Plan II, PERS Plan II, or TRS Plan II.
415-10-040	Calculation of cost to purchase service credit for members of PERS I, TRS I or WSPRS.
415-10-050	Restrictions on purchasing service credit.
415-10-060	Crediting service credit purchases.
415-10-070	Requesting an estimate—Requesting a bill.
415-10-080	If I purchase service credit, can I receive a refund of my payments?
415-10-090	If I reenter employment after separating from service and withdrawing my plan contributions, must I restore all periods of service?
415-10-100	Can I purchase TRS Plan II credit in TRS Plan III? Yes.

**WAC 415-10-010 Can I purchase service credit after the statutory deadline?** RCW 41.50.165 generally allows you to purchase service credit you failed to establish or reestablish within the statutory deadline.

(1) **You must pay the actuarial value of the increase to your retirement allowance.** The actuarial value of the increase to your benefit means the cost to the retirement system trust fund of:

(a) Including the additional service credit in your retirement allowance calculation; and

(b) Commencing your retirement allowance at an earlier age, if applicable. This second factor will not apply if your retirement system is LEOFF I, LEOFF II, PERS II, or TRS II, because length of service is not a factor in determining eligibility to retire in those systems.

(2) **The valuation is based upon economic assumptions.** The cost to the retirement system trust fund for the increased value to your benefit is calculated based upon interest rate assumptions adopted by the economic and revenue forecast council and actuarial factors adopted or approved by the state actuary.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-010, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-020 Definitions.** As used in this chapter:

(1) "Average earnings" means:

(a) The average of your two highest consecutive years of compensation as of the date of your service credit purchase if you are purchasing service credit in PERS Plan I, TRS Plan I or WSPRS;

(b) The average of your five highest consecutive years of compensation as of the date of your service credit purchase if you are purchasing service credit in Plan II.

(c) The basic salary attached to your position at the date of your service credit purchase if you are purchasing service credit in LEOFF Plan I.

(2) "Factor 1" means the actuarial cost factor calculated by the state actuary and adopted by the department. The actual factor used varies depending upon the time between the date of payment and the projected date of retirement. Generally, the longer the gap between date of payment and date of retirement the lower the factor.

(3) "Factor 2" is the actuarial factor calculated by the state actuary based upon demographic differences between the membership of the different retirement systems. Those factors are: .00788 (PERS I); .00698 (TRS I); and .00908 (WSPRS).

(4) "Factor 3" means the interest factor calculated by the state actuary and adopted by the department. This factor is used only when the service credit purchase lowers the projected retirement age and is based upon the higher cost to the system of the earlier retirement.

(5) "LEOFF" means the law enforcement officers' and fire fighters' retirement system established under chapter 41.26 RCW.

(6) "PERS" means the public employees' retirement system established under chapter 41.40 RCW.

(7) "Plan I" means the retirement system plan that includes persons who established membership before October 1, 1977. PERS, TRS and LEOFF are divided into Plan I and Plan II. WSPRS has only one plan.

(8) "Plan II" means the retirement system plan that includes persons who established membership on or after October 1, 1977. PERS, TRS and LEOFF are divided into Plan I and Plan II. WSPRS has only one plan.

(9) "Plan III" means the teachers' retirement system plan III established by RCW 41.32.831.

(10) "Service credit being purchased" means the number of service credit months or service credit years you are purchasing.

(11) "TRS" means the teachers' retirement system established under chapter 41.32 RCW.

(12) "WSPRS" means the Washington state patrol retirement system established under chapter 43.43 RCW.

(13) "Years of earlier retirement" equals the number of years or fractions of years you will be able to retire earlier as a result of your purchase of service credit.

(14) "Years of service" equals the total anticipated years of service you will have accrued at retirement, including the additional service credit you purchase under this section.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-020, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-030 Calculation of cost to purchase service credit in LEOFF Plan I, LEOFF Plan II, PERS Plan II, or TRS Plan II.** If you are a member of LEOFF Plan I, LEOFF Plan II, PERS Plan II or TRS Plan II, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following formula:

$$\text{Average Earnings} \cdot \text{Service Credit Being Purchased} \cdot \text{Factor 1} \\ = \text{Cost to purchase service credit}$$

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-030, filed 12/6/96, effective 1/6/97.]

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**WAC 415-10-040 Calculation of cost to purchase service credit for members of PERS I, TRS I or WSPRS.** If you are a member of PERS I, TRS I or WSPRS, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following three part formula:

<p><b>Part 1 Cost =</b></p> <p>Service Credit Being Purchased x Average Earnings x Factor 1</p>	<p><b>Part 2 Cost =</b></p> <p>Years of Service x Average Earnings x Factor 2 x Years of Earlier Retirement x Factor 3</p>
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**Cost to purchase service credit = Part 1 Cost + Part 2 Cost.**

The Part 1 Cost represents the cost of including the additional service in your retirement allowance calculation. The Part 2 Cost represents the cost of commencing your retirement allowance at the earliest possible age.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-040, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-050 Restrictions on purchasing service credit.** (1) **You may not purchase service credit under RCW 41.50.165(2) if your deadline to establish or reestablish the service credit has not expired.**

(2) **If you are reestablishing credit you must purchase at least the service credit you earned in any one calendar month of employment.**

(3) **If you are establishing credit for the first time you must purchase the entire period of service.** If you are not reestablishing credit canceled by a withdrawal of contributions, you must purchase the entire period of service.

(4) **Your ability to purchase service credit may be limited by Internal Revenue Code restrictions.** The department may limit the amount of service credit you may purchase in any calendar year in order to stay within the maximum employee contribution limits established by the Internal Revenue Code for 401(a) tax qualified plans.

(5) **You may not make installment payments.** If you purchase service credit under this section, you must make payment in a single lump-sum as determined by the department for each unit of service credit purchased.

(6) **Purchasing service credit for periods prior to October 1, 1977, will not move you from Plan I to Plan II.** Plan membership is based upon the date your retirement system membership was established. Purchasing prior service credit does not change the date you first established membership and therefore does not change your plan membership.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-050, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-060 Crediting service credit purchases.** If you do not purchase all of your previously withdrawn service credit, the department will recredit your purchased ser-

vice beginning with the oldest month of service canceled by your withdrawal.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-060, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-070 Requesting an estimate—Requesting a bill.** (1) **The department will provide you a service credit purchase estimate upon request.** If, after receiving the estimate, you wish to purchase some or all of the available credit you must request a bill in writing. Your request must identify the amount of service credit you wish to purchase.

(2) **Your bill will be based on a specific date of payment.** The cost to purchase the service credit could change if you attempt to pay after the specific payment date listed on the bill. If you do not make payment by the bill's due date but still wish to purchase service credit, you must request a new bill from the department.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-070, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-080 If I purchase service credit, can I receive a refund of my payments?** (1) **You may not receive a refund unless you separate from service and withdraw your contributions.** Except as provided under subsections (2) and (3) of this section, your payments to purchase service credit under RCW 41.50.165(2) qualify as a part of your accumulated contributions. As with other accumulated contributions, you may not receive a refund of your payments unless you separate from service and withdraw all your contributions.

(2) **Additional restrictions for TRS I members.** If you are a TRS I member, 41.32.498(2) prohibits you from withdrawing payments made to purchase service credit under RCW 41.50.165(2) at the time of retirement.

(3) **Additional restrictions for LEOFF II members.** If you are a LEOFF Plan II member, payments made to purchase service credit under RCW 41.50.165(2) and interest on those payments may be refunded. However, such payments may not be included when calculating the one hundred fifty percent refund of contributions under RCW 41.26.540.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-080, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-090 If I reenter employment after separating from service and withdrawing my plan contributions, must I restore all periods of service?** If you separate from service, withdraw your plan contributions and then become reemployed with an employer and wish to restore your withdrawn contributions, you must restore all periods of service by repaying the accumulated contributions you withdrew plus interest, if applicable. This includes any payments you made under RCW 41.50.165(2) to purchase service credit plus any interest attributed to those payments.

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-090, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-100 Can I purchase TRS Plan II credit in TRS Plan III? Yes.** (1) **Transferring purchased TRS**

(1999 Ed.)

**Plan II credit into TRS Plan III.** If you purchase TRS Plan II service credit under this chapter and later elect to enter TRS Plan III, that credit will also transfer to TRS Plan III. Fifty percent of the money you paid to purchase the service credit will be credited to the TRS Plan III defined contribution account established under chapter 41.34 RCW. The other fifty percent will be credited to the TRS Plan III defined benefit portion established under RCW 41.32.831.

(2) **Purchasing TRS Plan II service credit after transferring to TRS Plan III.** You may purchase service credit initially available under TRS Plan II after you transfer to TRS Plan III. The service will be credited in TRS Plan III. Fifty percent of the money you pay to purchase the service credit will be credited to the TRS Plan III defined contribution account established under chapter 41.34 RCW. The other fifty percent will be credited to the TRS Plan III defined benefit portion established under RCW 41.32.831.

(3) **Service earned after transferring to TRS Plan III cannot be purchased.** Service earned as a Plan III member is automatically recredited if the member reenters membership and earns at least twelve service credit months. Plan III does not have any deadlines on establishing optional service. Because there are no deadlines for establishing or reestablishing service credit there is no provision for purchasing service credit earned in Plan III under RCW 41.50.165

[Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-100, filed 12/6/96, effective 1/6/97.]

**Chapter 415-100 WAC  
JUDICIAL RETIREMENT SYSTEM**

**WAC**

415-100-005	Purpose.
415-100-015	Scope.
415-100-025	Public records.
415-100-035	Retirement for service.
415-100-045	Definition of member.
415-100-051	Married member's benefit selection—Spousal consent required.
415-100-055	Retirement benefit options.
415-100-190	Actuarial recomputation of retirement allowance upon retirement following reemployment.

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

415-100-010	Definitions. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-010, filed 11/22/78.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-020	Public records. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-020, filed 11/22/78. Formerly chapter 290-48 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-040	Appeals—Disability retirement applications. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-040, filed 11/22/78. Formerly chapter 290-28 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-100-041	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-041, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
415-100-050	Appeals to superior court—Notice of appeal. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and

- 415-100-060 Appeals to superior court—Certification of record. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-060, filed 11/22/78. Formerly chapter 290-28 WAC.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-100 Members. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-100, filed 11/22/78. Formerly WAC 290-16-010.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-110 Officers. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-110, filed 11/22/78. Formerly WAC 290-16-020.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-120 Function. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-120, filed 11/22/78. Formerly WAC 290-16-030.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-130 Duties. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-130, filed 11/22/78. Formerly WAC 290-16-040.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-140 Location. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-140, filed 11/22/78. Formerly WAC 290-16-050.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-150 Meetings. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-150, filed 11/22/78. Formerly WAC 290-16-060.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-160 Office of the chairman. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-160, filed 11/22/78. Formerly WAC 290-16-070.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-170 Business hours. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-170, filed 11/22/78. Formerly WAC 290-16-080.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-100-180 Correspondence. [Statutory Authority: RCW 2.10.020, 41.50.050(6), and 41.50.090. 78-12-038 (Order V), § 415-100-180, filed 11/22/78. Formerly WAC 290-16-090.] Repealed by 87-07-014 (Order 87-02), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

**WAC 415-100-005 Purpose.** These rules are adopted to implement administration of chapter 2.10 RCW by the director of the department of retirement systems pursuant to RCW 2.10.052.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-005, filed 3/11/87.]

**WAC 415-100-015 Scope.** These rules shall govern the unique aspects of the administration of chapter 2.10 RCW, Judicial retirement system.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-015, filed 3/11/87.]

[Title 415 WAC—p. 14]

**WAC 415-100-025 Public records.** See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-025, filed 3/11/87.]

**WAC 415-100-035 Retirement for service.** Any judge who voluntarily leaves service after having served an aggregate of fifteen years but prior to attaining age sixty shall be eligible to apply for and receive a service retirement allowance computed according to RCW 2.10.110 commencing upon his/her attainment of age sixty. Such allowance shall be computed in accordance with RCW 2.10.110 and 2.10.030 (9)(b).

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-014 (Order 87-02), § 415-100-035, filed 3/11/87.]

**WAC 415-100-045 Definition of member.** (1) "Member" means:

(a) A judge as defined in RCW 2.10.030(2), who elected to exchange survivor benefits, filed the requisite documents with the department pursuant to RCW 2.10.140(2), and is making contributions to the system; or

(b) A former judge as defined in RCW 2.10.030(2), who elected to exchange survivor benefits, filed the requisite documents with the department pursuant to RCW 2.10.140(2), and left accumulated contributions in the system; or

(c) A retiree.

(2) A retiree means any judge, as defined in RCW 2.10.030(2), in receipt of a retirement allowance or other benefit provided by chapter 2.10 RCW resulting from service rendered to an employer.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-100-045, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-045, filed 1/7/91, effective 2/7/91.]

**WAC 415-100-051 Married member's benefit selection—Spousal consent required.** The member, if married, must provide the spouse's written consent to the option selected under WAC 415-100-055. If a married member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 2.10.146(2). "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. (The spouse's notarized signature on a completed retirement application constitutes spousal consent.)

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-100-051, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-013, § 415-100-051, filed 1/7/91, effective 2/7/91.]

**WAC 415-100-055 Retirement benefit options.** RCW 2.10.146, enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One (standard allowance).** The department pays the retiree a monthly retirement allowance based solely on the single life of the member, in accordance with RCW

2.10.146. When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions, will be paid to:

- (a) The member's designated beneficiary; or if none, to
- (b) The member's surviving spouse; or if none, to
- (c) The member's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the pop-up provision, Agnes' monthly benefit will increase to the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount		+ Total COLA's	= New Benefit Amount	
\$2000		+ \$191.05	= \$2,191.05*	

\*In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(4) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660, 96-01-047, § 415-100-055, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-013, § 415-100-055, filed 1/7/91, effective 2/7/91.]

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

(c) Option Four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the member's gross monthly retirement allowance.

(3) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who selected Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance will increase, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One described in subsection (1) of this section; plus

(ii) Any cost-of-living adjustments received prior to the survivor's death based on original selection.

(c) Pop-up recalculation example.

**WAC 415-100-190 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 member who retires, reenters employment causing his or her retirement allowance to be suspended, and then retires again.

(2) If a member initially retired at or after age sixty and reentered membership, upon the member's next retirement, the department shall recompute the member's retirement allowance pursuant to RCW 2.10.110. In recomputing the member's retirement allowance, the department shall 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 2.10.155 due to reemployment in an eligible position 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 including cost-of-living adjustments. 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.

[Statutory Authority: RCW 41.50.050, 94-11-008, § 415-100-190, filed 5/5/94, effective 6/5/94.]

**Chapter 415-104 WAC**

**LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM**

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415-104-584	Lower extremities.		2/15/78. Formerly WAC 297-25-100.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
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415-104-600	Genitalia.		
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415-104-700	Spine and sacroiliac joints.		
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415-104-730	Venereal diseases.		
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415-104-782	Option to preserve LEOFF I retirement rights.		
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415-104-784	Member contributions for LEOFF plan I elected officials.		
415-104-785	Employer contributions for LEOFF plan I elected officials.	415-104-205	Definitions for purposes of WAC 415-104-200 through 415-104-215. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-205, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
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415-104-010	Definitions. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-010, filed 2/15/78. Formerly WAC 297-15-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-210	Processing applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-210, filed 2/15/78. Formerly WAC 297-30-020.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-020	Public records. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-020, filed 2/15/78.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-220	Recording. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-220, filed 2/15/78. Formerly WAC 297-30-030.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-030	Deductions from pension payments for insurance purposes. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-030, filed 2/15/78. Formerly WAC 297-60-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-230	Legal examination of application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-230, filed 2/15/78. Formerly WAC 297-30-040.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-105	Election of LEOFF member to LEOFF retirement board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-105, filed 2/15/78. Formerly WAC 297-10-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-240	Recommendation and conclusion. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-240, filed 2/15/78. Formerly WAC 297-30-050.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-110	Administration. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-110, filed 2/15/78.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-250	LEOFF retirement board decision on application. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-250, filed 2/15/78. Formerly WAC 297-30-060.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-120	Function. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-120, filed 2/15/78.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.	415-104-260	Notification of member. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-260, filed 2/15/78. Formerly WAC 297-30-070.] Repealed by 87-07-016 (Order 87-4), filed
415-104-140	Location. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-140, filed		

- 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-270 Miscellaneous applications. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-270, filed 2/15/78. Formerly WAC 297-30-080.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-300 Disability retirement applications—Appeals. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-300, filed 2/15/78. Formerly WAC 297-35-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-310 Grievances. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-310, filed 2/15/78. Formerly WAC 297-35-020.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-320 Rules on appeals. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-320, filed 2/15/78. Formerly WAC 297-35-030.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-400 Notice of appeal to the superior court. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-400, filed 2/15/78. Formerly WAC 297-45-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-410 Certification of record. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-410, filed 2/15/78. Formerly WAC 297-45-020.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-800 Continued LEOFF membership for members in state elective positions. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-800, filed 3/10/81.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-810 Contributions and service credit for members in state elective positions. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-810, filed 3/10/81.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-820 Members in state elective positions—Entitlement to benefits. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-820, filed 3/10/81.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
- 415-104-830 Operation if in conflict with state law. [Statutory Authority: RCW 41.50.050(6). 81-07-017 (Order 81-2), § 415-104-830, filed 3/10/81.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.

**WAC 415-104-005 Purpose.** These rules are adopted to implement administration of chapter 41.26 RCW by the director of the department of retirement systems pursuant to RCW 41.26.051.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-005, filed 3/11/87.]

**WAC 415-104-011 Definitions.** All definitions in RCW 41.26.030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-011, filed 7/25/95, effective 8/25/95. 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.]

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**WAC 415-104-0111 Commissioned—Definition.** An employee is "commissioned" if he or she is employed as an officer of a general authority Washington law enforcement agency and is empowered by that employer to enforce the criminal laws of the state of Washington.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0111, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0112 Director of public safety—Definition.** (1) "Director of public safety" means a person who is employed on or after January 1, 1993, by a city or town on a full-time, fully compensated basis to administer the programs and personnel of a public safety department.

(2) "City or town" as used in this definition, includes only a city or town whose population did not exceed ten thousand at the time the person became employed as a director of public safety.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0112, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0113 Elective employer—Definition.** "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.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0113, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0114 Full time—Definition.** An employee is employed "full time" if the employee is regularly scheduled to earn basic salary from an employer for a minimum of one hundred sixty hours each calendar month.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0114, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0115 Fully compensated—Definition.** An employee is "fully compensated" if the employee earns basic salary and benefits from an employer in an amount comparable to the salary received by other full-time employees of the same employer who:

- (1) Hold the same or similar rank; and
- (2) Are employed in a similar position.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0115, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0117 LEOFF employer—Definition.** "LEOFF employer" means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or fire fighter.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0117, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0118 LEOFF Plan I elected official—Definition.** "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.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0118, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0120 Public safety officer—Definition.** (1) "Public safety officer" means a person who is employed on or after January 1, 1993, on a full-time, fully compensated basis by a city or town to perform both law enforcement and fire fighter duties.

(2) "City or town" as used in this definition, includes only a city or town whose population did not exceed ten thousand at the time the person became employed as a public safety officer.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0120, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0121 Plan I and Plan II—Definition.**

(1) "Plan I" means the law enforcement officers' and fire fighters' retirement system, Plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(2) "Plan II" means the law enforcement officers' and fire fighters' retirement system, Plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0121, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0122 LEOFF—Definition.** "LEOFF" means the law enforcement officers' and fire fighters' retirement system established by chapter 41.26 RCW.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0122, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-0125 Uniformed fire fighter position—Definition.** "Uniformed fire fighter position" means a position which may only be filled by uniformed personnel as that term is defined in RCW 41.56.030 (7)(e) as in effect on July 1, 1995. A position only qualifies as a uniformed fire fighter position if the employer has identified it as such for all purposes. An employer may designate a position as uniformed regardless of whether the employer is covered by public employees' collective bargaining under chapter 41.56 RCW.

[Statutory Authority: RCW 41.50.050. 96-04-003, § 415-104-0125, filed 1/24/96, effective 2/24/96.]

**WAC 415-104-015 Scope.** These rules shall govern the unique aspects of the administration of chapter 41.26 RCW, Law enforcement officers' and fire fighters' retirement system (LEOFF).

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-015, filed 3/11/87.]

**WAC 415-104-025 Public records.** See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-025, filed 3/11/87.]

**WAC 415-104-035 Jurisdiction of director.** (1) The director has no jurisdiction to review the propriety of a dis-

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ability board finding that the member's disability was incurred in the line of duty under RCW 41.26.120 or not incurred in the line of duty under RCW 41.26.125. If a member is granted disability retirement subsequent to a disability board's denial of disability, the director shall remand the matter to the disability board to make a finding of whether the disability was incurred in the line of duty.

(2) The director has no jurisdiction to review a disability board determination regarding a member's right to the employer's payment for medical services pursuant to RCW 41.26.030(22) and/or 41.26.150.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-035, filed 3/11/87.]

**WAC 415-104-045 Grievances.** Any person aggrieved by a decision or order of the local disability board denying disability leave, disability retirement, or cancelling a previously granted disability retirement allowance must submit a notice of appeal to the director within thirty days in accordance with RCW 41.26.200.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-045, filed 3/11/87.]

**WAC 415-104-050 Review of disability board action.** After the director has reviewed the disability board's decision pursuant to the provisions of RCW 41.26.120 or 41.26.125, he shall serve a copy of his decision on the disability board, the employer, and the applicant. If the director's decision is adverse to the applicant, he shall notify the applicant of his/her right to appeal by filing a notice for hearing.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-050, filed 3/11/87.]

**WAC 415-104-060 Rules on appeals filed pursuant to RCW 41.26.200.** Appeal from decisions of the local disability boards will be reviewed on the basis of the record established by the disability board and materials appearing in the records of the department of retirement systems. The director shall act on such appeals as follows:

- (1) Affirmance; or
- (2) Remand for further proceedings; or
- (3) Reversal and remand.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-060, filed 3/11/87.]

**WAC 415-104-070 Parties to a de novo hearing.** The parties to a de novo hearing held pursuant to RCW 41.26.220 shall be the applicant, employer, and the department. The disability board may appear at such hearing only in support of the director's decision pursuant to RCW 41.26.220.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-070, filed 3/11/87.]

**WAC 415-104-080 Department examination.** The director or his representative, in his/her discretion, may require an application for disability retirement to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW 41.26.220. The cost of such examination is the responsibility of the department.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-080, filed 3/11/87.]

**WAC 415-104-090 Notice of appeal to the superior court.** Upon an appeal from the decision and order of the director to the superior court pursuant to RCW 41.26.210, the appealing party within thirty days from the decision and order of the director must perfect his appeal by serving notice of appeal on the director and filing the notice of appeal together with proof of service with the clerk of the superior court. The service and the filing together with proof of service of the notice of appeal within thirty days shall be jurisdictional.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-090, filed 3/11/87.]

**GENERAL ADMINISTRATION**

**WAC 415-104-100 Certification of record.** The director or his/her designated representative shall promptly file with the clerk of the court a certified copy of the complete record of the hearing before the director which shall, upon being so filed, become the record in such case. Appeal shall lie from the judgment of the superior court to the court of appeals or the supreme court as in other cases.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-100, filed 3/11/87. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-100, filed 2/15/78. Formerly WAC 297-20-010.]

**WAC 415-104-108 Actuarial tables, schedules, and factors.** This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state law enforcement officers' and fire fighters' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based upon the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of the law enforcement officers' and fire fighters' retirement system.

(1) Except as provided in subsection (2) of this section, the tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring on or after January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement.

(2) The early retirement factors govern the retirement allowances of members retiring on or after January 1, 1993.

(3) Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the effective date of such new tables, schedules, and factors.

	LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN I Monthly Benefit per \$1.00 of Accumulation	LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II Monthly Benefit per \$1.00 of Accumulation
20	.0025142	20 .0039808
21	.0025304	21 .0039997
22	.0025472	22 .0040196
23	.0025647	23 .0040405
24	.0025828	24 .0040624
25	.0026017	25 .0040855
26	.0026214	26 .0041098
27	.0026418	27 .0041353
28	.0026632	28 .0041622
29	.0026854	29 .0041905
30	.0027086	30 .0042204
31	.0027327	31 .0042518
32	.0027579	32 .0042850
33	.0027842	33 .0043200
34	.0028117	34 .0043569
35	.0028404	35 .0043958
36	.0028704	36 .0044370
37	.0029018	37 .0044805
38	.0029346	38 .0045266
39	.0029690	39 .0045752
40	.0030050	40 .0046267
41	.0030427	41 .0046810
42	.0030823	42 .0047384
43	.0031237	43 .0047988
44	.0031672	44 .0048626
45	.0032128	45 .0049298
46	.0032607	46 .0050007
47	.0033111	47 .0050753
48	.0033640	48 .0051539
49	.0034197	49 .0052369
50	.0034785	50 .0053245
51	.0035404	51 .0054172
52	.0036059	52 .0055155
53	.0036751	53 .0056199
54	.0037485	54 .0057310
55	.0038265	55 .0058496
56	.0039096	56 .0059764
57	.0039981	57 .0061122
58	.0040928	58 .0062578
59	.0041941	59 .0064139
60	.0043026	60 .0065811
61	.0044195	61 .0067600
62	.0045451	62 .0069511
63	.0046805	63 .0071548
64	.0048266	64 .0073714
65	.0049847	65 .0076011
66	.0051560	66 .0078441
67	.0053424	67 .0081009
68	.0055445	68 .0083721
69	.0057645	69 .0086591
70	.0060046	70 .0089634
71	.0062678	71 .0092866
72	.0065554	72 .0096299
73	.0068706	73 .0099940
74	.0072168	74 .0103786
75	.0075947	75 .0107825
76	.0080069	76 .0112040
77	.0084560	77 .0116408
78	.0089449	78 .0120905
79	.0094696	79 .0125511
80	.0100369	80 .0130204
81	.0106372	81 .0134944
82	.0112701	82 .0139758
83	.0119271	83 .0144609
84	.0126119	84 .0149489
85	.0133170	85 .0154388
86	.0140467	86 .0159282

LEOFF Retirement System

415-104-108

LAW  
ENFORCEMENT OFFICERS  
AND FIRE FIGHTERS  
RETIREMENT SYSTEM  
PLAN I  
Monthly Benefit per  
\$1.00 of Accumulation

LAW  
ENFORCEMENT OFFICERS AND  
FIRE FIGHTERS RETIREMENT  
SYSTEM  
PLAN II  
Monthly Benefit per  
\$1.00 of Accumulation

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

87	.0147922	87	.0164153	4	0	.6785
88	.0155623	88	.0168983		1	.6734
89	.0163745	89	.0173754		2	.6684
90	.0172295	90	.0178441		3	.6633
91	.0181323	91	.0183008		4	.6582
92	.0190934	92	.0187436		5	.6532
93	.0201303	93	.0191730		6	.6481
94	.0212247	94	.0195820		7	.6430
95	.0223693	95	.0199697		8	.6379
96	.0236226	96	.0203443		9	.6329
97	.0250062	97	.0207038		10	.6278
98	.0265426	98	.0210462		11	.6227
99	.0282645	99	.0213706	5	0	.6177
					1	.6131
					2	.6085
					3	.6040
					4	.5994
					5	.5949
					6	.5903
					7	.5857
					8	.5812
					9	.5766
					10	.5720
					11	.5675
				6	0	.5629
					1	.5588
					2	.5547
					3	.5506
					4	.5465
					5	.5423
					6	.5382
					7	.5341
					8	.5300
					9	.5259
					10	.5218
					11	.5177
				7	0	.5135
					1	.5098
					2	.5061
					3	.5024
					4	.4987
					5	.4950
					6	.4912
					7	.4875
					8	.4838
					9	.4801
					10	.4764
					11	.4727
				8	0	.4689
					1	.4656
					2	.4622
					3	.4589
					4	.4555
					5	.4521
					6	.4488
					7	.4454
					8	.4421
					9	.4387
					10	.4353
					11	.4320
				9	0	.4286
					1	.4256
					2	.4225
					3	.4195
					4	.4164
					5	.4134
					6	.4104
					7	.4073
					8	.4043
					9	.4012
					10	.3982
					11	.3982

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

0	0	1.000
	1	.9921
	2	.9843
	3	.9764
	4	.9686
	5	.9607
	6	.9529
	7	.9450
	8	.9372
	9	.9293
	10	.9215
	11	.9136
1	0	.9058
	1	.8988
	2	.8918
	3	.8847
	4	.8777
	5	.8707
	6	.8637
	7	.8567
	8	.8496
	9	.8426
	10	.8356
	11	.8286
2	0	.8216
	1	.8153
	2	.8090
	3	.8027
	4	.7964
	5	.7902
	6	.7839
	7	.7776
	8	.7713
	9	.7650
	10	.7587
	11	.7524
3	0	.7462
	1	.7405
	2	.7349
	3	.7292
	4	.7236
	5	.7180
	6	.7123
	7	.7067
	8	.7011
	9	.6954
	10	.6898
	11	.6841

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

10	11	.3951
	0	.3921
	1	.3893
	2	.3866
	3	.3838
	4	.3811
	5	.3783
	6	.3755
	7	.3728
	8	.3700
	9	.3673
11	10	.3645
	11	.3617
	0	.3590
	1	.3565
	2	.3540
	3	.3515
	4	.3490
	5	.3465
	6	.3439
	7	.3414
	8	.3389
12	9	.3364
	10	.3339
	11	.3314
	0	.3289
	1	.3266
	2	.3244
	3	.3221
	4	.3198
	5	.3175
	6	.3153
	7	.3130
13	8	.3107
	9	.3084
	10	.3061
	11	.3039
	0	.3016
	1	.2995
	2	.2975
	3	.2954
	4	.2933
	5	.2912
	6	.2892
14	7	.2871
	8	.2850
	9	.2830
	10	.2809
	11	.2788
	0	.2767
	1	.2748
	2	.2730
	3	.2711
	4	.2692
	5	.2673
15	6	.2654
	7	.2635
	8	.2616
	9	.2598
	10	.2579
	11	.2560
	0	.2541
	1	.2524
	2	.2507
	3	.2489
	4	.2472
16	5	.2455
	6	.2438
	7	.2420
	8	.2403
	9	.2386

16	10	.2369
	11	.2352
	0	.2334
	1	.2319
	2	.2303
	3	.2287
	4	.2272
	5	.2256
	6	.2240
	7	.2225
	8	.2209
17	9	.2193
	10	.2177
	11	.2162
	0	.2146
	1	.2132
	2	.2117
	3	.2103
	4	.2089
	5	.2074
	6	.2060
	7	.2046
18	8	.2031
	9	.2017
	10	.2003
	11	.1988
	0	.1974
	1	.1961
	2	.1948
	3	.1935
	4	.1922
	5	.1908
	6	.1895
19	7	.1882
	8	.1869
	9	.1856
	10	.1843
	11	.1830
	0	.1817
	1	.1805
	2	.1793
	3	.1781
	4	.1769
	5	.1757
20	6	.1745
	7	.1733
	8	.1721
	9	.1709
	10	.1697
	11	.1685
	0	.1673
	1	.1662
	2	.1651
	3	.1640
	4	.1629
21	5	.1618
	6	.1607
	7	.1596
	8	.1585
	9	.1574
	10	.1563
	11	.1552
	0	.1541
	1	.1531
	2	.1521
	3	.1511
16	4	.1501
	5	.1491
	6	.1481
	7	.1470
	8	.1460

LEOFF Retirement System

415-104-108

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

	9	.1450
	10	.1440
	11	.1430
22	0	.1420
	1	.1411
	2	.1402
	3	.1392
	4	.1383
	5	.1374
	6	.1365
	7	.1356
	8	.1346
	9	.1337
	10	.1328
	11	.1319
23	0	.1309
	1	.1301
	2	.1292
	3	.1284
	4	.1276
	5	.1267
	6	.1259
	7	.1250
	8	.1242
	9	.1233
	10	.1225
	11	.1216
24	0	.1208
	1	.1200
	2	.1192
	3	.1184
	4	.1177
	5	.1169
	6	.1161
	7	.1153
	8	.1146
	9	.1138
	10	.1130
	11	.1122
25	0	.1115
	1	.1107
	2	.1100
	3	.1093
	4	.1086
	5	.1079
	6	.1072
	7	.1065
	8	.1057
	9	.1050
	10	.1043
	11	.1036
26	0	.1029
	1	.1022
	2	.1016
	3	.1009
	4	.1003
	5	.0996
	6	.0989
	7	.0983
	8	.0976
	9	.0970
	10	.0963
	11	.0957
27	0	.0950
	1	.0944
	2	.0938
	3	.0932
	4	.0926
	5	.0920
	6	.0914
	7	.0908

	8	.0902
	9	.0896
	10	.0890
	11	.0884
28	0	.0878
	1	.0872
	2	.0866
	3	.0861
	4	.0855
	5	.0850
	6	.0844
	7	.0839
	8	.0833
	9	.0828
	10	.0822
	11	.0816
29	0	.0811
	1	.0806
	2	.0801
	3	.0796
	4	.0790
	5	.0785
	6	.0780
	7	.0775
	8	.0770
	9	.0765
	10	.0760
	11	.0755
30	0	.0749
	1	.0745
	2	.0740
	3	.0735
	4	.0731
	5	.0726
	6	.0721
	7	.0716
	8	.0712
	9	.0707
	10	.0702
	11	.0698
31	0	.0693
	1	.0689
	2	.0684
	3	.0680
	4	.0676
	5	.0671
	6	.0667
	7	.0663
	8	.0658
	9	.0654
	10	.0649
	11	.0645
32	0	.0641
	1	.0637
	2	.0633
	3	.0629
	4	.0625
	5	.0621
	6	.0617
	7	.0613
	8	.0609
	9	.0605
	10	.0601
	11	.0597
33	0	.0593
	1	.0589
	2	.0585
	3	.0582
	4	.0578
	5	.0574
	6	.0571

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

	7	.0567
	8	.0563
	9	.0560
	10	.0556
34	11	.0552
	0	.0548
	1	.0545
	2	.0542
	3	.0538
	4	.0535
	5	.0531
	6	.0528
	7	.0525
	8	.0521
	9	.0518
	10	.0514
35	11	.0511
	0	.0508
	1	.0505
	2	.0502
	3	.0499
	4	.0496
	5	.0493
	6	.0490
	7	.0487
	8	.0484
	9	.0481
	10	.0478
36	11	.0475
	0	.0472
	1	.0469
	2	.0467
	3	.0464
	4	.0461
	5	.0458
	6	.0456
	7	.0453
	8	.0450
	9	.0447
	10	.0445
37	11	.0442
	0	.0439
	1	.0437
	2	.0434
	3	.0432
	4	.0429
	5	.0426
	6	.0424
	7	.0421
	8	.0419
	9	.0416
	10	.0414
38	11	.0411
	0	.0409
	1	.0406
	2	.0404
	3	.0401
	4	.0399
	5	.0397
	6	.0394
	7	.0392
	8	.0390
	9	.0387
	10	.0385
39	11	.0382
	0	.0380
	1	.0378
	2	.0376
	3	.0373
	4	.0371
	5	.0369

LAW ENFORCEMENT OFFICERS AND FIRE  
FIGHTERS RETIREMENT SYSTEM PLAN II  
Early Retirement Factors  
by Year and Month

	6	.0367
	7	.0365
	8	.0362
	9	.0360
	10	.0358
	11	.0356

LAW ENFORCEMENT OFFICERS  
AND FIRE FIGHTERS RETIREMENT SYSTEM  
PLAN II

Age

LEOFF II Survivor Option Factors

Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.928	0.951	0.963
-19	0.923	0.947	0.960
-18	0.918	0.944	0.957
-17	0.912	0.940	0.954
-16	0.906	0.935	0.951
-15	0.899	0.930	0.947
-14	0.892	0.926	0.943
-13	0.885	0.921	0.939
-12	0.877	0.915	0.935
-11	0.869	0.909	0.930
-10	0.861	0.903	0.926
-9	0.854	0.898	0.922
-8	0.846	0.892	0.917
-7	0.838	0.886	0.912
-6	0.830	0.880	0.907
-5	0.823	0.875	0.903
-4	0.814	0.868	0.898
-3	0.806	0.862	0.893
-2	0.798	0.856	0.888
-1	0.790	0.850	0.883

Member Older

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.780	0.842	0.877
1	0.771	0.835	0.871
2	0.760	0.827	0.864
3	0.751	0.820	0.858
4	0.743	0.813	0.853
5	0.735	0.807	0.848
6	0.728	0.801	0.843
7	0.721	0.795	0.838
8	0.714	0.789	0.833
9	0.706	0.783	0.828
10	0.700	0.778	0.824
11	0.694	0.773	0.820
12	0.687	0.768	0.815
13	0.681	0.762	0.811
14	0.673	0.755	0.805
15	0.664	0.748	0.799
16	0.656	0.741	0.793
17	0.650	0.736	0.788
18	0.644	0.731	0.784
19	0.639	0.726	0.780
20	0.634	0.722	0.776
21	0.629	0.718	0.773
22	0.625	0.715	0.770
23	0.620	0.710	0.766
24	0.616	0.707	0.763



Age Difference	Member Older		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
25	0.612	0.703	0.760
26	0.608	0.700	0.757
27	0.604	0.696	0.754
28	0.601	0.694	0.751
29	0.598	0.690	0.748
30	0.595	0.688	0.746
31	0.592	0.685	0.744
32	0.589	0.682	0.741
33	0.586	0.680	0.739
34	0.583	0.677	0.737
35	0.581	0.675	0.735
36	0.578	0.673	0.733
37	0.576	0.671	0.731
38	0.574	0.669	0.729
39	0.571	0.666	0.727
40	0.569	0.664	0.725

AGE DIFFERENCE = MEMBER'S AGE MINUS BENEFICIARY AGE

\* For converting the Normal Form (Option I) to Option II or III.

[Statutory Authority: RCW 41.50.050, 96-03-100, § 415-104-108, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050 and 41.26.060, 91-19-063, § 415-104-108, filed 9/16/91, effective 10/17/91; 91-02-019, § 415-104-108, filed 12/21/90, effective 1/21/91.]

**WAC 415-104-111 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 fifty-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 41.26.500 as follows:

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

(i) Calculate the retirement allowance pursuant to RCW 41.26.420 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 fifty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.26.500 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 41.26.500 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 payment 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.

[Statutory Authority: RCW 41.50.050, 94-09-040, § 415-104-111, filed 4/19/94, effective 5/20/94.]

## CESSATION OF DISABILITY

**WAC 415-104-115 Purpose and scope.** The purpose of WAC 415-104-125 through 415-104-175 is to implement the provisions of RCW 41.26.135 to be followed by the department of retirement systems. These rules apply only to disability retirees over age fifty who seek a determination that their disability has ceased.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-115, filed 3/11/87.]

**WAC 415-104-125 Director's review of disability board order.** (1) Every order of a disability board determining that an applicant's disability has ceased pursuant to RCW 41.26.130(3) shall be reviewed by the director, or his designated representative. The director may affirm or reverse the order or remand the matter for further proceedings.

(2) A retiree may appeal the disability board determination that a disability has not ceased to the director pursuant to the provisions of RCW 41.26.140(6).

[Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-125, filed 3/11/87.]

**WAC 415-104-135 Notice for hearing.** Before appealing to the superior court, any person aggrieved by the director's final decision on review of the local board determination or the director's final decision after review of the record on appeal shall invoke the director's jurisdiction by filing a notice for hearing in accordance with RCW 41.26.210 and WAC 415-08-020. Such hearing shall be in accordance with RCW 41.26.220.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090, 87-07-016 (Order 87-4), § 415-104-135, filed 3/11/87.]

**WAC 415-104-145 Department examination.** The director or his representative, in his/her discretion, may require a disability retiree to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW 41.26.220. The cost of such examination is the responsibility of the department.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-145, filed 3/11/87.]

**WAC 415-104-155 Burden of proof.** The retiree has the burden of proof in the proceedings before the disability board and the director.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-155, filed 3/11/87.]

**WAC 415-104-165 Payment of benefits pending final determination.** When a disability board determines that a retiree's disability has ceased, the department shall continue to pay monthly benefits: *Provided, however,* That the department shall pay either the member's monthly service retirement allowance or monthly disability allowance, whichever is less, until there is a final determination from which no appeal is taken. Any retroactive adjustment that may be necessary as the result of the final determination shall be made after the appeal period has passed.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-165, filed 3/11/87.]

**WAC 415-104-175 Comparison of disability retirement allowance and service retirement allowance.** In comparing the member's disability retirement allowance and his/her service retirement allowance as required by RCW 41.26.130(3), the department shall calculate the service retirement allowance using a final average salary calculated as follows:

On the date the disability ceased, the average of the greatest basic monthly rate of salary or wages (basic salary) that was paid or would have been paid to the member had he/she been in "active service" (employed) during any consecutive twenty-four month period within the member's last ten years of service for which service credit was given (including periods of disability leave and disability retirement).

The initial calculation of the service retirement allowance does not include any cost-of-living increases that would have been granted if the service retirement allowance had been in effect during the period of disability retirement. The service retirement allowance is then compared to the monthly disability retirement allowance amount that the member was receiving on the date that the disability ceased.

[Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-175, filed 3/11/87.]

**WAC 415-104-211 Married member's benefit selection—Spousal consent required.** A member, if married, must provide the spouse's written consent to the option selected under WAC 415-104-215. If a married member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.26.460(2). "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Title 415 WAC—p. 26]

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-104-211, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-211, filed 1/7/91, effective 2/7/91.]

**WAC 415-104-215 Retirement benefit options.** RCW 41.26.460 enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) **Option One (standard allowance).** The department pays the retiree a monthly retirement allowance actuarially based solely on the single life of the member, in accordance with RCW 41.26.430 (service) or 41.26.470 (disability). When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) **Option Two (joint and whole allowance).** When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(b) **Option Three (joint and one-half allowance).** When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

(c) **Option Four (joint and two-thirds allowance).**

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

## (c) Pop-up recalculation example:

## Plan Two:

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount \$2000		+ Total COLA's + \$191.05		= New Benefit Amount = \$2,191.05*

\*In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(4) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-104-215, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-215, filed 1/7/91, effective 2/7/91.]

## MEMBERSHIP

**WAC 415-104-224 Purpose and scope of eligibility rules.** WAC 415-104-225 through 415-104-240 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in LEOFF Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-224, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-225 Am I a member?** If you are employed by an employer as a full-time, fully compensated law enforcement officer or fire fighter, you are required to be a LEOFF member.

(1) **Law enforcement officers.**

(a) You are a law enforcement officer only if you are commissioned and employed on a full-time, fully compensated basis as a:

- (i) City police officer;
- (ii) Town marshal or deputy marshal;
- (iii) County sheriff;

(iv) Deputy sheriff, if you passed a civil service exam for deputy sheriff and you possess all of the powers, and may perform any of the duties, prescribed by law to be performed by the sheriff;

(b) Effective January 1, 1994, "law enforcement officer" also includes commissioned persons employed on a full-time, fully compensated basis as a:

(i) General authority Washington peace officer under RCW 10.93.020(3);

(ii) Port district general authority law enforcement officer and you are commissioned and employed by a port district general authority law enforcement agency;

(iii) State university or college general authority law enforcement officer; or

(c) Effective January 1, 1993, "law enforcement officer" also includes commissioned persons employed on a full-time, fully compensated basis as a public safety officer or director of public safety of a city or town if, at the time you first became employed in this position, the population of the city or town did not exceed ten thousand. See RCW 41.26.030(3).

(d) If you meet the requirements of (a), (b) or (c) of this subsection, you qualify as a law enforcement officer regardless of your rank or status as a probationary or permanent employee.

(e) You are not a law enforcement officer if you are employed in either:

(i) A position that is clerical or secretarial in nature and you are not commissioned; or

(ii) A corrections officer position and the only training required by the Washington criminal justice training commission for your position is basic corrections training under WAC 139-10-210.

(2) **Fire fighters.** You are a fire fighter if you are employed in a uniformed fire fighter position by an employer on a full-time, fully compensated basis, and as a consequence of your employment, you have the legal authority and responsibility to direct or perform fire protection activities that are

required for and directly concerned with preventing, controlling or extinguishing fires.

(a) "Fire protection activities" may include incidental functions such as housekeeping, equipment maintenance, grounds maintenance, fire safety inspections, lecturing, performing community fire drills and inspecting homes and schools for fire hazards. These activities qualify as fire protection activities only if the primary duty of your position is preventing, controlling or extinguishing fires.

(b) You are a fire fighter if you qualify as supervisory fire fighter personnel.

(c) If your employer requires fire fighters to pass a civil service examination, you must be actively employed in a position that requires passing such an examination in order to qualify as a fire fighter unless you qualify as supervisory fire fighter personnel.

(d) You are a fire fighter if you meet the requirements of this section regardless of your rank or status as a probationary or permanent employee or your particular specialty or job title.

(e) You do not qualify for membership as a fire fighter if you are a volunteer fire fighter or resident volunteer fire fighter.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Commissioned" - WAC 415-104-0111.

(b) "Director of public safety" - WAC 415-104-0112.

(c) "Employer" - RCW 41.26.030.

(d) "Fire fighter" - RCW 41.26.030.

(e) "Full time" - WAC 415-104-0114.

(f) "Fully compensated" - WAC 415-104-0115.

(g) "Law enforcement officer" - RCW 41.26.030.

(h) "Member" - RCW 41.26.030.

(i) "Public safety officer" - WAC 415-104-0120.

(j) "Uniformed fire fighter position" - WAC 415-104-0125.

[Statutory Authority: RCW 41.50.050, 96-01-045, § 415-104-225, filed 12/14/95, effective 1/14/96; 95-16-053, § 415-104-225, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-235 Can I terminate my status as a member?** (1) Your membership in the retirement system is terminated if you:

(a) Die;

(b) Separate from service; or

(c) Cease to be employed full time as a law enforcement officer or fire fighter.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Fire fighter" - RCW 41.26.030 and WAC 415-104-225(2).

(b) "Full-time" - WAC 415-104-0114.

(c) "Law enforcement officer" - RCW 41.26.030 and WAC 415-104-225(1).

(d) "Member" - RCW 41.26.030.

(e) "Service" - RCW 41.26.030.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-235, filed 7/25/95, effective 8/25/95.]

**WAC 415-104-245 Am I required to meet minimum medical and health standards in order to establish or reestablish Plan I membership? (1) You may be required to meet minimum medical and health standards in order to establish or reestablish Plan I membership.**

You are required to meet minimum medical and health standards codified in WAC 415-104-500 through 415-104-755, if you:

(a) Were first employed as a law enforcement officer or fire fighter on or after August 1, 1971, and before October 1, 1977; and

(b) Have been separated from service for more than six months for reasons other than a disability leave, a disability retirement, or an authorized leave of absence.

(2) **If you are an elected sheriff or an appointed police or fire chief, you are exempt from the age requirement of the standards.**

(3) **If you are required to meet the minimum medical and health standards, your employer will enroll you in Plan I provisionally, depending on the results of your physical examination.**

(a) If you are required to meet the minimum medical and health standards, your employer will begin reporting you in LEOFF Plan I from the first day of your employment. Your enrollment in Plan I, however, is provisional depending upon the results of your medical examination.

(b) Your employer is responsible for having you examined by a physician or surgeon appointed by the local disability board and for paying the cost of your examination. Your employer will send a copy of your examination report to the department along with a certification letter of whether you have met the standards.

(4) **If you are denied Plan I membership because you did not meet minimum medical and health standards, you will enter membership in Plan II.**

(a) The department will review your examination report and if you meet the minimum medical and health standards you will be reported in membership in Plan I.

(b) If you do not meet the standards, your employer must stop reporting you to the department in Plan I and report you in Plan II. The department will transfer your membership from Plan I to Plan II retroactively to the beginning of your term of employment.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Employer" - RCW 41.26.030.

(b) "Fire fighter" - RCW 41.26.030.

(c) "Full time" - WAC 415-104-0114.

(d) "Fully compensated" - WAC 415-104-0115.

(e) "Law enforcement officer" - RCW 41.26.030.

(f) "Member" - RCW 41.26.030.

(g) "Minimum medical and health standards" - WAC 415-104-500 through 415-104-755.

(h) "Plan I and Plan II" - WAC 415-104-0121.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-104-245, filed 7/25/95, effective 8/25/95.]

**BASIC SALARY**

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-298, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-298 Purpose and scope of basic salary rules.** WAC 415-104-299 through 415-104-405 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as basic salary in LEOFF Plan I and LEOFF Plan II. 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.

**WAC 415-104-299 Basic salary table.** The following table is provided as a quick reference guide to help you characterize payments under LEOFF Plan I and LEOFF Plan II. 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 415-104-311 (Plan I) and WAC 415-104-360 (Plan II).

Type of Payment	LEOFF I Basic Salary?	LEOFF II Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-3205	Yes - WAC 415-104-360
Allowances (i.e. uniform)	No - WAC 415-104-3404	No - WAC 415-104-390
Basic Monthly Rate	Yes - WAC 415-104-3200	Yes - WAC 415-104-360
Cafeteria Plans	No - WAC 415-104-3303	Yes - WAC 415-104-367
Deferred Wages Attached to Position	Yes - WAC 415-104-3201(1)	Yes - WAC 415-104-363(1)
Deferred Wages not attached to a Position	No - WAC 415-104-3306	No - WAC 415-104-363(2)
Disability Payments	No - WAC 415-104-340	No - WAC 415-104-380
Education Attainment Pay	No - WAC 415-104-3301	Yes - WAC 415-104-375
Employer taxes/contributions	No - WAC 415-104-3401	No - WAC 415-104-383
Fringe Benefits	No - WAC 415-104-3402	No - WAC 415-104-385
Illegal Payments	No - WAC 415-104-3403	No - WAC 415-104-387
Leave Cash Outs/Severance	No - WAC 415-104-3304	No - WAC 415-104-400
Overtime	No - WAC 415-104-3305	Yes - WAC 415-104-370
Paid Leave	Yes - WAC 415-104-3203	Yes - WAC 415-104-373
Payments in Lieu of Excluded Items	No - WAC 415-104-350	No - WAC 415-104-405
Performance Bonuses	No - WAC 415-104-3302	Yes - WAC 415-104-377
Retroactive Salary Increase	Yes - WAC 415-104-3202	Yes - WAC 415-104-365
Reimbursements	No - WAC 415-104-3404	No - WAC 415-104-390
Retirement or Termination Bonuses	No - WAC 415-104-3406	No - WAC 415-104-395
Shift Differential	Yes - WAC 415-104-3204	Yes - WAC 415-104-379
Special Salary or Wages	No - WAC 415-104-330	Yes - WAC 415-104-375
Standby Pay	No - WAC 415-104-3405	No - WAC 415-104-393
Tuition/Fee Reimbursement	No - WAC 415-104-3404	No - WAC 415-104-390
Worker's Compensation	Not Applicable	No - WAC 415-104-380

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-299, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-301 What is basic salary?** (1) **Basic salary is the compensation used to determine LEOFF contributions and LEOFF retirement allowances.** A payment from an employer to a member does not qualify as basic salary unless it meets the statutory definition of basic salary in RCW 41.26.030(13) which is explained in greater detail in WAC 415-104-311 through 415-104-405.

(2) **The definition of basic salary is different for Plan I and Plan II.** WAC 415-104-311 through 415-104-350 define basic salary for Plan I. WAC 415-104-360 through 415-104-405 define basic salary for Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-301, filed 12/6/96, effective 1/6/97.]

**LEOFF PLAN I**

**WAC 415-104-305 Definitions.** As used in WAC 415-104-299 through 415-104-405:

(1) "Salary or wages" means payments for services rendered by a law enforcement officer or fire fighter to an employer. Payments which are not for services rendered to an

employer are not a salary or wage and do not qualify as basic salary.

(2) "Longevity pay" means a payment in addition to the basic monthly rate of pay that is:

(a) Based solely upon the length of employment with the employer; and

(b) Paid to all law enforcement officers or fire fighters who have served for the same length of time with the employer.

(3) "Position" means the employment held at any particular time. The employment held is defined by the duties required of the employee as a condition of employment.

**Example:**

An employer employs two police officers, one who has a high school diploma and one who has a college degree. Although both officers have the same duties, the employer designates the first officer as an "officer 1" and the second officer as an "officer 2." The distinction between the two levels is conditioned upon different levels of education. The second officer is paid at a higher rate. For purposes of determining basic salary, both officers occupy the same position because both have the same duties. The difference in their two rates of pay is an education premium

which does not qualify as basic salary, see WAC 415-104-3302.

(4) "Attached to a position" means a payment conditioned on specific duties required of the person holding the position.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-305, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-311 How is basic salary for LEOFF Plan I determined?** (1) A payment is LEOFF Plan I basic salary if it is part of the basic monthly rate of salary or wages attached to the position or longevity pay. Special salary or wages are not part of the basic monthly rate and do not qualify as basic salary.

(2) Basic salary is earned when the service is rendered, rather than when payment is made.

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

(3) Salary characterizations are based upon the nature of the payment. A payment is basic salary if it meets the criteria of subsection (1) of this section. The name given to the payment is not controlling in determining whether the payment is basic salary. The department determines whether a payment is basic salary by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of basic salary.

**Example:** A payment based upon educational attainment is not basic salary for LEOFF Plan I. Describing the payment as a "longevity" payment does not change the fact that the payment is for educational attainment. The payment will not be counted as basic salary despite being identified by the employer as a longevity payment.

(c) See the following sections for a discussion and examples of the following types of payments:

(i) "Salary or wages" - WAC 415-104-3200 through 415-104-3205;

(ii) "Special salary and wages" - WAC 415-104-330 through 415-104-3305;

(iii) "Payments excluded from basic salary because they are not a salary or wage" - WAC 415-104-340 through 415-104-3406.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-311, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3200 Basic monthly rate is LEOFF Plan I basic salary.** The basic monthly rate of compensation paid by an employer to a member for services rendered is basic salary in Plan I. "Basic monthly rate" means the rate of salary or wages attached to a position excluding overtime or special salary or wages.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3200, filed 12/6/96, effective 1/6/97.]

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**WAC 415-104-3201 Deferred payments.** (1) **Deferred payments attached to a position are basic salary.** If an employee defers a portion of his or her basic monthly rate of pay it is still basic salary. Deferred payments may include, but are not limited to: Member contributions to LEOFF; salaries or wages deferred pursuant to sections 401(k), 403(b), 414(h), 457, or other similar sections of the United States Internal Revenue Code.

(2) **Deferred wages that are not attached to a position are special salary or wages excluded from LEOFF Plan I basic salary.**

(a) Employer matching payments are not basic salary. If a member acquires an additional payment that is conditioned upon taking some action in addition to providing services, the payment is based upon the additional action. It is not a salary or wage earned for services rendered. The payment is not basic salary.

**Example:** An employer offers to make a contribution to a deferred compensation plan only if the member elects to defer a portion of his or her salary. Because the member does not have an absolute right to receive the additional contribution for performing the duties required of his or her position, the payment is special salary or wages and is not basic salary.

(b) Additional deferred compensation offered to an individual is not basic salary. If an employer pays deferred compensation to a member in addition to the member's basic rate of pay, the payment is special salary or wages and does not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3201, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3202 Retroactive basic salary increases attached to a position are LEOFF Plan I basic salary.** If a payment is part of the basic monthly rate of salary or wages attached to a position or is a longevity payment, it is basic salary even if the payment is retroactive. Payments upon reinstatement or in lieu of reinstatement are not considered retroactive basic salary increases. For treatment of those payments see WAC 415-104-3203(3).

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3202, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3203 Paid leave is LEOFF Plan I basic salary.** Payments from an employer for authorized paid absences from work are basic salary.

(1) **Leave payments earned for services rendered:** Most LEOFF members earn a certain number of leave hours per month, such as sick leave. The leave hours are earned by rendering service during the month the leave was accumulated. The payment a member receives when he or she uses an earned leave day is a deferred salary or wage for services previously rendered. It is basic salary.

**Example:** Assume a member accrues eight hours sick leave per month. The accrued leave in the member's sick leave balance is earned for personal services rendered during a payroll period. When the member is absent from

work and uses the sick leave, the sick leave payment is basic salary.

Leave payments earned for services rendered are basic salary only to the extent that they are equivalent to the basic salary a member would have earned had the member been working. The portion of any leave payment that exceeds that amount is not basic salary.

**(2) Leave payments not earned for services rendered:**

If an employer authorizes a period of paid leave but does not require the use of leave previously earned for services rendered, the payment is not a salary or wage for services rendered. However, RCW 41.26.197 authorizes service credit for all periods of paid leave. Because the periods are creditable, the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working. The portion of a leave payment that exceeds that amount is not basic salary.

**Example:** An officer is placed on administrative leave with pay pending an investigation. Although the officer is not rendering services, the period is creditable as an authorized paid leave period under RCW 41.26.197.

**(3) Payments upon reinstatement or in lieu of reinstatement are paid leave and therefore qualify as basic salary.** The payment will count as basic salary for the payroll periods when the person would have earned the payment had he or she been working.

(a) In order for a payment in lieu of reinstatement to qualify as paid leave the person's termination date must occur after the payroll period(s) when the payment would have been earned.

(b) Payments under WAC 391-45-410 are basic salary for the period(s) covered by the reinstatement.

(c) Payments upon reinstatement or in lieu of reinstatement are basic salary only to the extent that they equal the basic salary a member would have earned had the member been working.

**(4) Union leave.** Periods of authorized leave to serve as an elected official of a labor organization which meet the requirements of RCW 41.26.197 qualify for service credit. The salary payments provided by the employer subject to reimbursement from the union qualify as basic salary for LEOFF Plan I to the extent that the payments do not exceed the basic salary for the highest paid job class covered by the collective bargaining agreement negotiated between the labor organization and the employer. The portion of any payment identified as paid leave in excess of that amount is not basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3203, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3204 Shift differential is LEOFF Plan I basic salary.** Additional payments to a member for working swing shift or night shift are attached to the duties of the position, e.g., working a nonstandard shift. Those payments are basic salary for LEOFF Plan I.

(1999 Ed.)

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3204, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3205 Additional duty pay is LEOFF Plan I basic salary.** Salary or wages that a member receives for additional duty assignments are a part of the basic salary attached to the member's position. Those payments are basic salary for LEOFF Plan I.

**Example:** A police officer is assigned to the bomb squad and receives an additional monthly payment for the hazardous duty assignment. The additional payment is for duties required by the employer as part of the member's position. It is attached to the position and is basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3205, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-330 What are special salary or wages?**

(1) Special salary or wages for services rendered are payments that do not qualify as basic salary because the payment is based upon the attributes of the individual instead of being attached to the position. A payment is not attached to a position if it is not tied to specific duties required of all persons holding the position. Payments that are not attached to a position include but are not limited to the payments described in WAC 415-104-3302 and 415-104-3303.

(2) Longevity pay is not attached to a position because it is based upon the attributes of an individual. It is, however, specifically included as part of basic salary under RCW 41.26.030.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-330, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3301 Educational premium payments are not LEOFF Plan I basic salary.** (1) If an employer provides additional salary based upon the member's level of education that payment is based upon the attributes of the individual and is not attached to the position. It is a special salary or wage and is not basic salary.

**Example:** An employer employs two different law enforcement officers in the position of sergeant. Although their duties are the same, one sergeant receives 3% more in salary than the other because she has a bachelor's degree which the other lacks. The additional 3% is not attached to the position because it is not attached to any additional duties. It is not basic salary for LEOFF Plan I.

(2) Payments conditioned upon acquiring and maintaining a designated certification such as emergency medical technician are a form of educational premium pay. The payment is based upon the attributes of the individual and is not attached to the position. It is a special salary or wage and is not basic salary.

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[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3301, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3302 Performance bonuses are not LEOFF Plan I basic salary.** Payments to a member for meeting or exceeding performance goals set by the employer are not attached to a position and are not basic salary.

**Example:** An employer offers an annual bonus to members who do not have an accident for a year. The bonus is not part of the basic monthly rate of salary and is not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3302, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3303 Cafeteria plans are not LEOFF Plan I basic salary.** Compensation paid under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code which give the member an absolute right to receive cash in lieu of the fringe benefits offered is a special salary or wage. Such compensation is not basic salary. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not basic salary. See WAC 415-104-3402.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3303, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3304 Leave cash outs or other severance pay are not LEOFF Plan I basic salary.** (1) A cash out for unused accrued leave is a deferred salary or wage for services previously rendered. A payment in lieu of an accrual of leave qualifies as a leave cash out. The payment is not basic salary in LEOFF Plan I because it is a special salary or wage in addition to the basic monthly rate of salary or wages.

(2) Any other form of severance payment based upon termination is special salary or wages and is not included as basic salary in LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3304, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3305 Overtime is not LEOFF Plan I basic salary.** Overtime, which is additional pay earned for working time in excess of regularly scheduled shift(s), is specifically excluded from basic salary for LEOFF Plan I by RCW 41.26.030 (13)(a). Overtime includes, but is not limited to:

(1) **Additional pay for working on a holiday.** If a member receives an extra payment because he or she worked on a scheduled holiday, the payment is overtime. The employer may make the additional payment when the holiday occurs or in a lump sum at some other time. In either case, the payment is not basic salary for LEOFF Plan I;

**Example:** A fire fighter works on Christmas day. In compensation for working a holiday, she is given the option of taking some other day off with pay or of receiving an extra day's pay in addition to her basic monthly rate of pay. If she opts for the extra day of pay, this payment is overtime and is not LEOFF

Plan I basic salary. If she opts to take a day off, this is paid leave and qualifies as LEOFF Plan I basic salary.

(2) **Callback pay**, which is a special rate of pay some employers offer for being called back to work after the end of the member's regular shift;

(3) **Court pay**, which is an additional payment for appearing in court or performing other duties outside of a member's regularly scheduled shift.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3305, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3306 Deferred wages that are not attached to a position are not LEOFF Plan I basic salary.** See WAC 415-104-3201.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3306, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-340 Disability payments are not LEOFF Plan I basic salary.** (1) Payments from an employer during periods of disability leave for a duty disability (RCW 41.26.120) or a nonduty disability (RCW 41.26.125) are not a payment from the employer for services rendered. The payment is not basic salary for LEOFF Plan I.

(2) Any payment from a third party such as an insurance company for a period of excused absence from work because of an injury or other disability is not a payment from an employer for services rendered. The payment is not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-340, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3401 Employer taxes and contributions are not LEOFF Plan I basic salary.** (1) Any employer payment of the employer or member portion of taxes imposed by the Federal Insurance Contribution Act (FICA) is not a salary or wage to a member and does not qualify as basic salary for LEOFF Plan I.

(2) Employer contributions to LEOFF are not a salary or wage and are not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3401, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3402 Fringe benefits are not LEOFF Plan I basic salary.** Fringe benefits provided by an employer are not a salary or wage and therefore do not qualify as basic salary for LEOFF Plan I. Fringe benefits include but are not limited to:

(1) Any type of insurance such as medical, dental, or life insurance;

(2) Any contribution by an employer to meet the premium or charge for such plan or insurance; or

(3) Any payments by the employer into a private fund to provide health or welfare benefits for members and/or their dependents.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3402, filed 12/6/96, effective 1/6/97.]



**WAC 415-104-3403 Illegal payments are not LEOFF Plan I basic salary.** If an employer makes a payment without legal authority, that payment does not qualify as basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3403, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3404 Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan I basic salary.** (1) **Reimbursements.** If an employer reimburses a member for expenses incurred in providing services for the employer, the purpose of the payment is to pay the member back for out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and is not basic salary for LEOFF Plan I.

(2) **Allowances.** An allowance paid in lieu of a specific reimbursement for expenses a member is expected to incur in providing services for the employer is characterized the same as a specific reimbursement. The purpose of the payment is to reimburse the member for anticipated out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and does not qualify as basic salary for LEOFF Plan I.

**Example:** An employer provides an annual stipend for the purchase of a uniform or other clothing required for the performance of a member's duties. The payment is a reimbursement for expenses incurred or expected to be incurred and is not basic salary for LEOFF Plan I.

(3) **Payments based on additional certification or qualifications.** If a member receives payments based upon personal expenses incurred in maintaining a certification or qualification, the payment is reimbursement, not compensation. It is not a salary or wage and is not LEOFF Plan I basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3404, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3405 Standby pay is not LEOFF Plan I basic salary.** Payments to a member for time not actually worked when the member must be available to work if the need arises, are not a salary or wage for services rendered. Any such payment does not qualify as basic salary for LEOFF Plan I.

**Example:** Some employers provide payments to a member at less than the member's regular hourly rate in exchange for the member being available to come into work after his or her shift if called, although the member may not be called. Such payments, often referred to as "standby pay," are not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3405, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-3406 Retirement or termination bonuses are not LEOFF Plan I basic salary.** (1) **Payments based on notification of intent to retire.** An additional payment based fully or partially on notification of a member's

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intent to terminate or retire is in consideration for the notification. The payment is not a salary or wage for services rendered and is not basic salary for LEOFF Plan I.

(2) **Payments based on retirement eligibility.** Payments based fully or partially on retirement eligibility are specific to the member and are not attached to the position. These payments are not LEOFF Plan I basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-3406, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-350 Payments in lieu.** A payment or any other transfer in lieu of an item that does not qualify as basic salary is not basic salary for LEOFF Plan I.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-350, filed 12/6/96, effective 1/6/97.]

## LEOFF PLAN II

**WAC 415-104-360 How is basic salary for LEOFF Plan II determined? (1) What payments are included in LEOFF Plan II basic salary?** Other than the specific exclusions listed in WAC 415-104-397 and 415-104-401, a payment that is a salary or wage earned during a calendar month for personal services rendered by a member to an employer qualifies as LEOFF Plan II basic salary.

(a) Certain payments that are not for personal services rendered also qualify if there is a specific statutory provision identifying those payments as LEOFF Plan II basic salary. See WAC 415-104-373.

(b) Specific types of payments that qualify as LEOFF Plan II basic salary include, but are not limited to, the payments described in WAC 415-104-363(1) and 415-104-365 through 415-104-379.

(c) Other payments not specifically listed qualify as basic salary for LEOFF Plan II only if those payments are a salary or wage for services rendered.

(2) **Basic salary is earned when the service is rendered, rather than when payment is made.**

(3) **Salary characterizations are based upon the nature of the payment.** Whether a payment is basic salary depends upon whether the payment is earned as a salary or wage for services rendered. The name given to the payment is not controlling. The department determines whether a payment is basic salary by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-360, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-363 Deferred wages. (1) If earned for services rendered, deferred wages are basic salary.** If a member earns salary or wages for services rendered during a payroll period but defers receipt of payment, those earnings are basic salary for LEOFF Plan II. Deferred wages include, but are not limited to:

(a) Member contributions to LEOFF;

(b) Salaries or wages deferred pursuant to sections 401(k), 403(b), 414(h), 457, or other similar sections of the United States Internal Revenue Code.

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(2) **Deferred wages that a member does not have an absolute right to in exchange for rendering service to an employer are not basic salary.** If an employer offers additional payment that is conditioned on taking some action in addition to providing services, the payment is based upon the additional action and is not earned for services rendered. The payment does not qualify as basic salary for LEOFF Plan II.

**Example:** An employer offers to make a contribution to a deferred compensation plan on a member's behalf only if the member elects to defer a portion of his or her salary. Because the member does not have an absolute right to receive the contribution based solely on rendering service, the payment is not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-363, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-365 Retroactive basic salary increases are LEOFF Plan II basic salary.** A retroactive salary increase received for a pay period that a member worked is a salary or wage for services rendered and is basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-365, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-367 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 basic salary for LEOFF Plan II if the member has an absolute right to receive cash or deferred 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 basic salary, 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 basic salary for LEOFF Plan II. See WAC 415-104-385.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-367, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-370 Overtime is LEOFF Plan II basic salary.** Overtime, additional pay earned for working time in excess of regularly scheduled shift(s), is a salary or wage for services rendered. Overtime payments are basic salary for LEOFF Plan II. Overtime includes, but is not limited to:

(1) **Additional pay for working on a holiday.** If a member receives an extra payment because he or she worked on a scheduled holiday, the payment is overtime. The employer may make the additional payment when the holiday occurs or in a lump sum at some other time. In either case, the payment is basic salary for LEOFF Plan II;

**Example:** A fire fighter works on Christmas day. As compensation for working a holiday, she is given the option of taking some other day off with pay or of receiving an extra day's pay. If she opts for the extra day of pay, this payment is overtime and is LEOFF Plan II basic salary. If she opts to take a day off,

this is paid leave and qualifies as LEOFF Plan II basic salary.

(2) **Callback pay,** which is a special rate of pay some employers provide members for being called back to work after the end of the member's regular shift;

(3) **Court pay,** which is an additional payment for appearing in court or performing other duties outside of a member's regularly scheduled shift.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-370, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-373 Paid leave is LEOFF Plan II basic salary.** Payments received from an employer for authorized paid absences from work are basic salary for LEOFF Plan II. These payments may or may not be for services rendered. Paid leave is basic salary only to the extent that it is the equivalent of the basic salary a member would have earned had the member been working. The portion of any payment identified as paid leave that exceeds that amount is not basic salary.

(1) **Leave payments earned for services rendered.** Most LEOFF members earn a certain number of leave hours per month, such as sick leave. The leave hours are earned by rendering service during the month the leave was accumulated. The payment a member receives when he or she uses an earned leave day is a deferred salary or wage for services previously rendered. It is basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working.

**Example:** Assume a member accrues eight hours sick leave per month. The accrued leave in the member's sick leave balance is earned for personal services rendered during a payroll period. When the member is absent from work and uses the sick leave, the sick leave payment is basic salary.

(2) **Leave payments not earned for services rendered.** If an employer authorizes a period of paid leave but does not require the use of leave previously earned for services rendered, the payment is not a salary or wage for services rendered. However, RCW 41.26.520 authorizes service credit for all periods of paid leave. Because the periods are creditable, the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working.

(3) **Payments upon reinstatement or in lieu of reinstatement are paid leave and therefore qualify as basic salary.** The payment will count as basic salary for the payroll periods when the person would have earned the payment had he or she been working. In order for a payment in lieu of reinstatement to qualify as paid leave, the person's termination date must occur after the payroll period when the payment would have been earned. Because the periods are creditable, the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working.

(4) **Union leave.** Periods of authorized leave to serve as an elected official of a labor organization which meet the requirements of RCW 41.26.520 qualify for service credit.

The salary payments provided by the employer subject to reimbursement from the union qualify as basic salary for LEOFF Plan II to the extent that they do not exceed the highest paid job class covered by the collective bargaining agreement negotiated between the labor organization and the employer. The portion of any payment identified as paid leave in excess of that amount is not basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-373, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-375 Salary or wages not attached to a position are LEOFF Plan II basic salary.** A salary or wage for services rendered to an employer is basic salary for LEOFF Plan II regardless of whether the services are attached to a position.

**Example:** If an employee receives additional salary based upon his or her education, that additional salary is basic salary for LEOFF Plan II even if his or her position does not require that level of education. The payment of a higher salary based upon educational attainment is part of the total compensation for the services provided by the employee.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-375, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-377 Performance bonuses are LEOFF Plan II basic salary.** Payments you earn for meeting or exceeding performance goals set by your employer are a salary or wage for services rendered and qualify as basic salary for LEOFF Plan II. In order to qualify as basic salary, a performance bonus must be documented in an employer policy or specific agreement between the employer and member prior to earning the bonus.

**Example:** An employer offers an annual bonus to a member if he or she meets a certain performance goal, i.e., stays accident free for a year. If the member meets the goal and is paid the bonus, the bonus would be considered basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-377, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-379 Shift differential is LEOFF Plan II basic salary.** Additional payments to a member for working swing shift or night shift are a salary or wage for services rendered. Those payments are basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-379, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-380 Disability payments.** (1) **Disability leave supplement.** Under certain circumstances, LEOFF II members are entitled to a disability leave supplement for periods of disability leave. See RCW 41.04.500 through 41.04.550.

(a) Employer contributions to the disability leave supplement under RCW 41.04.510(3) are not a salary or wage for services rendered and do not qualify as basic salary.

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Although the payments are paid leave, they are specifically excluded from basic salary by RCW 41.04.525.

(b) The member paid portion of the disability leave supplement is funded through use of the member's accumulated sick or vacation leave. This portion of the disability leave supplement is, therefore, basic salary, see WAC 415-104-373. The member will receive only partial service credit for the accumulated leave portion of the disability leave supplement.

(c) A member may apply to receive full service credit for some periods of duty disability under RCW 41.26.470(3).

(2) **Workers' compensation.** Payments made to a member under Title 51 RCW are neither a salary or wage for services rendered nor paid leave. The payments are not basic salary for LEOFF II. This is true whether the payments come from the workers' compensation trust fund or from an employers' self-insurance program authorized under Title 51 RCW.

(3) **Private insurance.** Some employers provide additional disability insurance as a supplement to workers' compensation. Any payment from a third party insurance company is neither paid leave nor payment for services rendered. It does not qualify as basic salary for LEOFF Plan II.

(4) **Disability leave banks.** If an employer maintains a disability leave bank which may be used to make salary replacement payments for members during periods of disability, such payments are paid leave and qualify as basic salary subject to the provisions of WAC 415-104-373: *Provided, however,* That if the leave provided to an employee is based upon leave earned by another employee then it is a form of shared leave and does not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-380, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-383 Employer taxes and contributions are not LEOFF Plan II basic salary.** (1) Any payment by a member's employer of the employer portion of taxes imposed by the Federal Insurance Contribution Act is not a salary or wage and does not qualify as basic salary for LEOFF Plan II.

(2) Employer contributions to LEOFF Plan II are not a salary or wage paid to the member and do not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-383, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-385 Fringe benefits are not LEOFF Plan II basic salary.** Fringe benefits are not a salary or wage and therefore do not qualify as basic salary for LEOFF Plan II. Fringe benefits include, but are not limited to:

(1) Any type of insurance such as medical, dental or life insurance;

(2) Any employer contribution to meet the premium or charge for such plan or insurance; or

(3) Any payments by the employer into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), except for compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-104-367.

[Title 415 WAC—p. 35]

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-385, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-387 Illegal payments are not LEOFF Plan II basic salary.** If an employer disburses a payment that the employer does not have legal authority to make, that payment does not qualify as basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-387, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-390 Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan II basic salary.** (1) **Reimbursement.** If an employer reimburses a member for expenses incurred in providing services for the employer, the purpose of the payment is to pay the member back for out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and is not basic salary for LEOFF Plan II.

(2) **Allowance.** An allowance paid in lieu of a specific reimbursement for expenses a member is expected to incur in providing services for the employer is characterized the same as a specific reimbursement. The purpose of the payment is to reimburse the member for out-of-pocket expenses. The payment is not compensation. It is not a salary or wage and does not qualify as basic salary for LEOFF Plan II.

**Example:** An employer provides an annual stipend for the purchase of a uniform or other clothing required for the performance of a members' duties. The payment is a reimbursement for expenses incurred or expected to be incurred and is not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-390, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-393 Standby pay is not LEOFF Plan II basic salary.** Payments to a member for time not actually worked when the member must be available to work if the need arises, are not a salary or wage for services rendered. Any such payment does not qualify as basic salary for LEOFF Plan II.

**Example:** Some employers provide payments to a member at less than the member's regular hourly rate in exchange for the member being available to come into work after his or her shift if called, although the member may not be called. Such payments, often referred to as "standby pay," are not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-393, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-395 Termination or retirement bonuses are not LEOFF Plan II basic salary.** An additional payment based on notification of a member's intent to terminate or retire is in consideration for the notification of intent to retire or terminate. The payment is not a salary or wage for services rendered and is not basic salary for LEOFF Plan II.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-395, filed 12/6/96, effective 1/6/97.]

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**WAC 415-104-397 Statutorily excluded payments are not LEOFF Plan II basic salary.** Payments authorized by a statute that excludes the payment from the calculation of a public retirement allowance do not qualify as basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-397, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-401 Cash outs of accrued leave or other forms of severance pay are not LEOFF Plan II basic salary.** (1) A cash out from an employer for unused accrued leave, is a deferred salary or wage for services previously rendered. However, the payment is not basic salary because it is specifically excluded from the definition of basic salary in RCW 41.26.030 (13)(b).

(2) **Other forms of severance pay are not basic salary.** Any form of severance payment received from an employer upon termination, is not included as basic salary in LEOFF Plan II because it is excluded from the statutory definition of basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-401, filed 12/6/96, effective 1/6/97.]

**WAC 415-104-405 Payments in lieu.** A payment or any other transfer in lieu of an item that does not qualify as basic salary, is not basic salary. The only exception is compensation paid pursuant to bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-104-3302.

[Statutory Authority: RCW 41.50.050 and 41.50.055. 97-01-016, § 415-104-405, filed 12/6/96, effective 1/6/97.]

## MINIMUM MEDICAL AND HEALTH STANDARDS

**WAC 415-104-500 Purpose.** The regulations contained in WAC 415-104-510 through 415-104-750 are adopted as the minimum medical and health standards which must be met or exceeded before a law enforcement officer or fire fighter may become a member of the retirement system contained in chapter 41.26 RCW as now existing or hereafter amended. Such regulations are adopted pursuant to chapter 41.26 RCW (chapter 257, Laws of 1971 1st ex. sess.) and are to be applied consistent with the provisions of that act. The minimum medical and health standards are not hiring standards. They relate only to membership in the LEOFF system.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-500, filed 2/15/78. Formerly WAC 297-50-010.]

**WAC 415-104-510 Minimum standards for membership—Physical examination. (1) Requirements:**

(a) Medical examination administered by a licensed physician or surgeon as set forth under provisions of chapter 18.71 RCW. Physician or surgeon to be appointed by the appropriate city or county disability board. Causes for rejection will be consistent with recommendations outlined in these standards.

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

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

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

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

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

**(2) Procedure:**

(a) Completion of the report of medical history by the applicant.

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

(c) The physician shall record his findings on the report of medical history and shall note thereon, for evaluation by the hiring authority, any past or present physical defects, diseases, injuries, operations, or conditions of an abnormal or unusual nature and whether applicant is or is not qualified. Reports of medical history shall be typewritten or printed, and the summary of defects and diagnosis shall refer to the applicable section of these standards as cause for rejection.

(d) Physical examination reports shall be placed in permanent files by the employer and must be available for examination at any reasonable time by representatives of the retirement system board.

[Statutory Authority: RCW 41.50.050(5), 41.50.090 and 41.26.051. 84-03-047 (Order V), § 415-104-510, filed 1/18/84. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-510, filed 2/15/78. Formerly WAC 297-50-020.]

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

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

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

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

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

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

(6) **Hemorrhoids**:

(a) External hemorrhoids producing marked symptoms;

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

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

(8) **Hernia**:

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

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

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

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

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

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

(13) **Resection, gastric or of bowel; or gastroenterostomy**, but minimal intestinal resection in infancy or childhood is acceptable if the individual has been asymptomatic since the resection and if surgical consultation (to include upper and lower gastrointestinal series) gives complete clearance. For example: Intussusception or pyloric stenosis;

(14) **Scars**:

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

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

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

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

(a) Trauma;

(b) Causes unrelated to diseases of the spleen;

(c) Hereditary spherocytosis;

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

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

(18) **Ulcer**:

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

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

(19) **Other congenital or acquired abnormalities and defects** which preclude satisfactory performance of duties or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-520, filed 2/15/78. Formerly WAC 297-50-030.]

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

(1) **Anemia**:

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

(b) Deficiency anemia, not controlled by medication;

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

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

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

- (f) Primary refractory anemia: Aplastic anemia, DiGuglielmo's syndrome;
- (2) **Hemorrhagic states:**
  - (a) Due to changes in coagulation system (hemophilia, etc.);
  - (b) Due to platelet deficiency;
  - (c) Due to vascular instability;
- (3) **Leukopenia**, chronic or recurrent, associated with increased susceptibility to infection;
- (4) **Myeloproliferative disease** (other than leukemia):
  - (a) Myelofibrosis;
  - (b) Megakaryocytic myelosis;
  - (c) Polycythemia vera;
- (5) **Splenomegaly until the cause is remedied;**
- (6) **Thromboembolic disease** except for acute, nonre-current conditions.

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

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

- (1) **Diseases of the jaws or associated tissues**, which are not easily remediable and which will incapacitate the individual or prevent the satisfactory performance of duty;
- (2) **Malocclusion**, severe, which interferes with the mastication of a normal diet;
- (3) **Orthodontic appliances:** Individuals with orthodontic appliances attached to the teeth are administratively unacceptable so long as active treatment is required. Individuals with retainer orthodontic appliances who are not considered to require active treatment are administratively acceptable;
- (4) **Oral tissues**, extensive loss of, in an amount that would prevent replacement of missing teeth with a satisfactory prosthetic appliance;
- (5) Relationship between the mandible and maxilla of such a nature as to preclude future satisfactory prosthodontic replacement.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-540, filed 2/15/78. Formerly WAC 297-50-050.]

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

- (1) **Auditory canal:**
  - (a) Atresia or severe stenosis of the external auditory canal;
  - (b) Tumors of the external auditory canal except mild exostoses;
  - (c) Severe external otitis, acute or chronic;
- (2) **Auricle:** Agenesis, severe; or severe traumatic deformity, unilateral or bilateral;
- (3) **Mastoids:**
  - (a) Mastoiditis, acute or chronic;
  - (b) Residual or mastoid operation with marked external deformity which precludes or interferes with the wearing of a gas mask or helmet;
  - (c) Mastoid fistula;
- (4) **Meniere's syndrome;**
- (5) **Middle ear:**

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

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

(c) Acute or chronic serous otitis media;

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

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

**(6) Tympanic membrane:**

(a) Any perforation of the tympanic membrane;

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

(7) **Other diseases and defects of the ear** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-550, filed 2/15/78. Formerly WAC 297-50-060.]

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

There is no objection to conducting the whispered voice test or the spoken voice test as a preliminary to conducting the audiometric hearing test.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-555, filed 2/15/78.]

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

		Acceptable Audiometric Hearing Level (Present American Standard) For Appointment							
		250	500	1000	2000	3000	4000	6000	8000
		256	512	1024	2048	2896	4096	6144	8192
a.	Both ears . . . (1) Average of six readings in these speech frequencies not greater than 20 decibels with no level greater than 25 decibels. (divide by six)	(2)	50	(2)	(1)				
b.	Better ear . . . (1)	15	15	15	(2)	30	(2)	(1)	
	Worse ear . . . (1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

(1) No requirement  
(2) Not yet standardized

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

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

CONVERSION TABLE

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

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

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

- (1) **Adrenal gland**, malfunction of, of any degree;
- (2) **Cretinism**;
- (3) **Diabetes insipidus**;
- (4) **Diabetes mellitus**;
- (5) **Gigantism or acromegaly**;
- (6) **Glycosuria**, persistent, regardless of cause;
- (7) **Goiter**:
  - (a) Simple goiter with definite pressure symptoms or so large in size as to interfere with the wearing of a uniform or firefighting equipment;
  - (b) Thyrotoxicosis;
- (8) **Gout**;
- (9) **Hyperinsulinism**, confirmed, symptomatic;
- (10) **Hyperparathyroidism and hypoparathyroidism**;
- (11) **Hypopituitarism**, severe;
- (12) **Myxedema**, spontaneous or postoperative with clinical manifestations and not based solely on low basal metabolic rate;
- (13) **Nutritional deficiency diseases**, (including spru, beriberi, pellagra, and scurvy) which are more than mild and not readily remediable or in which permanent pathological changes have been established;
- (14) **Other endocrine or metabolic disorders** which obviously preclude satisfactory performance of duty which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-570, filed 2/15/78. Formerly WAC 297-50-080.]

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

- (1) **Limitation of motion**: An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;
  - (a) **Shoulder**:
    - (i) Forward elevation to 90°;
    - (ii) Abduction to 90°;
  - (b) **Elbow**:
    - (i) Flexion to 100°;
    - (ii) Extension to 15°;
  - (c) **Wrist**: A total range of 15° (extension plus flexion);
  - (d) **Hand**: Pronation to the first quarter of the normal arc;

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

(2) **Hand and fingers**:

- (a) Absence (or loss) of more than 1/3 of the distal phalanx of either thumb;
  - (b) Absence or loss of distal and middle phalanx of an index, middle, or ring finger of either hand irrespective of the absence (or loss) of little finger;
  - (c) Absence of more than the distal phalanx of any two of the following fingers: index, middle, or ring finger, of either hand;
  - (d) Absence of hand or any portion thereof except for fingers as noted above;
  - (e) Hyperdactylia;
  - (f) Scars and deformities of the fingers and/or hand which impair circulation, are symptomatic, are so disfiguring as to make the individual objectionable in ordinary social relationships, or which impair normal function to such a degree as to interfere with the satisfactory performance of duty;
- (3) **Wrist, forearm, elbow, arm, and shoulder**: Healed disease or injury of wrist, elbow, or shoulder with residual weakness or symptoms of such a degree as to preclude satisfactory performance of duty.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-580, filed 2/15/78. Formerly WAC 297-50-090.]

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

- (1) **Limitation of motion**: An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;
  - (a) **Hip**:
    - (i) Flexion to 90°;
    - (ii) Extension to 10° (beyond 0);
  - (b) **Knee**:
    - (i) Full extension;
    - (b) Flexion to 90°;
  - (c) **Ankle**:
    - (i) Dorsiflexion to 10°;
    - (ii) Plantar flexion to 10°;
- (2) **Foot and ankle**:
  - (a) Absence of one or more small toes of one or both feet, if function of the foot is poor or running or jumping is precluded, or absence of foot or any portion thereof except for toes as noted herein;
  - (b) Absence (or loss) of great toe(s) or loss of dorsal flexion thereof if function of the foot is impaired;
  - (c) Claw toes precluding the wearing of service boots;
  - (d) Clubfoot;
  - (e) Flatfoot, pronounced cases, with decided eversion of the foot and marked bulging of the inner border, due to inward rotation of the astragalus, regardless of the presence or absence of symptoms;
  - (f) Flatfoot, spastic;
  - (g) Hallux valgus, if severe and associated with marked exostosis or bunion;

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

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

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

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

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

**(3) Leg, knee, thigh, and hip:**

(a) Dislocated semilunar cartilage, loose or foreign bodies within the knee joint, or history of surgical correction of same if—

(i) Within the preceding six months;

(ii) Six months or more have elapsed since operation without recurrence, and there is instability of the knee ligaments in lateral or anteroposterior directions in comparison with the normal knee or abnormalities noted on x-ray, there is significant atrophy or weakness of the thigh musculature in comparison with the normal side, there is not acceptable active motion in flexion and extension, or there are other symptoms of internal derangement;

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

**(4) General:**

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

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

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

(d) Shortening of a lower extremity resulting in any limp of noticeable degree.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-584, filed 2/15/78. Formerly WAC 297-50-090.]

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

**(1) Arthritis:**

(a) Active or subacute arthritis, including Marie-Strumpell type;

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

(c) Documented clinical history of rheumatoid arthritis;

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

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

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

**(4) Fractures:**

(a) Malunited fractures that interfere significantly with function;

(b) Ununited fractures;

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

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

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

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

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

**(9) Osteoporosis;**

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

(11) **Chondromalacia**, manifested by verified history of joint effusion, interference with function, or residuals from surgery.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-588, filed 2/15/78. Formerly WAC 297-50-090.]

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

**(1) Lids:**

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

(b) Blepharospasm;

(c) Dacryocystitis, acute or chronic;

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



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

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

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

(h) Lagophthalmos;

(i) Ptosis interfering with vision;

(j) Trichiasis, severe;

(2) **Conjunctive:**

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

(b) Pterygium:

(i) Pterygium recurring after three operative procedures;

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

(3) **Cornea:**

(a) Dystrophy, corneal, of any type including keratocornus of any degree;

(b) Keratitis, acute or chronic;

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

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

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

(5) **Retina:**

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

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

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

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

(6) **Optic nerve:**

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

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

(c) Optic atrophy (primary or secondary);

(d) Papilledema;

(7) **Lens:**

(a) Aphakia (unilateral or bilateral);

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

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

(8) **Ocular mobility and motility:**

(a) Dislopia, documented, constant or intermittent from any cause or of any degree interfering with visual function (i.e., may suppress);

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

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

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

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

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

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

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

(b) Absence of an eye;

(c) Asthenopia severe;

(d) Exophthalmos, unilateral or bilateral;

(e) Glaucoma, primary or secondary;

(f) Hemianopsia of any type;

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

(h) Loss of visual fields due to organic disease;

(i) Night blindness associated with objective disease of the eye. Verified congenital night blindness;

(j) Residuals of old contusions, lacerations, penetrations, etc., which impair visual function required for satisfactory performance of duty;

(k) Retained intra-ocular foreign body;

(l) Tumors, see WAC 415-104-590 (1)(f), 415-104-720, and 415-104-725;

(m) Any organic disease of the eye or adnexa not specified above which threatens continuity of vision or impairment of visual functions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-590, filed 2/15/78. Formerly WAC 297-50-100.]

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

(1) **Distant visual acuity** not less than 20/100 vision in each eye without correction and corrected to 20/20 in the better eye and 20/30 in the lesser eye within eight diopters of plus or minus refractive error;

(2) **Near visual acuity:** Near visual acuity of any degree which does not correct to at least J-6 in the better eye;

(3) **Refractive error:** Any degree of refractive error in spherical equivalent of over -8.00 or +8.00; or if ordinary spectacles cause discomfort by reason of ghost images, prismatic displacement, etc.; or if an ophthalmological consultation reveals a condition which is disqualifying;

(4) **Contact lens:** Complicated cases requiring contact lens for adequate correction of vision as keratoconus, corneal scars, and irregular astigmatism.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-595, filed 2/15/78. Formerly WAC 297-50-100.]

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

(1) **Bartholinitis,** Bartholin's cyst;

(2) **Cervicitis**, acute or chronic manifested by leukorrhea;

(3) **Dysmenorrhea**, incapacitating to a degree which necessitates recurrent absences of more than a few hours from routine activities;

(4) **Endometriosis**, or confirmed history thereof;

(5) **Hemaphroditism**;

(6) **Menopausal syndrome**, either physiologic or artificial if manifested by more than mild constitutional or mental symptom, or artificial menopause if less than thirteen months have elapsed since cessation of menses. In all cases of artificial menopause, the clinical diagnosis will be reported; if accomplished by surgery, the pathologic report will be obtained and recorded;

(7) **Menstrual cycle**, irregularities of, including menorrhagia, if excessive; metrorrhagia; polymenorrhea; amenorrhea, except as noted in WAC 415-104-600(6);

(8) **New growths of the internal or external genitalia** except single uterine fibroid, subserous, asymptomatic, less than three centimeters in diameter, with no general enlargement of the uterus, see also WAC 415-104-720 and 415-104-725;

(9) **Oophoritis**, acute or chronic;

(10) **Ovarian cysts**, persistent and considered to be of clinical significance;

(11) **Pregnancy**;

(12) **Salpingitis**, acute or chronic;

(13) **Testicle(s)**:

(a) Absence or nondescent of both testicles;

(b) Undiagnosed enlargement or mass of testicle or epididymis;

(c) Undescended testicle;

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

(15) **Uterus**:

(a) Cervical polyps, cervical ulcer, or marked erosion;

(b) Endocervicitis, more than mild;

(c) Generalized enlargement of the uterus due to any cause;

(d) Malposition of the uterus if more than mildly symptomatic;

(16) **Vagina**:

(a) Congenital abnormalities or severe lacerations of the vagina;

(b) Vaginitis, acute or chronic, manifested by leukorrhea.

(17) **Varicocele or hydrocele**, if large or painful;

(18) **Vulva**:

(a) Leukoplakia;

(b) Vulvitis, acute or chronic.

(19) Major abnormalities and defects of the genitalia such as a change of sex, a history thereof, or complications (adhesions, disfiguring scars, etc.) residual to surgical correction of these conditions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-600, filed 2/15/78. Formerly WAC 297-50-110.]

**WAC 415-104-605 Urinary system.** See WAC 415-104-570(1), 415-104-720, and 415-104-725. The following

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conditions of the urinary system are causes for rejection of membership:

(1) **Albuminuria** if persistent or recurrent including so-called orthostatic or functional albuminuria;

(2) **Cystitis, chronic**: Individuals with acute cystitis are unacceptable until the condition is cured;

(3) **Enuresis** determined to be a symptom of an organic defect not amendable to treatment, see also WAC 415-104-688;

(4) **Epispadias or hypospadias** when accompanied by evidence of infection of the urinary tract or if clothing is soiled when voiding;

(5) **Hematuria, cylindruria**, or other findings indicative of renal tract disease;

(6) **Incontinence** of urine;

(7) **Kidney**:

(a) Absence of one kidney, regardless of cause;

(b) Acute or chronic infections of the kidney;

(c) Cystic or polycystic kidney, confirmed history of;

(d) Hydronephrosis or pyonephrosis;

(e) Nephritis, acute or chronic;

(f) Pyelitis, pyelonephritis;

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

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

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

(11) **Renal calculus**:

(a) Substantiated history of bilateral renal calculus at any time;

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

(12) **Skeneitis**;

(13) **Urethra**:

(a) Stricture of the urethra;

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

(14) **Urinary fistula**;

(15) **Other diseases and defects of the urinary system** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-605, filed 2/15/78. Formerly WAC 297-50-110.]

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

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

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

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

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

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

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

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

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

(6) **Unightly deformities**, such as large birthmarks, large hairy moles, extensive scars, and mutilations due to injuries or surgical operations; ulcerational fistulae, atrophy, or paralysis of part of the face or neck.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-610, filed 2/15/78. Formerly WAC 297-50-120.]

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

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

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

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

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

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

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

(7) **Tumor of thyroid or other structures of the neck**, see WAC 415-104-720 and 415-104-725.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-615, filed 2/15/78. Formerly WAC 297-50-120.]

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

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

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

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

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

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

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

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

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

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

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

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

(8) **Tachycardia** persistent with a resting pulse rate of 100 or more, regardless of cause.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-620, filed 2/15/78. Formerly WAC 297-50-130.]

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

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

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

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

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

(5) **Thrombophlebitis:**

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

(b) Recurrent thrombophlebitis;

(6) **Varicose veins**, if more than mild, or if associated with edema, skin ulceration, or residual scars from ulceration.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-624, filed 2/15/78. Formerly WAC 297-50-130.]

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

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

(2) **History and evidence of a congenital abnormality** which has been treated by surgery but with residual abnor-

malities or complications, for example: Patent ductus arteriosus with residual cardiac enlargement or pulmonary hypertension; resection of a coarctation of the aorta without a graft when there are other cardiac abnormalities or complications; closure of a secundum type atrial septal defect when there are residual abnormalities or complications;

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

(4) **Substantiated history of rheumatic fever or chorea** within the previous two years, recurrent attacks of rheumatic fever or chorea at any time, or with evidence of residual cardiac damage.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-628, filed 2/15/78. Formerly WAC 297-50-130.]

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

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

(2) **Women:** Height below . . . inches or over . . . inches, as specified by hiring agency.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-630, filed 2/15/78. Formerly WAC 297-50-140.]

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

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

(2) **Weight related to age and height** which is in excess of the maximum shown in WAC 415-104-650 (Table 2) for all applicants.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-634, filed 2/15/78. Formerly WAC 297-50-140.]

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

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

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

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

(4) **Obesity:** Even though the individual's weight is within the maximum shown in WAC 415-104-650 (Table 2) he will be reported as medically unacceptable when the medical and musculature, constitutes obesity of such a degree as to interfere with the satisfactory completion of prescribed training.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-638, filed 2/15/78. Formerly WAC 297-50-140.]

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

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

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

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

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

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

(6) **Acute nontuberculous pneumonia;**

(7) **Foreign body in trachea or bronchus;**

(8) **Foreign body of the chest wall** causing symptoms;

(9) **Lobectomy**, history of, for a nontuberculous nonmalignant lesion with residual pulmonary disease. Removal of more than one lobe is cause for rejection regardless of the absence of residuals;

(10) **Other traumatic lesions** of the chest or its contents;

(11) **Pneumothorax**, regardless of etiology or history thereof;

(12) **Recent fracture** of ribs, sternum, clavicle, or scapula;

(13) **Significant abnormal findings** on physical examination of the chest.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-640, filed 2/15/78. Formerly WAC 297-50-150.]

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

(1) **Active tuberculosis** in any form or location;

(2) **Pulmonary tuberculosis**, active within the past five years;

(3) **Substantiated history or x-ray findings** of pulmonary tuberculosis of more than minimal extent at any time; or minimal tuberculosis not treated with a full year of approved chemotherapy or combined chemotherapy and surgery; or a history of pulmonary tuberculosis with reactivation, relapse, or other evidence of poor host resistance.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-644, filed 2/15/78. Formerly WAC 297-50-150.]

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

(1) **Acute mastitis**, chronic cystic mastitis, if more than mild;

(2) **Bronchial asthma**, except for childhood asthma with a trustworthy history of freedom from symptoms since the twelfth birthday;

(3) **Bronchitis**, chronic with evidence of pulmonary function disturbance;

(4) **Bronchiectasis;**

(5) **Bronchopleura fistula;**

(6) **Bullous or generalized pulmonary emphysema;**

(7) **Chronic abscess of lung;**

(8) **Chronic fibrous pleuritis** of sufficient extent to interfere with pulmonary function or obscure the lung field in the roentgenogram;

(9) **Chronic mycotic diseases** of the lung including coccidioidomycosis; residual cavitation or more than a few

small-sized inactive and stable residual modules demonstrated to be due to mycotic disease;

(10) **Empyema**, residual sacculation or unhealed sinuses of chest wall following operation for empyema;

(11) **Extensive pulmonary fibrosis** from any cause, producing dyspnea on exertion;

(12) **Foreign body of the lung or mediastinum** causing symptoms or active inflammatory reaction;

(13) **Multiple cystic disease** of the lung or solitary cyst which is large and incapacitating;

(14) **New growth on breast, history of mastectomy;**

(15) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;

(16) **Pleurisy with effusion** of unknown origin within the preceding five years;

(17) **Sarcoidosis**, see WAC 415-104-710;

(18) **Suppurative periostitis** of rib, sternum, clavicle, scapula, or vertebra.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-648, filed 2/15/78. Formerly WAC 297-50-150.]

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

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

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

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

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

(1) **Hard palate**, perforation of;

(2) **Harelip**, unless satisfactorily repaired by surgery;

(3) **Leukoplakia**, if severe;

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

(5) **Ranula**, if extensive, see also WAC 415-104-720 and 415-104-725.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-660, filed 2/15/78. Formerly WAC 297-50-180.]

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

(1) **Allergic manifestations:**

(a) Chronic atrophic rhinitis;

(b) Hay fever if severe; or if not controllable by antihistamines or by desensitization, or both;

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

(3) **Nasal septum, perforation of:**

(a) Associated with interference of function, ulceration or crusting, and when the result of organic disease;

(b) If progressive;

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

(4) **Sinusitis, acute;**

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

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

(b) Confirmed by transillumination or x-ray examination or both.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-663, filed 2/15/78. Formerly WAC 297-50-180.]

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

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

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

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

(4) **Plica dysphonia venricularis;**

(5) **Tracheostomy or tracheal fistula.**

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

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

(1) **Aphonia;**

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

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

(4) **Pharyngitis and nasopharyngitis**, chronic, with positive history of objective evidence, if of such a degree as to result in excessive time lost in the fire or law enforcement environment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-668, filed 2/15/78. Formerly WAC 297-50-180.]

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

- (1) **Degenerative disorders:**
  - (a) Cerebellar and Friedreich's ataxia;
  - (b) Cerebral arteriosclerosis;
  - (c) Encephalomyelitis, residuals of, which preclude the satisfactory performance of duties;
  - (d) Huntington's chorea;
  - (e) Multiple sclerosis;
  - (f) Muscular atrophies and dystrophies of any type;
- (2) **Miscellaneous:**
  - (a) Congenital malformations if associated with neurological manifestations and meningocele even if uncomplicated;
  - (b) Migraine when frequent and incapacitating;
  - (c) Paralysis or weakness, deformity, discoordination, pain, sensory disturbances of consciousness, or personality abnormalities regardless of cause which are of such a nature or degree as to preclude the satisfactory performance of duty;
  - (d) Tremors, spasmodic torticollis, athetosis or other abnormal movements more than mild;
  - (3) **Neurosyphilis of any form** (general paresis, tabes dorsalis, meningovascular syphilis);
  - (4) **Paroxysmal convulsive disorders**, disturbances of consciousness, all forms of psychomotor or temporal lobe epilepsy or history thereof except for seizures associated with toxic states or fever during childhood up to the age of twelve;
  - (5) **Peripheral nerve disorder:**
    - (a) Polyneuritis;
    - (b) Mononeuritis or neuralgia which is chronic or recurrent and of an intensity that is periodically incapacitating;
    - (c) Neurofibromatosis;
    - (6) **Spontaneous subarachnoid hemorrhage**, verified history of, unless cause has been surgically corrected.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-670, filed 2/15/78. Formerly WAC 297-50-190.]

**WAC 415-104-680 Psychoses.** The following psychotic conditions are causes for rejection of membership: Psychosis or authenticated history of a psychotic illness other than those of a brief duration associated with a toxic or infectious process.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-680, filed 2/15/78. Formerly WAC 297-50-200.]

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

- (1) **History of a psychoneurotic reaction** which caused:
  - (a) Hospitalization;
  - (b) Prolonged care by a physician;
  - (c) Loss of time from normal pursuits for repeated periods even if of brief duration, or
  - (d) Symptoms or behavior of a repeated nature which impaired school or work efficiency;
- (2) **History of a brief psychoneurotic reaction or nervous disturbance** within the preceding twelve months which was sufficiently severe to require medical attention or

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absence from work or school for a brief period (maximum of seven days).

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-684, filed 2/15/78. Formerly WAC 297-50-200.]

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

- (1) **Character and behavior disorders**, as evidenced by:
  - (a) Frequent encounters with law enforcement agencies, or anti-social attitudes or behavior which, while not a cause for administrative rejection, are tangible evidence of an impaired characterological capacity to adapt to the service;
  - (b) Sexual deviant practices such as exhibitionism, transvestism, voyeurism, etc;
  - (c) Chronic alcoholism or alcohol addiction;
  - (d) Drug use or addiction;
- (2) **Character and behavior disorders** where it is evident by history and objective examination that the degree of immaturity, instability, personality inadequacy, and dependency will seriously interfere with adjustment in the service as demonstrated by repeated inability to maintain reasonable adjustment in school, with employers and fellow workers, and other society groups;
- (3) **Other symptomatic immaturity reactions** such as authenticated evidence of enuresis which is habitual or persistent, not due to an organic condition occurring beyond early adolescence (age twelve to fourteen) and stammering or stuttering of such a degree that the individual is normally unable to express himself clearly or to repeat commands;
- (4) **Specific learning defects** secondary to organic or functional mental disorders.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-688, filed 2/15/78. Formerly WAC 297-50-200.]

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

- (1) **Acne:** Severe, when the face is markedly disfigured, or when extensive involvement of the neck, shoulders, chest, or back would be aggravated by or interfere with the wearing of required equipment;
- (2) **Atopic dermatitis:** With active or residual lesions in characteristic areas (face and neck, antecubital and popliteal fossae, occasionally wrists and hands), or documented history thereof;
- (3) **Cysts:** (a) Pilonidal cysts: If evidenced by the presence of a tumor mass or a discharging sinus;
- (b) All other cysts. Of such a size or location as to interfere with the normal wearing of required equipment;
- (4) **Dermatitis factitia;**
- (5) **Dermatitis herpetiformis;**
- (6) **Eczema:** Any type which is chronic and resistant to treatment;
- (7) **Elephantiasis or chronic lymphedema;**
- (8) **Epidermolysis bullosa; pemphigus;**
- (9) **Fungus infections**, systemic or superficial types: If extensive and not amendable to treatment;
- (10) **Furunculosis:** Extensive, recurrent, or chronic;

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- (11) **Hyperhidrosis** of hands or feet: Chronic or severe;
- (12) **Ichthyosis**: Severe;
- (13) **Leprosy**: Any type;
- (14) **Leukemia cutis**; mycosis fungoides, Hodgkins' disease;
- (15) **Lichen planus**;
- (16) **Lupus erythematosus** (acute, subacute, or chronic) or any other dermatosis aggravated by sunlight;
- (17) **Neurofibromatosis** (Von Reckloinghausen's disease);
- (18) **Nevi or vascular tumors**: If extensive, unsightly, or exposed to constant irritation;
- (19) **Psoriasis** or verified history thereof;
- (20) **Radiodermatitis**;
- (21) **Scars** which are so extensive, deep, or adherent that they may interfere with the wearing of required equipment, or that show a tendency to ulcerate;
- (22) **Scleroderma**: Diffuse type;
- (23) **Tuberculosis**, see WAC 415-104-710;
- (24) **Warts, plantar**, which have materially interfered with the following of a useful vocation in civilian life;
- (25) **Urticaria**: Chronic;
- (26) **Xanthoma**: If disabling or accompanied by hypercholesterolemia or hyperlipemia;
- (27) **Any other chronic skin disorder** of a degree or nature which requires frequent outpatient treatment or hospitalization, interferes with the satisfactory performance of duty, or is so disfiguring as to make the individual objectionable in ordinary social relationships.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-690, filed 2/15/78. Formerly WAC 297-50-210.]

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

- (1) **Arthritis**, see WAC 415-104-588(1);
- (2) **Complaint of disease or injury of the spine or sacroiliac joints** either with or without objective signs and symptoms which have prevented the individual from successfully following a physically active vocation in civilian life. Substantiation or documentation of the complaint without symptoms and objective signs is required;
- (3) **Deviation or curvature of spine** from normal alignment, structure, or function (scoliosis, kyphosis, or lordosis, spina bifida occulta, spondylolysis, etc.) if:
  - (a) Mobility and weight-bearing power is poor;
  - (b) More than moderate restriction of normal physical activities is required;
  - (c) Of such a nature as to prevent the individual from following a physically active vocation in civilian life;
  - (d) Of a degree which will interfere with the wearing of required equipment;
  - (e) Symptomatic, associated with positive physical finding(s) demonstrable by x-ray;
- (4) **Disease of the lumbosacral or sacroiliac joints** of a chronic type and obviously associated with pain referred to

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the lower extremities, muscular spasm, postural deformities and limitation of motion in the lumbar region of the spine;

- (5) **Granulomatous diseases** either active or healed;
- (6) **Healed fracture of the spine or pelvic bones** with associated symptoms which have prevented the individual from following a physically active vocation in civilian life or which preclude the satisfactory performance of required duties;
- (7) **Ruptured nucleus pulposus** (herniation of intervertebral disk) or history of operation for this condition;
- (8) **Spondylolysis or spondylolisthesis** that is symptomatic or is likely to interfere with performance of duty or is likely to require assignment limitations.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-700, filed 2/15/78. Formerly WAC 297-50-220.]

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

- (1) **Fractures**, until well healed, and until determined that the residuals thereof will not preclude satisfactory performance of required duties;
- (2) **Injury within the preceding six weeks**, without fracture, or dislocation, of more than a minor nature;
- (3) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;
- (4) **Prominent scapulae** interfering with function or with the wearing of required equipment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-705, filed 2/15/78. Formerly WAC 297-50-220.]

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

- (1) **Dermatomyositis**;
- (2) **Lupus erythematosus**; acute, subacute, or chronic;
- (3) **Progressive systemic sclerosis**;
- (4) **Reiter's disease**;
- (5) **Sarcoidosis**;
- (6) **Scleroderma**, diffuse type;
- (7) **Tuberculosis**:
  - (a) Active tuberculosis in any form or location;
  - (b) Pulmonary tuberculosis;
  - (c) Confirmed history of tuberculosis of a bone or joint, genitourinary organs, intestines, peritoneum or mesenteric glands at any time;
  - (d) Meningeal tuberculosis; disseminated tuberculosis.

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

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

- (1) **Allergic manifestations**:
  - (a) Allergic rhinitis (hay fever), see WAC 415-104-570(2);
  - (b) Asthma, see WAC 415-104-670 (2)(c);
  - (c) Allergic dermatoses, see WAC 415-104-690;

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(d) Visceral, abdominal, and cerebral allergy, if severe or not responsive to treatment;

(2) **Any acute pathological condition**, including acute communicable diseases, until recovery has occurred without sequelae;

(3) **Any deformity** which is markedly unsightly or which impairs general functional ability to such an extent as to prevent satisfactory performance of duty;

(4) **Chronic metallic poisoning** especially beryllium, manganese, and mercury. Undesirable residuals from lead, arsenic, or silver poisoning make the examinee medically unacceptable;

(5) **Cold injury**, residuals, of (example: frostbite, chilblain, immersion foot, or trench foot) such as deep seated acne, paresthesia, hyperhidrosis, easily traumatized skin, cyanosis, amputation of any digit or ankylosis;

(6) **Positive tests for syphilis** with negative TPI test unless there is a documented history of adequately treated lues or any of the several conditions which are known to give a false-positive S.T.S. (vaccinia, infectious hepatitis, immunizations, a typical pneumonia, etc.) or unless there has been a reversal to a negative S.T.S. during an appropriate follow-up period (three to six months);

(7) **Filariasis; trypanosomiasis; amebiasis; schistosomiasis**; (hookworm) associated with anemia, malnutrition, etc., if more than mild, and other similar worm or animal parasitic infestations, including the carrier states thereof;

(8) **Heat pyrexia** (heatstroke, sunstroke, etc.): Documented evidence of predisposition (includes disorders of sweat mechanism and previous serious episode), recurrent episodes requiring medical attention, or residual injury resulting therefrom (especially cardiac, cerebral, hepatic, and renal);

(9) **Industrial solvent and other chemical intoxication, chronic** including carbon bisulfide, trichlorethylene, carbon tetrachloride, and methyl cellosolve;

(10) **Mycotic infection of internal organs**;

(11) **Myositis or fibrositis** severe, chronic;

(12) **Residuals of tropical fevers and various parasitic or protozoal infestations** which in the opinion of the medical examiner preclude the satisfactory performance of duty.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-715, filed 2/15/78. Formerly WAC 297-50-230.]

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

(1) **Any tumor** of the:

(a) Auditory canal, if obstructive;

(b) Eye or orbit;

(c) Kidney, bladder, testicle, or penis

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

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

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

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

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

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

(7) **Tumors of the internal or external female genitalia.**

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-720, filed 2/15/78. Formerly WAC 297-50-240.]

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

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

(2) **Malignant lymphomata**;

(3) **Malignant tumor of any kind**, at any time, substantiated diagnosis of, even though surgically removed, confirmed by accepted laboratory procedures, except as noted in WAC 415-104-590 (1)(f).

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-725, filed 2/15/78. Formerly WAC 297-50-240.]

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

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

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

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

(3) **Neurosyphilis**, see WAC 415-104-670 (1)(c).

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

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

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

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

(a) Hospitalization;

(b) Prolonged care by a physician;

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

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

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

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

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

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

(c) Chronic alcoholism or alcohol addiction;

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

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

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

(7) Specific learning defects secondary to organic or functional mental disorders.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-740, filed 2/15/78. Formerly WAC 297-50-260.]

**WAC 415-104-745 Mental examination—Requirement.** All applicants must be screened by a licensed physician, who may at his discretion, request the assistance of a psychiatrist or clinical psychologist.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-745, filed 2/15/78. Formerly WAC 297-50-260.]

**WAC 415-104-750 Mental examination—Procedure.**

(1) Applicants will complete preliminary history forms as required by the examiner. The "report of medical history" completed by the applicant will be made available to the examiner.

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

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

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

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

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

(4) The mental examination report will be retained in permanent files by the employing fire department and must be available for examination at any reasonable time by representatives of the retirement system board.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-750, filed 2/15/78. Formerly WAC 297-50-270.]

**WAC 415-104-755 Mental examination—Retention by employing department.** The employing fire department shall permanently retain the results of the mental examination as conducted by the examiner under WAC 415-104-750.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-755, filed 2/15/78. Formerly WAC 297-50-260.]

**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 415-105 WAC

#### LOCAL DISABILITY BOARD PROCEDURES

##### WAC

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##### GENERAL PROVISIONS

**WAC 415-105-010 Preamble.** In adopting the rules contained herein, it is not the intention of the director of department of retirement systems to in any way weaken the existing powers and practices of any local disability board. Further, it is not the intent of these rules to preclude adoption or continuation of any procedures in addition to those set forth herein by any local disability board.

[Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-010, filed 11/16/81.]

**WAC 415-105-020 Purpose.** These rules are adopted pursuant to section 1, chapter 294, Laws of 1981 [RCW 41.26.115] to implement chapter 41.26 RCW and to provide a basis for uniform administration of disability retirement matters. They shall be followed by each disability board.

[Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-020, filed 11/16/81.]

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

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der such other medical service as may be requested by the board.

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

(3) Reexamination of any member on disability retirement shall be conducted by a board appointed or approved physician.

[Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-030, filed 11/16/81.]

**WAC 415-105-040 Disability leave.** (1) Following receipt of an application for disability benefits, the board shall review all relevant information pertaining to the question of the applicant's fitness for duty, and if, in the opinion of the majority of the board, the evidence supports the proposition that the member is unfit for duty, such member shall be granted disability leave, unless such leave is waived pursuant to RCW 41.26.120(4). In considering such application, the board shall consider the duties of the position, and any other evidence that is relevant.

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

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

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

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

(6) The board shall be authorized to demand the appearance of the member and to request the appearance of such other persons as it deems appropriate. It shall be incumbent upon each member obtaining medical evaluations to be used in connection with such disability leave and subsequent evaluations, to advise each and every examining physician: that such evaluation is being conducted at the direction of the board; that any reports relating thereto are for the benefit of the board; that the doctor-patient privilege may not be invoked with respect thereto; and that the physician may be called upon by the board to testify as to his findings.

[Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-040, filed 11/16/81.]

**WAC 415-105-050 Examination for disability retirement.** (1) Every applicant for disability retirement shall be

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reexamined during the fifth or sixth month of disability leave in order to determine his/her eligibility for disability retirement, with the following exception: If the applicant establishes that the disabling condition will be in existence for a period of at least six months and he/she voluntarily waives disability leave. No applicant will be granted a disability retirement allowance unless the conditions imposed by this subsection are met.

(2) In the event the medical and other relevant evidence is inconclusive, the board may specify in written order a reasonable trial service period for return to duty in the same position held at the time of discontinuance of service to determine the member's fitness for active duty. The reasonable length of such trial return to service shall be supported by medical evidence. Such a trial return to service does not entitle the member to a second six-month period of disability leave for the same disability if, based upon this trial period of service, the member is found to be disabled.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-050, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-050, filed 11/16/81.]

#### **WAC 415-105-060 Granting disability retirement.**

(1) If the evidence shows to the satisfaction of the board that the member is physically or mentally disabled from further performance of duty and that the disability has been continuous from the date of commencement of disability leave for a period of six months, the board shall enter its written decision and order, accompanied by appropriate findings of fact and conclusions of law in compliance with RCW 41.26.120 or 41.26.125. Such written decision and order with supporting documentation shall thereafter be forwarded to the director, department of retirement systems, for review. In the event a regular meeting of the board precedes by no more than 40 days the date at which the full six months will conclude and the evidence is clear that the disability can be expected to continue through the full six-month period, the board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period, so as to eliminate unnecessary delay of receipt of retirement benefits.

(2) In order to qualify to receive a disability retirement allowance, the applicant will be required to prove that he or she is physically or mentally disabled to such extent that he or she is unable to discharge with average efficiency the duty of the position held at time of discontinuance of service: *Provided*, That no member shall be entitled to a disability retirement allowance if the appropriate authority advises that there is an available position for which the member is qualified and to which one of such grade or rank is normally assigned and the board determines that the member is capable of discharging, with average efficiency, the duties of the position.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-060, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-060, filed 11/16/81.]

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

(1) Findings of fact supported by credible evidence sufficient to sustain the granting or denying of the disability

retirement allowance. When a disability retirement is granted, findings of fact shall include:

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

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

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

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

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

(3) Decision and order.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-070, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-070, filed 11/16/81.]

**WAC 415-105-080 Appeal.** If the board denies disability leave or disability retirement or cancels a previously granted disability leave or retirement, the applicant shall be immediately notified and advised of the right to appeal such decision or order to the director of the department of retirement systems, pursuant to RCW 41.26.200. Such notification shall be in writing and served by personal service or mail. Provided, that written notice need not be given if applicant or his or her duly authorized representative is in attendance at the meeting or hearing and is advised of decision and of the right of appeal.

[Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-080, filed 11/16/81.]

**WAC 415-105-090 Reexamination and return to duty.** (1) In the event a member is placed on disability retirement, the board may determine whether or not the member is so disabled that no possibility exists for return to duty or that there is no possibility that rehabilitation could restore the member to fitness for duty. Further, the board may at any point subsequent to retirement make such a determination provided a current (within ninety days) medical examination by the board physician or a specialist of his/her selection indicates that the retiree is so disabled that no possibility for recovery exists. A copy of all such determinations shall be sent to the department of retirement systems. Unless the board has made such a finding, the board's representative shall order a reexamination at six-month intervals and advise the board of the results thereof with a copy to the department of retirement systems: *Provided*, That such reexamination need not be conducted on a member over 49.5 years of age. In the event the retired member is residing at a location more than 100 miles from his former place of employment, the member may be authorized to be examined by a physician in his immediate area, provided, however, such physician shall be first approved by the board and prior to such evaluation the examining physician shall be apprised of the basis upon which the examination is to be conducted and the issues to be addressed in the physician's evaluative report.

(2) In the event such evaluation discloses fitness to perform duties of the rank or position held by the member at the

time of disability retirement, the member shall be entitled to a hearing before the board, and further consideration of the matter. Such notice and hearing shall comply with the requirements of chapter 34.04 RCW.

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

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

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-090, filed 3/11/87; 81-23-032 (Order 81-03), § 415-105-090, filed 11/16/81.]

### CESSATION OF DISABILITY

**WAC 415-105-100 Purpose.** These rules are adopted pursuant to RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and 41.26.135 and establish procedures to be followed by the applicant and the disability board. These rules apply only to a disability retiree over age fifty who seeks a determination that his/her disability has ceased.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-100, filed 3/11/87.]

#### **WAC 415-105-110 Application to disability board.**

(1) When a disability retiree over age fifty believes that his/her disability has ceased, he/she may make application to cancel the disability retirement allowance. Such application shall be made to the disability board that originally considered the application for disability retirement.

(2) The application must be in writing and contain the following information:

(a) The retiree's name, birthdate, Social Security number, mailing address, telephone number, former LEOFF employer, and the name and mailing address of the retiree's legal representative, if any;

(b) The nature of the disability and the date the disability ceased;

(c) The names, addresses and telephone numbers of all physicians and other health care practitioners who have been contacted by the retiree or his/her representative in the last year for medical care, consultation or evaluation;

(3) The application must be accompanied by the following documents:

(a) Copies of any written documents supporting the retiree's claim that his/her disability has ceased;

(b) A copy of the local disability board order granting disability retirement if the original disability board order was summarily affirmed by the director or the LEOFF retirement board; or

(c) A copy of the director's order or the LEOFF retirement board's order if the director or the LEOFF retirement board entered the final order granting disability retirement.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-110, filed 3/11/87.]

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**WAC 415-105-120 Burden of proof.** The retiree has the burden of proof in the proceedings before the disability board.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-120, filed 3/11/87.]

**WAC 415-105-130 Standard for determination.** To obtain a determination that a disability has ceased, the retiree must demonstrate that:

(1) He/she is reasonably able to perform the ordinary duties of his/her former position or position within his/her former rank with average efficiency; and

(2) There has been a material change in the circumstances upon which the original disability determination was based; and

(3) No other physical or mental disability now prevents the retiree from performing the ordinary duties of his/her position or rank.

A retiree may not obtain a determination that his/her disability has ceased by demonstrating that the medical condition was incorrectly diagnosed at the time of the initial disability hearing. The disability board need not rely solely on medical evidence in making its determination. If the medical condition for which the retiree was granted disability retirement has improved, but the retiree is still not physically or mentally able to perform his/her duties with average efficiency, he/she shall continue to receive a disability retirement allowance and shall not be entitled to service retirement.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-130, filed 3/11/87.]

#### **WAC 415-105-140 Examination by board physician.**

(1) Before acting on an application, the disability board shall have the retiree examined by the board doctor as provided in WAC 415-105-030. If the board doctor has seen the retiree before in any capacity except evaluation on behalf of the disability board, the board doctor shall refer the retiree to another physician who has not seen the retiree in any capacity except evaluation on behalf of the disability board.

(2) Before the retiree is examined, the disability board shall furnish the board doctor or other physician with a current job description for the rank or position held by the member at the time he/she was granted disability retirement and a copy of these regulations.

(3) The board doctor or other physician shall examine the retiree to determine if he/she is able to perform with average efficiency the duties of the rank or position held by the retiree at the time of discontinuance of service and that he/she meets the requirements of WAC 415-105-130.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-140, filed 3/11/87.]

**WAC 415-105-150 Disability board order.** Upon the basis of the application and the medical evaluation by the board doctor, and any other relevant evidence, the disability board shall determine whether the disability retiree has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency. If it is determined that the retiree's disability

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has ceased, the board shall enter its written decision and order accompanied by appropriate findings of fact and conclusions of law evidencing compliance with the applicable statutes and regulations. The disability board must make a finding which specifies the date the disability ceased.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-150, filed 3/11/87.]

### CESSATION OF DISABILITY WHILE UNDER AGE FIFTY

**WAC 415-105-160 Purpose—Under age fifty.** These rules are adopted pursuant to RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and establish procedures to be followed by the applicant and the disability board in cases in which the applicant is under age fifty and believes that his disability has ceased.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-160, filed 3/11/87.]

**WAC 415-105-170 Application to the disability board—Under age fifty.** A disability retiree under age fifty who believes that his/her disability has ceased may make application to the disability board which originally found the member to be disabled for a determination that the disability has ceased. Such application must be in writing and contain the information set forth in WAC 415-105-110(2). Thereafter, the rules and procedures set forth in WAC 415-105-120 through 415-105-140 shall be in effect.

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-170, filed 3/11/87.]

**WAC 415-105-180 Disability board hearing and order.** (1) Upon the basis of the application, the medical evaluation by the board doctor, and any other relevant evidence, the disability board shall determine whether the disability retiree has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency. If the board determines that the retiree's disability has ceased, both the retiree and the former employer shall be entitled to a notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.04 RCW.

(2) After the hearing, the board shall enter its written decision and order, accompanied by appropriate findings of fact and conclusions of law, either denying the retiree's application or cancelling his/her disability retirement allowance and restoring him/her to duty pursuant to RCW 41.26.140(2).

(3) Any person aggrieved by a determination or order of a disability board that the applicant's disability has not ceased may file an appeal with the director pursuant to RCW 41.26.140(6).

[Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-180, filed 3/11/87.]

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## Chapter 415-108 WAC

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM

#### WAC

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415-108-550	Elected officials—Eligibility and application for retirement service membership.	415-108-320	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-320, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
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415-108-720	Participation—Can I be excluded from participating in membership even if I am employed in an eligible position?	415-108-462	Location restricted compensation—Employer policy. [Statutory Authority: RCW 41.50.050 and 41.40.020. 94-16-086, § 415-108-462, filed 8/1/94, effective 8/1/94.] Repealed by 96-01-046, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 41.50.050.
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415-108-820	Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.	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.
415-108-830	Actuarial recomputation of retirement allowance upon retirement following reemployment.	415-108-530	Calculation of retirement allowance pursuant to <i>Bowles v. Retirement Systems</i> —Eligibility—Procedure. [Statutory Authority: RCW 41.50.050 and <i>Bowles v. Retirement Systems</i> , 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.
	<b>DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</b>	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 <i>Bowles v. Retirement Systems</i> , 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.
415-108-100	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).	415-108-580	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.
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).		

## DEFINITIONS

**WAC 415-108-010 Definitions.** All definitions in RCW 41.40.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-010, filed 4/17/98, effective 5/18/98; 95-16-053, § 415-108-010, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993), 94-11-009, § 415-108-010, filed 5/5/94, effective 6/5/94. 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 and 184-01-035.]

**WAC 415-108-0101 Level of union organization—Definition.** "Level of union organization" means a union or a lodge or division of a union.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0101, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0102 Normally—Definition.** "Normally," as used in the definition of eligible position under RCW 41.40.010, means a position is eligible if it is expected to require at least five months of seventy or more hours of compensated service each month during each of two consecutive years. Once a position is determined to be eligible, it will continue to be eligible if it requires at least five months of seventy or more hours of compensated service during at least one year in any two-year period.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0102, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0103 Project position—Definition.** "Project position" means a position established by an employer that has a specific goal and end date.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0103, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0104 Report—Definition.** "Report" means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0104, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0105 Retirement plan—Definition.** "Retirement plan," as used in RCW 41.40.023 and in this chapter, means any plan operated wholly or in part by the state or a political subdivision. This includes but is not limited to:

- (1) The retirement systems listed under RCW 41.50.030;
- (2) The retirement systems of the cities of Seattle, Spokane and Tacoma; or
- (3) Any higher education plan authorized under RCW 28B.10.400.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0105, filed 7/25/95, effective 8/25/95.]

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**WAC 415-108-0106 Union—Definition.** "Union" means a labor guild, labor association, and/or labor organization.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0106, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0107 Union employer—Definition.** "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. 95-16-053, § 415-108-0107, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0108 Year—Definition.** "Year" means any twelve consecutive month period established and applied consistently by an employer to evaluate the eligibility of a specific position. The term may include but is not limited to a school year, calendar year or fiscal year.

**Example:** An employer has used the twelve consecutive month period from July 1 to June 30 to evaluate the eligibility of positions. When the employer hires a new employee to fill an existing position, the employer must continue to use the July 1 through June 30 period to define a year for the position.

**Example:** If the same employer in the above example hires a person to work in a project position beginning in November, the employer will use the twelve-month period beginning in November to evaluate the eligibility of the new position. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0108, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0109 System acronyms—Definition.** The acronyms used in this chapter are defined as follows:

- (1) "PERS" means the public employees' retirement system.
- (2) "TRS" means the teachers' retirement system.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0109, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-0110 Reportable compensation—Definition.** "Reportable compensation" means compensation earnable as that term is defined in RCW 41.40.010(8).

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0110, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-0111 Annual leave—Definition.** "Annual leave" means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-0111, filed 4/17/98, effective 5/18/98.]

### ADMINISTRATION

**WAC 415-108-020 Public records.** See chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-020, filed 2/15/78. Formerly WAC 184-20-010.]

**WAC 415-108-030 State-wide cities retirement system.** The former state-wide cities retirement system has been merged into the Washington public employees retirement system pursuant to RCW 41.40.405, 41.40.406, and 41.40.407. The statutes and rules applying to the public employees retirement system and the department of retirement systems (as provided in chapters 41.40 and 41.50 RCW and Title 415 WAC) govern the administration and operation of the former state-wide cities retirement system.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-030, filed 2/15/78.]

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

Appeals will be governed by the provisions of chapter 415-08 WAC as now existing or hereafter amended.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-040, filed 2/15/78. Formerly WAC 184-05-010.]

**WAC 415-108-050 Appeal to superior court—Notice.** Upon an appeal from the decision and order of the board to the superior court pursuant to RCW 41.40.420, the appealing party within thirty days from the decision and order of the board must perfect his appeal by serving notice of appeal on the director by personal service or by mailing a copy thereof and filing the notice of appeal together with proof of service with the clerk of a superior court. The service and the filing together with proof of service of the notice of appeal all within thirty days shall be jurisdictional.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-050, filed 2/15/78. Formerly WAC 184-09-010.]

**WAC 415-108-060 Appeal to superior court—Certification of record.** The director shall promptly serve upon the appellant or his attorney of record and file with the clerk of the court a certified copy of the complete record of the hearing before the board which shall, upon being so filed, become the record in such case. Appeal shall lie from the judgment of the superior court to the supreme court as in other cases. See RCW 41.40.420, 41.40.430, and 41.40.440.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-060, filed 2/15/78. Formerly WAC 184-09-020.]

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

The total contributions of a member of the state employees' retirement system to the employees' savings fund in any calendar year shall in no event exceed ten percent of the member's earnable compensation for that calendar year.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-070, filed 2/15/78. Formerly WAC 184-12-010.]

**WAC 415-108-170 Business hours.** The office of the department is open between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-170, filed 2/15/78. Formerly WAC 184-01-060.]

**WAC 415-108-180 Correspondence.** All correspondence and official communications, including notices, appeals, and pleadings must be in writing, served, and filed with the director at the department's office.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-180, filed 2/15/78. Formerly WAC 184-01-070.]

**WAC 415-108-190 Nominations.** Pursuant to RCW 41.40.030, nominations of candidates for the office of employee representative to the public employees' retirement board shall be conducted as follows:

(1) Any employee desiring to become a candidate to represent employees in his classification may during the first two weeks of April of the year in which the vacancy in the classification occurs, file with the director of the system a typewritten statement that he desires to be a candidate for the public employees' retirement board;

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

(3) In those instances in which, at the close of the period for the submission of letters supporting candidacy, nor more than one individual has filed a statement that he desires to become a candidate, with the supporting signatures, that individual shall be deemed to have been elected the employee representative of the classification of employees or retired employees for which he has filed his nomination.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-108-190, filed 2/15/78. Formerly WAC 184-01-07001.]

**WAC 415-108-195 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 415-108-200 Disability and benefit claims.** A member, the employer or any other interested person, shall notify the director by written or oral statement when it is considered that a member is suffering a disability or entitled to claim a disability benefit under chapter 41.40 RCW.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-200, filed 2/15/78. Formerly WAC 184-03-010.]

**WAC 415-108-210 Disability and benefit claims—Acknowledgment and forms.** The director shall forthwith acknowledge any statement and provide the member and his employer with the following forms for completion:

- (1) 7812-A, application for disability retirement;
- (2) 7812-B, certification of employment and employer's statement;
- (3) 7812-C, examining physician's report.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-210, filed 2/15/78. Formerly WAC 184-03-020.]

**WAC 415-108-220 Disability and benefit claims—Processing applications.** The processing of duty disability applications shall commence when the director receives the completed forms required in WAC 415-108-020.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-220, filed 2/15/78. Formerly WAC 184-03-030.]

**WAC 415-108-230 Disability and benefit claims—Recording.** The director shall examine the application and forms for completeness, make arrangements for filing and docketing the same, and refer them to the legal adviser for examination.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-230, filed 2/15/78. Formerly WAC 184-03-040.]

**WAC 415-108-240 Disability and benefit claims—Legal examination.** The director or the legal adviser shall examine the member's file for adequacy of the information presented to support the legal basis of the application. If it is felt that certain statements may be subject to question or that additional information cannot be supplied through correspondence, then the director shall take the necessary steps to secure the additional information needed.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-240, filed 2/15/78. Formerly WAC 184-03-050.]

**WAC 415-108-250 Disability and benefit claims—Medical examination.** The director or the legal adviser shall transmit the member's file to the medical adviser of the department. If the medical adviser concludes that there are insufficient medical facts, then the director shall, at the request of the medical adviser, authorize a special examination of the member in a suitable locality, convenient to all parties.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-250, filed 2/15/78. Formerly WAC 184-03-060.]

**WAC 415-108-260 Disability and benefit claims—Medical recommendation.** When the medical adviser has reached a conclusion on the medical facts, he shall return the

member's file to the director or legal adviser with his written recommendation regarding the disability application.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-260, filed 2/15/78. Formerly WAC 184-03-070.]

**WAC 415-108-270 Disability and benefit claims—Recommendation and conclusion.** The director or the legal adviser shall review the conclusion of the medical adviser and prepare a summary and recommendation, based on all the facts in the member's file, and submit it to the board for review.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-270, filed 2/15/78. Formerly WAC 184-03-080.]

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

- (1) Approval or denial by resolution;
- (2) Referral back to the director for further investigation or information.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-280, filed 2/15/78. Formerly WAC 184-03-090.]

**WAC 415-108-290 Disability and benefit claims—Notification of member.** The director shall forthwith notify the member of the public employees' retirement board's action and, in case the decision is adverse to the member's application, shall notify the member of his right to appeal.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-290, filed 2/15/78. Formerly WAC 184-03-100.]

## BENEFIT OPTIONS

**WAC 415-108-324 Married member's benefit selection—Spousal consent required.** The member, if married, must provide the spouse's written consent to the option selected under WAC 415-108-326. If a married member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor in compliance with chapter 41.40 RCW and RCW 41.40.660(2). "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-108-324, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-324, filed 1/7/91, effective 2/7/91.]

**WAC 415-108-326 Retirement benefit options.** RCW 41.40.188 (Plan 1) and RCW 41.40.660 (Plan 2) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan I members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement:

- (1) **Option One (standard allowance).** The department will pay a monthly retirement allowance based solely on the single life of the member, as provided by RCW 41.40.185,

41.40.190, 41.40.230, 41.40.235, 41.40.250, 41.40.660, or 41.40.670. When the retiree dies all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor an allowance equal to the gross monthly allowance received by the retiree.

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allow-

ance equal to one-half of the retiree's gross monthly retirement allowance.

(c) Option Four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

(3) **Supplemental COLA option for Plan I members.** Retiring Plan I members may select an annual cost-of-living adjustment (COLA) option, in addition to their choice of retirement benefit options listed in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(4) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation examples.

**Plan One:**

Lucinda retires from PERS Plan I in 1996 (Year 0). She would like Garth, her husband, to receive a monthly allowance when she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is actuarially reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$2,000, the amount she would have received had she chosen the Option One (standard allowance) plus any COLA's Lucinda had received based on her prior benefit allowance:

Original Option 1 Benefit Amount	+	Total COLA's	=	New Benefit Amt.
\$2,000.00	+	0 (None accrued)	=	\$2,000.00*

**Plan Two:**

Agnes retires from PERS Plan II in 1996 (Year 0). Agnes would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result, her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allow.)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(ineligible)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05

Original Option One Benefit Amount	+	Total COLA's	=	New Benefit Amount
\$2000	+	+\$191.05	=	\$2,191.05*

\*In the future (i.e. Year 4), COLAs will be based on the increased benefit amount.

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(5) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-108-326, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-326, filed 1/7/91, effective 2/7/91.]

**WAC 415-108-340 Actuarial tables, schedules, and factors.** This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state public employees' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of public employees' retirement system. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances calculated at the time of retirement of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect when each member retires. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances calculated at the time of retirement only of members retiring after the adoption of such new tables, schedules, and factors.

Early Retirement Factors  
by Year and Month

2	0	.8089
	1	.8023
	2	.7957
	3	.7892
	4	.7826
	5	.7760
	6	.7694
	7	.7629
	8	.7563
	9	.7497
	10	.7431
	11	.7366
3	0	.7300
	1	.7242
	2	.7183
	3	.7125
	4	.7067
	5	.7009
	6	.6951
	7	.6892
	8	.6834
	9	.6776
	10	.6718
	11	.6660
4	0	.6601
	1	.6550
	2	.6498
	3	.6446
	4	.6395
	5	.6343
	6	.6291
	7	.6240
	8	.6188
	9	.6136
	10	.6085
	11	.6033
5	0	.5981
	1	.5935
	2	.5889
	3	.5843
	4	.5797
	5	.5751
	6	.5705
	7	.5659
	8	.5613
	9	.5567
	10	.5521
	11	.5475
6	0	.5429
	1	.5388
	2	.5347
	3	.5306
	4	.5265
	5	.5224
	6	.5182
	7	.5141
	8	.5100
	9	.5059
	10	.5018
	11	.4977
7	0	.4936
	1	.4899
	2	.4862
	3	.4825
	4	.4789
	5	.4752
	6	.4715
	7	.4678
	8	.4642
	9	.4605
	10	.4568
	11	.4531
8	0	.4494

PUBLIC EMPLOYEES RETIREMENT SYSTEM  
PLAN 1

Early Retirement Factors  
by Year and Month

0	0	1.0000
	1	.9915
	2	.9830
	3	.9746
	4	.9661
	5	.9576
	6	.9491
	7	.9407
	8	.9322
	9	.9237
	10	.9152
	11	.9068
1	0	.8983
	1	.8908
	2	.8834
	3	.8759
	4	.8685
	5	.8610
	6	.8536
	7	.8461
	8	.8387
	9	.8312
	10	.8238
	11	.8163

Title 415 WAC: Retirement Systems, Department of

Early Retirement Factors by Year and Month		Early Retirement Factors by Year and Month			
	1	.4461	2	.2594	
	2	.4428	3	.2576	
	3	.4395	4	.2558	
	4	.4362	5	.2540	
	5	.4329	6	.2522	
	6	.4296	7	.2504	
	7	.4263	8	.2486	
	8	.4230	9	.2468	
	9	.4197	10	.2450	
	10	.4164	11	.2432	
9	11	.4131	15	0	.2414
	0	.4098	1	.2398	
	1	.4068	2	.2381	
	2	.4039	3	.2365	
	3	.4009	4	.2348	
	4	.3979	5	.2332	
	5	.3950	6	.2316	
	6	.3920	7	.2299	
	7	.3890	8	.2283	
	8	.3860	9	.2267	
	9	.3831	10	.2250	
	10	.3801	11	.2234	
10	11	.3771	16	0	.2218
	0	.3742	1	.2203	
	1	.3715	2	.2188	
	2	.3688	3	.2173	
	3	.3661	4	.2158	
	4	.3635	5	.2143	
	5	.3608	6	.2128	
	6	.3581	7	.2113	
	7	.3554	8	.2098	
	8	.3528	9	.2084	
	9	.3501	10	.2069	
	10	.3474	11	.2054	
11	11	.3447	17	0	.2039
	0	.3420	1	.2025	
	1	.3396	2	.2012	
	2	.3372	3	.1998	
	3	.3348	4	.1985	
	4	.3324	5	.1971	
	5	.3300	6	.1957	
	6	.3275	7	.1944	
	7	.3251	8	.1930	
	8	.3227	9	.1917	
	9	.3203	10	.1903	
	10	.3179	11	.1890	
12	11	.3154	18	0	.1876
	0	.3130	1	.1864	
	1	.3108	2	.1851	
	2	.3087	3	.1839	
	3	.3065	4	.1826	
	4	.3043	5	.1814	
	5	.3021	6	.1802	
	6	.2999	7	.1789	
	7	.2977	8	.1777	
	8	.2955	9	.1764	
	9	.2933	10	.1752	
	10	.2912	11	.1740	
13	11	.2890	19	0	.1727
	0	.2868	1	.1716	
	1	.2848	2	.1705	
	2	.2828	3	.1693	
	3	.2808	4	.1682	
	4	.2789	5	.1671	
	5	.2769	6	.1659	
	6	.2749	7	.1648	
	7	.2729	8	.1637	
	8	.2709	9	.1625	
	9	.2689	10	.1614	
	10	.2670	11	.1603	
14	11	.2650	20	0	.1591
	0	.2630	1	.1581	
	1	.2612	2	.1571	

Public Employees' Retirement System

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Early Retirement Factors  
by Year and Month

	3	.1560
	4	.1550
	5	.1540
	6	.1529
	7	.1519
	8	.1509
	9	.1498
	10	.1488
	11	.1478
21	0	.1467
	1	.1458
	2	.1448
	3	.1439
	4	.1429
	5	.1420
	6	.1410
	7	.1401
	8	.1391
	9	.1382
	10	.1372
	11	.1363
22	0	.1353
	1	.1345
	2	.1336
	3	.1327
	4	.1319
	5	.1310
	6	.1301
	7	.1293
	8	.1284
	9	.1275
	10	.1267
	11	.1258
23	0	.1249
	1	.1241
	2	.1233
	3	.1225
	4	.1217
	5	.1209
	6	.1201
	7	.1193
	8	.1185
	9	.1177
	10	.1169
	11	.1161
24	0	.1153
	1	.1146
	2	.1139
	3	.1132
	4	.1124
	5	.1117
	6	.1110
	7	.1102
	8	.1095
	9	.1088
	10	.1080
	11	.1073
25	0	.1066
	1	.1059
	2	.1052
	3	.1046
	4	.1039
	5	.1032
	6	.1025
	7	.1019
	8	.1012
	9	.1005
	10	.0998
	11	.0992
26	0	.0985
	1	.0979
	2	.0973
	3	.0966

Early Retirement Factors  
by Year and Month

	4	.0960
	5	.0954
	6	.0948
	7	.0942
	8	.0936
	9	.0929
	10	.0923
	11	.0917
27	0	.0911
	1	.0905
	2	.0899
	3	.0894
	4	.0888
	5	.0882
	6	.0877
	7	.0871
	8	.0865
	9	.0860
	10	.0854
	11	.0848
28	0	.0842
	1	.0837
	2	.0832
	3	.0827
	4	.0822
	5	.0816
	6	.0811
	7	.0806
	8	.0801
	9	.0795
	10	.0790
	11	.0785
29	0	.0780
	1	.0775
	2	.0770
	3	.0765
	4	.0760
	5	.0755
	6	.0751
	7	.0746
	8	.0741
	9	.0736
	10	.0731
	11	.0726
30	0	.0722
	1	.0717
	2	.0713
	3	.0708
	4	.0704
	5	.0699
	6	.0695
	7	.0690
	8	.0686
	9	.0682
	10	.0677
	11	.0673
31	0	.0668
	1	.0664
	2	.0660
	3	.0656
	4	.0652
	5	.0648
	6	.0644
	7	.0639
	8	.0635
	9	.0631
	10	.0627
	11	.0623
32	0	.0619
	1	.0615
	2	.0611
	3	.0608
	4	.0604

Early Retirement Factors		56	.0056837
by Year and Month		57	.0058025
	5	58	.0059296
	6	59	.0060657
	7	60	.0062116
	8	61	.0063676
	9	62	.0065347
	10	63	.0067134
	11	64	.0069044
33	0	65	.0071085
	1	66	.0073263
	2	67	.0075587
	3	68	.0078066
	4	69	.0080711
	5	70	.0083537
	6	71	.0086558
	7	72	.0089785
	8	73	.0093230
	9	74	.0096898
	10	75	.0100792
	11	76	.0104910
34	0	77	.0109250
	1	78	.0113811
	2	79	.0118589
	3	80	.0123587
	4	81	.0128793
	5	82	.0134243
	6	83	.0139934
	7	84	.0145880
	8	85	.0152103
	9	86	.0158600
	10	87	.0165374
	11	88	.0172413
35	or more	89	.0179682
		90	.0187162
		91	.0194835
		92	.0202654
		93	.0210569
		94	.0218459
		95	.0226265
		96	.0234038
		97	.0241752
		98	.0249356
		99	.0256785

PUBLIC EMPLOYEES RETIREMENT SYSTEM  
Plan II Option 1  
Monthly Benefit per \$1.00  
of Accumulation

20	.0039357
21	.0039525
22	.0039702
23	.0039887
24	.0040081
25	.0040286
26	.0040500
27	.0040726
28	.0040963
29	.0041213
30	.0041476
31	.0041753
32	.0042044
33	.0042351
34	.0042675
35	.0043015
36	.0043375
37	.0043756
38	.0044157
39	.0044581
40	.0045029
41	.0045502
42	.0046001
43	.0046528
44	.0047084
45	.0047670
46	.0048287
47	.0048939
48	.0049626
49	.0050352
50	.0051120
51	.0051933
52	.0052795
53	.0053712
54	.0054687
55	.0055727

Public Employees Retirement System PERS I Optional COLA\*  
Public Employees Retirement System Plan 1 Option 1  
Monthly Benefit per \$1.00  
of Accumulation

Age	Public Employees Retirement System PERS I Optional COLA*	Public Employees Retirement System Plan 1 Option 1 Monthly Benefit per \$1.00 of Accumulation
20	0.6369	20 .0061792
21	0.6386	21 .0061891
22	0.6404	22 .0061997
23	0.6422	23 .0062111
24	0.6441	24 .0062232
25	0.6460	25 .0062362
26	0.6480	26 .0062501
27	0.6501	27 .0062650
28	0.6522	28 .0062809
29	0.6544	29 .0062979
30	0.6567	30 .0063162
31	0.6590	31 .0063357
32	0.6614	32 .0063566
33	0.6639	33 .0063790
34	0.6665	34 .0064030
35	0.6691	35 .0064286
36	0.6718	36 .0064561
37	0.6747	37 .0064856
38	0.6775	38 .0065173
39	0.6805	39 .0065512
40	0.6836	40 .0065875
41	0.6867	41 .0066263
42	0.6899	42 .0066677
43	0.6932	43 .0067119
44	0.6966	44 .0067590

Public Employees' Retirement System

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Public Employees Retirement System PERS I Optional COLA*		Public Employees Retirement System Plan I Option I Monthly Benefit per \$1.00 of Accumulation	Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
Age						
45	0.7001	45 .0068091	-11	0.910	0.938	0.953
46	0.7036	46 .0068624	-10	0.906	0.935	0.950
47	0.7073	47 .0069190	-9	0.900	0.931	0.948
48	0.7111	48 .0069792	-8	0.895	0.928	0.945
49	0.7149	49 .0070432	-7	0.889	0.923	0.941
50	0.7188	50 .0071114	-6	0.882	0.918	0.937
51	0.7229	51 .0071843	-5	0.876	0.914	0.934
52	0.7270	52 .0072621	-4	0.868	0.908	0.930
53	0.7312	53 .0073455	-3	0.860	0.902	0.925
54	0.7355	54 .0074351	-2	0.849	0.894	0.918
55	0.7399	55 .0075313	-1	0.836	0.884	0.911
56	0.7444	56 .0076350				
57	0.7490	57 .0077467				
58	0.7537	58 .0078672				
59	0.7585	59 .0079972				
60	0.7633	60 .0081375				
61	0.7682	61 .0082885				
62	0.7733	62 .0084509				
63	0.7783	63 .0086255				
64	0.7835	64 .0088128				
65	0.7887	65 .0090135				
66	0.7939	66 .0092282				
67	0.7992	67 .0094577				
68	0.8046	68 .0097029				
69	0.8099	69 .0099651				
70	0.8154	70 .0102454				
71	0.8208	71 .0105455				
72	0.8263	72 .0108665				
73	0.8317	73 .0112093				
74	0.8372	74 .0115744				
75	0.8426	75 .0119617				
76	0.8480	76 .0123709				
77	0.8534	77 .0128014				
78	0.8584	78 .0132528				
79	0.8641	79 .0137246				
80	0.8693	80 .0142169				
81	0.8745	81 .0147281				
82	0.8796	82 .0152621				
83	0.8846	83 .0158184				
84	0.8896	84 .0163986				
85	0.8945	85 .0170045				
86	0.8993	86 .0176361				
87	0.9040	87 .0182936				
88	0.9086	88 .0189757				
89	0.9131	89 .0196789				
90	0.9174	90 .0204015				
91	0.9216	91 .0211420				
92	0.9255	92 .0218957				
93	0.9294	93 .0226575				
94	0.9329	94 .0234160				
95	0.9363	95 .0241655				
96	0.9395	96 .0249116				
97	0.9424	97 .0256520				
98	0.9452	98 .0263822				
99	0.9477	99 .0270961				

  

		Member Older		OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
Age Difference		Age Difference				
0		0		0.822	0.874	0.902
1		1		0.808	0.863	0.894
2		2		0.796	0.854	0.886
3		3		0.787	0.848	0.881
4		4		0.782	0.844	0.878
5		5		0.778	0.840	0.875
6		6		0.773	0.837	0.872
7		7		0.766	0.831	0.868
8		8		0.757	0.824	0.862
9		9		0.746	0.815	0.854
10		10		0.736	0.807	0.848
11		11		0.729	0.801	0.843
12		12		0.724	0.798	0.840
13		13		0.720	0.794	0.837
14		14		0.715	0.790	0.834
15		15		0.711	0.787	0.832
16		16		0.708	0.784	0.829
17		17		0.704	0.781	0.827
18		18		0.702	0.779	0.825
19		19		0.698	0.776	0.822
20		20		0.695	0.774	0.820
21		21		0.692	0.772	0.818
22		22		0.689	0.769	0.816
23		23		0.686	0.767	0.814
24		24		0.683	0.764	0.812
25		25		0.681	0.763	0.811
26		26		0.679	0.761	0.809
27		27		0.677	0.759	0.808
28		28		0.675	0.758	0.806
29		29		0.673	0.756	0.805
30		30		0.671	0.754	0.804
31		31		0.669	0.753	0.802
32		32		0.668	0.752	0.801
33		33		0.667	0.750	0.800
34		34		0.666	0.749	0.799
35		35		0.664	0.747	0.798
36		36		0.663	0.747	0.797
37		37		0.662	0.746	0.796
38		38		0.661	0.745	0.796
39		39		0.660	0.744	0.795
40		40		0.659	0.743	0.794

Age difference = member's age minus beneficiary's age

PERS I Survivor Option Factors  
Member Younger

PERS II Survivor Option Factors  
Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.948	0.965	0.973
-19	0.945	0.963	0.972
-18	0.940	0.959	0.969
-17	0.936	0.956	0.967
-16	0.933	0.954	0.965
-15	0.929	0.951	0.963
-14	0.925	0.949	0.961
-13	0.921	0.946	0.959
-12	0.916	0.943	0.956

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.928	0.951	0.962
-19	0.925	0.949	0.961
-18	0.922	0.946	0.959
-17	0.919	0.945	0.958
-16	0.916	0.942	0.956
-15	0.912	0.940	0.954
-14	0.908	0.937	0.952
-13	0.904	0.933	0.949
-12	0.898	0.930	0.946

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)	Early Retirement Factors by Year and Month	
-11	0.892	0.925	0.943		9 .9193
-10	0.885	0.920	0.939		10 .9103
-9	0.879	0.916	0.935		11 .9013
-8	0.873	0.911	0.932	1	0 .8923
-7	0.865	0.906	0.927		1 .8845
-6	0.857	0.900	0.923		2 .8767
-5	0.849	0.894	0.918		3 .8688
-4	0.839	0.887	0.912		4 .8610
-3	0.828	0.878	0.906		5 .8531
-2	0.813	0.867	0.897		6 .8453
-1	0.797	0.855	0.887		7 .8374
					8 .8296
					9 .8217
					10 .8139
					11 .8061
				2	0 .7982
					1 .7913
					2 .7844
					3 .7776
					4 .7707
					5 .7638
					6 .7569
					7 .7500
					8 .7431
					9 .7363
					10 .7294
					11 .7225
				3	0 .7156
					1 .7096
					2 .7035
					3 .6975
					4 .6914
					5 .6853
					6 .6793
					7 .6732
					8 .6672
					9 .6611
					10 .6551
					11 .6490
				4	0 .6429
					1 .6376
					2 .6322
					3 .6269
					4 .6215
					5 .6162
					6 .6109
					7 .6055
					8 .6002
					9 .5948
					10 .5895
					11 .5841
				5	0 .5788
					1 .5740
					2 .5693
					3 .5646
					4 .5598
					5 .5551
					6 .5504
					7 .5456
					8 .5409
					9 .5362
					10 .5314
					11 .5267
				6	0 .5220
					1 .5178
					2 .5136
					3 .5094
					4 .5052
					5 .5010
					6 .4968
					7 .4926
					8 .4884
					9 .4842

  

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)	Early Retirement Factors by Year and Month	
0	0.779	0.841	0.876		0 1.0000
1	0.763	0.829	0.866		1 .9910
2	0.748	0.817	0.856		2 .9821
3	0.735	0.807	0.848		3 .9731
4	0.725	0.798	0.841		4 .9641
5	0.716	0.791	0.835		5 .9551
6	0.708	0.785	0.830		6 .9462
7	0.698	0.777	0.823		7 .9372
8	0.687	0.767	0.815		8 .9282
9	0.674	0.757	0.806		
10	0.662	0.747	0.797		
11	0.653	0.739	0.791		
12	0.646	0.733	0.786		
13	0.640	0.728	0.781		
14	0.634	0.722	0.776		
15	0.628	0.717	0.772		
16	0.622	0.712	0.767		
17	0.616	0.707	0.763		
18	0.611	0.702	0.759		
19	0.606	0.698	0.755		
20	0.602	0.694	0.751		
21	0.596	0.689	0.747		
22	0.591	0.684	0.743		
23	0.587	0.681	0.740		
24	0.582	0.676	0.736		
25	0.577	0.672	0.732		
26	0.573	0.668	0.729		
27	0.569	0.665	0.726		
28	0.565	0.661	0.722		
29	0.562	0.658	0.720		
30	0.558	0.655	0.717		
31	0.555	0.652	0.714		
32	0.552	0.649	0.712		
33	0.549	0.647	0.709		
34	0.546	0.644	0.707		
35	0.543	0.641	0.705		
36	0.540	0.638	0.702		
37	0.538	0.637	0.700		
38	0.535	0.634	0.698		
39	0.533	0.632	0.696		
40	0.531	0.630	0.695		

Age difference = member's age minus beneficiary's age

PUBLIC EMPLOYEES RETIREMENT SYSTEM  
PLAN 2

Early Retirement Factors  
by Year and Month

0	0	1.0000
	1	.9910
	2	.9821
	3	.9731
	4	.9641
	5	.9551
	6	.9462
	7	.9372
	8	.9282



Public Employees' Retirement System

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Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
7	10	.4800	13	11	.2664
	11	.4758		0	.2642
	0	.4716		1	.2623
	1	.4678		2	.2603
	2	.4641		3	.2584
	3	.4603		4	.2564
	4	.4566		5	.2545
	5	.4529		6	.2526
	6	.4491		7	.2506
	7	.4454		8	.2487
	8	.4416		9	.2467
8	9	.4379	10	.2448	
	10	.4342	11	.2429	
	11	.4304	14	0	.2409
	0	.4267		1	.2392
	1	.4234		2	.2374
	2	.4200		3	.2357
	3	.4167		4	.2339
	4	.4134		5	.2322
	5	.4100		6	.2304
	6	.4067		7	.2287
	7	.4033		8	.2269
8	.4000	9		.2252	
9	9	.3967		10	.2234
	10	.3933	11	.2216	
	11	.3900	15	0	.2199
	0	.3867		1	.2183
	1	.3837		2	.2167
	2	.3807		3	.2151
	3	.3777		4	.2136
	4	.3747		5	.2120
	5	.3718		6	.2104
	6	.3688		7	.2088
	7	.3658		8	.2072
8	.3628	9		.2057	
10	9	.3598		10	.2041
	10	.3569	11	.2025	
	11	.3539	16	0	.2009
	0	.3509		1	.1995
	1	.3482		2	.1980
	2	.3456		3	.1966
	3	.3429		4	.1952
	4	.3402		5	.1937
	5	.3375		6	.1923
	6	.3349		7	.1909
	7	.3322		8	.1894
8	.3295	9		.1880	
11	9	.3269		10	.1866
	10	.3242	11	.1851	
	11	.3215	17	0	.1837
	0	.3188		1	.1824
	1	.3165		2	.1811
	2	.3141		3	.1798
	3	.3117		4	.1785
	4	.3093		5	.1772
	5	.3069		6	.1759
	6	.3045		7	.1746
	7	.3021		8	.1733
8	.2997	9		.1720	
12	9	.2973		10	.1707
	10	.2949	11	.1694	
	11	.2925	18	0	.1681
	0	.2901		1	.1670
	1	.2879		2	.1658
	2	.2858		3	.1646
	3	.2836		4	.1634
	4	.2815		5	.1623
	5	.2793		6	.1611
	6	.2771		7	.1599
	7	.2750		8	.1587
8	.2728	9		.1575	
9	.2707	10		.1564	
10	.2685	11	.1552		

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
19	0	.1540		1	.0917
	1	.1529		2	.0911
	2	.1519		3	.0905
	3	.1508		4	.0898
	4	.1497		5	.0892
	5	.1487		6	.0886
	6	.1476		7	.0880
	7	.1465		8	.0874
	8	.1455		9	.0868
	9	.1444		10	.0862
	10	.1433		11	.0856
	11	.1422		26	0
20	0	.1412	1		.0844
	1	.1402	2		.0838
	2	.1392	3		.0833
	3	.1383	4		.0827
	4	.1373	5		.0821
	5	.1363	6		.0816
	6	.1353	7		.0810
	7	.1344	8		.0804
	8	.1334	9		.0799
	9	.1324	10		.0793
	10	.1315	11		.0788
	21	0	.1305	27	0
1		.1295	1		.0777
2		.1286	2		.0772
3		.1277	3		.0767
4		.1269	4		.0761
5		.1260	5		.0756
6		.1251	6		.0751
7		.1242	7		.0746
8		.1233	8		.0741
9		.1224	9		.0736
10		.1215	10		.0731
22		11	.1207		28
	0	.1198	0	.0720	
	1	.1189	1	.0716	
	2	.1181	2	.0711	
	3	.1173	3	.0706	
	4	.1165	4	.0701	
	5	.1157	5	.0697	
	6	.1149	6	.0692	
	7	.1140	7	.0687	
	8	.1132	8	.0683	
	9	.1124	9	.0678	
	23	10	.1116	29	
11		.1108	11		.0668
0		.1100	0		.0664
1		.1092	1		.0659
2		.1085	2		.0655
3		.1077	3		.0651
4		.1070	4		.0646
5		.1063	5		.0642
6		.1055	6		.0638
7		.1048	7		.0634
8		.1041	8		.0629
24		9	.1033		30
	10	.1026	10	.0621	
	11	.1018	11	.0616	
	0	.1011	0	.0612	
	1	.1004	1	.0608	
	2	.0997	2	.0604	
	3	.0990	3	.0600	
	4	.0984	4	.0596	
	5	.0977	5	.0592	
	6	.0970	6	.0588	
	7	.0963	7	.0584	
	25	8	.0957	31	
9		.0950	9		.0576
10		.0943	10		.0572
11		.0937	11		.0568
0		.0930	0		.0564
1		.0923	1		.0561

Public Employees' Retirement System

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Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
	2	.0557		3	.0343
	3	.0553		4	.0341
	4	.0550		5	.0339
	5	.0546		6	.0337
	6	.0543		7	.0335
	7	.0539		8	.0332
	8	.0535		9	.0330
	9	.0532		10	.0328
	10	.0528		11	.0326
32	11	.0524	38	0	.0324
	0	.0521		1	.0322
	1	.0517		2	.0320
	2	.0514		3	.0318
	3	.0511		4	.0316
	4	.0507		5	.0313
	5	.0504		6	.0311
	6	.0501		7	.0309
	7	.0497		8	.0307
	8	.0494		9	.0305
	9	.0491		10	.0303
	10	.0487		11	.0301
33	11	.0484	39	0	.0299
	0	.0481		1	.0297
	1	.0478		2	.0296
	2	.0475		3	.0294
	3	.0471		4	.0292
	4	.0468		5	.0290
	5	.0465		6	.0288
	6	.0462		7	.0286
	7	.0459		8	.0284
	8	.0456		9	.0282
	9	.0453		10	.0281
	10	.0450		11	.0279
34	11	.0447	40	0	.0277
	0	.0444		1	.0275
	1	.0441		2	.0273
	2	.0438		3	.0272
	3	.0435		4	.0270
	4	.0433		5	.0268
	5	.0430		6	.0266
	6	.0427		7	.0265
	7	.0424		8	.0263
	8	.0421		9	.0261
	9	.0418		10	.0260
	10	.0416		11	.0258
35	11	.0413	41	0	.0256
	0	.0410		1	.0255
	1	.0407		2	.0253
	2	.0405		3	.0251
	3	.0402		4	.0250
	4	.0400		5	.0248
	5	.0397		6	.0247
	6	.0394		7	.0245
	7	.0392		8	.0243
	8	.0389		9	.0242
	9	.0387		10	.0240
	10	.0384		11	.0239
36	11	.0381	42	0	.0237
	0	.0379		1	.0236
	1	.0376		2	.0234
	2	.0374		3	.0233
	3	.0372		4	.0231
	4	.0369		5	.0230
	5	.0367		6	.0228
	6	.0364		7	.0227
	7	.0362		8	.0225
	8	.0360		9	.0224
	9	.0357		10	.0222
	10	.0355		11	.0221
37	11	.0352	43	0	.0219
	0	.0350		1	.0218
	1	.0348		2	.0217
	2	.0346		3	.0215

Early Retirement Factors	
by Year and Month	
	4 .0214
	5 .0213
	6 .0211
	7 .0210
	8 .0209
	9 .0207
	10 .0206
	11 .0205
44	0 .0203
	1 .0202
	2 .0201
	3 .0199
	4 .0198
	5 .0197
	6 .0196
	7 .0194
	8 .0193
	9 .0192
	10 .0191
	11 .0189
45	or more .0188

[Statutory Authority: RCW 41.50.050. 96-03-100, § 415-108-340, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050, 41.40.165, 41.40.020 and 41.40.022. 91-02-018, § 415-108-340, filed 12/21/90, effective 1/21/91.]

**WAC 415-108-400 Purpose and scope.** WAC 186-16-400 through 186-16-440 are hereby promulgated by the director in order to implement and give effect to the provisions of RCW 41.40.380 allowing a beneficiary of a retirement allowance to authorize deductions therefrom for payment of premiums due on any group life or disability insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions, in accordance with rules and regulations that may be promulgated by the director.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-400, filed 2/15/78. Formerly WAC 184-16-010.]

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

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

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

(c) To the extent that they are defined by RCW 41.40.010, all other terms used in WAC 186-16-400 through 186-16-440 which are thereby defined shall be given the same meaning herein as is set forth in the cited statute.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-410, filed 2/15/78. Formerly WAC 184-16-020.]

**WAC 415-108-420 Scope of authority.** Any beneficiary of a retirement allowance payable for service or disability

under the provisions of chapter 41.40 RCW may, in the manner provided for by WAC 415-108-430, authorize the director to deduct therefrom, on a monthly basis only, such amounts as are due as premiums on any group life or disability insurance policy or plan currently covering the beneficiary, issued to the employer by which he was employed prior to his retirement for the benefit of a group comprised of himself and his fellow public employees, under authority granted to the employer by act of the Washington legislature. The department and the director are not and will not be liable for any failure to make such deduction payments on time or in the proper amount.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-420, filed 2/15/78. Formerly WAC 184-16-030.]

**WAC 415-108-430 Procedure.** Any beneficiary, who desires to authorize a retirement allowance deduction for payment of insurance premiums provided for by these rules, shall notify the retirement board of his intention in writing at least thirty days prior to the date upon which the first deduction is to be made and shall execute and file with the director a formal authorization on such form as may be hereinafter provided by the director.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-430, filed 2/15/78. Formerly WAC 184-16-040.]

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

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-440, filed 2/15/78. Formerly WAC 184-16-050.]

**REPORTABLE COMPENSATION**

**WAC 415-108-441 Purpose and scope of compensation earnable rules.** WAC 415-108-443 through 415-108-488 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as compensation earnable in PERS Plan I and PERS Plan II. 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. 98-09-059, § 415-108-441, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-443 Reportable compensation table.** The following table is provided as a quick reference guide to help you characterize payments under Plan I and Plan II. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines compensation earnable based upon the nature of the payment, not the name applied to it, see WAC 415-108-445.

Type of Payment	PERS I Reportable Compensation?	PERS II Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-108-456	No - WAC 415-108-456
Assault Pay (State Emp.)	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Base Rate	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Car Allowances	No - WAC 415-108-485 <sup>1</sup>	No - WAC 415-108-485
Cafeteria Plans	Yes - WAC 415-108-455	Yes - WAC 415-108-455
Deferred Wages	Yes - WAC 415-108-459	Yes - WAC 415-108-459
Disability Payments	No - WAC 415-108-477	No - WAC 415-108-477
Disability: Salary lost while on disability leave	Yes - WAC 415-108-468 RCW 41.40.038	Yes - WAC 415-108-468 RCW 41.40.038
Employer Provided Vehicle	No - WAC 415-108-480 <sup>2</sup>	No - WAC 415-108-480
Employer taxes/contributions	No - WAC 415-108-459	No - WAC 415-108-459
Fringe Benefits	No - WAC 415-108-475	No - WAC 415-108-475
Illegal Payments	No - WAC 415-108-482	No - WAC 415-108-482
Legislative Leave	Yes - WAC 415-108-464	Yes - WAC 415-108-464
Longevity/Education Attainment Pay	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Nonmoney Maintenance	Yes - WAC 415-108-470 <sup>3</sup>	No - WAC 415-108-470
Optional Payments	No - WAC 415-108-483	No - WAC 415-108-483
Payments in Lieu of Excluded Items	No - WAC 415-108-463	No - WAC 415-108-463
Performance Bonuses	Yes - WAC 415-108-453	Yes - WAC 415-108-453

<sup>1</sup>A portion of the value of an employer car allowance may be reportable, see WAC 415-108-485

<sup>2</sup>A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-108-480.

<sup>3</sup>A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-108-470.

Type of Payment	PERS I Reportable Compensation?	PERS II Reportable Compensation?
Retroactive Salary Increase	Yes - WAC 415-108-457	Yes - WAC 415-108-457
Reimbursements	No - WAC 415-108-484	No - WAC 415-108-484
Reinstatement Payments	Yes - WAC 415-108-467	Yes - WAC 415-108-467
Retirement or Termination Bonuses	No - WAC 415-108-487	No - WAC 415-108-487
Severance Pay - Earned Over Time	Yes - WAC 415-108-458	No - WAC 415-108-458
Severance Pay - Not Earned Over Time	No - WAC 415-108-488	No - WAC 415-108-488
Shared Leave - State Emp.	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Shared Leave - Local Government Employees	No - WAC 415-108-468	No - WAC 415-108-468
Sick Leave Cash Outs - State Employees	No - WAC 415-108-456	No - WAC 415-108-456
Sick Leave Cash Out - Local Government Employees	Yes - WAC 415-108-456	No - WAC 415-108-456
Standby Pay	Yes - WAC 415-108-469	Yes - WAC 415-108-469
Time Off with Pay	Yes - WAC 415-108-456 WAC 415-108-465	Yes - WAC 415-108-456 WAC 415-108-465
Union Leave <sup>4</sup>	Yes - WAC 415-108-466	Yes - WAC 415-108-466
Worker's Compensation	No - WAC 415-108-479	No - WAC 415-108-479

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<sup>4</sup> Only specific types of union leave are reportable, see WAC 415-108-466.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-443, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-445 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 compensation earnable in RCW 41.40.010(8).

(1) **Payments for personal 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 personal 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, report the payment.

(2) **Payments included that are not for personal services rendered.** The legislature has included certain specific payments within the definition of compensation earnable even though those payments are not for personal services rendered by the employee to the employer. (See WAC 415-108-464 through 415-108-469.)

(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 reportable 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 compensation earnable.

**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 415-108-445 through 415-108-488 define reportable compensation for each of the two PERS plans. "Compensation earnable" is defined in very similar terms for both PERS Plan I and PERS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-108-455 through 415-108-488 is the same for both PERS Plan I and PERS Plan II except as specifically noted.

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[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-445, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-451 Salary or wages.** Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services rendered and qualifies as reportable compensation. Two possible components of an employee's base rate are salary considerations based on longevity or educational attainment.

(1) 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 performance due to greater experience or more education. The payment is therefore a payment for personal service and is reportable compensation.

(2) 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. 98-09-059, § 415-108-451, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-453 Performance bonuses.** Bonuses that are based upon meeting certain performance goals are earned for services rendered and are reportable compensation. If a bonus was earned over a specified period of time it should be prorated for reporting purposes.

**Example:** An employer pays each employee in the work group an additional \$100 if the work group had no work related accidents in the preceding year. Remaining accident free is a performance goal. Therefore the payment is for services rendered and qualifies as reportable compensation. The bonus should be prorated over each of the preceding twelve months during which it was earned.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-453, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-455 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 415-108-475.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-455, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-456 Leave payments earned over time.** (1) **Sick and annual leave usage.** Sick leave and annual 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

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the month the leave accrued. 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 cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered. Whether, and to what extent an annual leave cash out qualifies as reportable compensation depends upon which PERS plan the member belongs to and the type of employer.

(a) Annual leave cash outs are not reportable compensation for PERS Plan II members. Although the payments are for services rendered, they are excluded from the definition of compensation earnable by statute, see RCW 41.40.010 (8)(b).

(b) A cash out of up to thirty days of annual leave for state government employees is reportable compensation for PERS Plan I, see RCW 43.01.040. A cash out in excess of thirty days of annual leave:

(i) Qualifies as reportable compensation if it is authorized by a letter of necessity under RCW 43.01.040. Annual leave qualifies as authorized under a letter of necessity only if the leave was earned after the letter of necessity was issued;

(ii) Does not qualify as reportable compensation if it is earned between the date that the member accrued thirty days of annual leave and the member's anniversary date under RCW 43.01.044.

(c) All annual leave cash outs received by PERS Plan I members who are not state employees qualify as reportable compensation.

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered.

(a) Sick leave cash outs are excluded from the definition of compensation earnable for PERS Plan II members by statute, see RCW 41.40.010 (8)(b).

(b) Sick leave cash outs are reportable compensation for PERS Plan I members other than state, school district, and educational service district employees.

(c) Sick leave cash outs are excluded from reportable compensation for:

(i) State employees by RCW 41.04.340;

(ii) School district employees by RCW 28A.400.210; and

(iii) Educational service district employees by RCW 28A.310.490.

See RCW 41.40.010 (8)(a).

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-456, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-457 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 lieu of reinstatement of a terminated or suspended employee. For treatment of back pay-

ments for periods where services were not rendered, see WAC 415-108-467.

(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;

(c) A collective bargaining agreement; or

(d) Action by the personnel resources board which expressly states the payments are retroactive.

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

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-457, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-458 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) or compensation policies in effect at the beginning of a given period of employment specify that a certain amount of severance pay will be earned during that period in consideration for services rendered.

**Example:** Mr. Jones is a PERS Plan I member employed as a city manager. Since the beginning of his term of employment with the city, 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 PERS Plan I retirement calculation.

To the extent that severance pay qualifies as reportable compensation and is earned within the member's average final compensation period, the severance pay is excess compensation, see RCW 41.50.150.

(2) **Plan II.** All forms of severance pay are excluded from earnable compensation for Plans II by RCW 41.40.010 (8)(b).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I or II, see WAC 415-108-488.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-458, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-459 Payroll deductions.** Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.

(1) **Retirement contributions.** Payments deducted from employee compensation for employee retirement contribu-



tions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-108-475.

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

(3) **Voluntary deductions.** Payments deducted voluntarily, such as I.R.C. section 457 plan contributions or other authorized deductions, are reportable.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-459, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-463 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 which are reportable even though they are not for services rendered.

(1) WAC 415-108-464 through 415-108-469 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-108-475 through 415-108-488 discuss some payments that are not a salary or wage for services rendered and so do not qualify as reportable compensation. A payment not for services rendered other than those identified in WAC 415-108-464 through 415-108-469 is not reportable compensation even if it is not listed in WAC 415-108-475 through 415-108-488.

(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. 98-09-059, § 415-108-463, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-464 Legislative leave.** If a PERS member takes a leave without pay from an eligible position to serve in the legislature, the member may elect to participate in PERS as a legislator.

(1) **Plan I.** The salary the employee would have earned from their employer is reportable compensation if the required member contribution is paid by the member and the required employer contribution is paid by the member or the employer.

(2) **Plan II.** 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 for nonlegislative public employment and the legislative service combined.

If the member selects option (a) of this subsection, 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. 98-09-059, § 415-108-464, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-465 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 pre-

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viously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.40.175 and 41.40.710 identify payments received from the employer while on paid leave as reportable for PERS. 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 41.40.175 (Plan I) and RCW 41.40.710 (Plan II) and WAC 415-108-466.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-465, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-466 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 41.40.175 (Plan I) or RCW 41.40.710 (Plan II) as appropriate, are met.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-466, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-467 Reinstatement or payment in lieu 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 in lieu of reinstatement, the payments are not earned for services rendered. However, RCW 41.40.010(8) 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.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-467, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-468 Compensation authorized by statute for periods of absence due to sickness or injury.** Compensation that a member receives for periods of absence due to sickness or injury are not payments for services rendered unless the payments are authorized pursuant to sick leave earned by the member for services rendered, see WAC 415-108-456. Certain specific types of payments for periods of absence due to sickness or injury have been included within the statutory definition of compensation earnable and therefore qualify as reportable compensation.

(1) **Assault pay** qualifies as reportable compensation only to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Imputed compensation for periods of duty disability** that a member would have received but for a disability occurring in the line of duty qualify as reportable compensation only to the extent authorized by RCW 41.40.038.

**(3) Shared leave.**

(a) Compensation that a state employee receives due to participation in a leave sharing program to the extent authorized by RCW 41.04.650 through 41.04.670 qualifies as reportable compensation.

(b) Shared leave payments received by members who are not state employees, do not qualify as reportable compensation. Such payments are not for services rendered, nor are they specifically included within the statutory definition of compensation earnable.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-468, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-469 Standby pay.** Some employers pay employees for being on "standby." A member is on standby when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work if the need arises, although the need may not arise. Because the member is not actually working, the member is not rendering service. However, RCW 41.40.010(8) specifically identifies standby pay that meets the above requirements as reportable compensation. Although included in the definition of compensation earnable, time spent on standby is excluded from the definition of "service," see RCW 41.40.010(9).

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-469, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-470 Nonmoney maintenance. Are payments from my employer in any form other than money considered compensation earnable?**

**(1) PERS Plan I members.**

**(a) If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not compensation earnable.**

(i) The value of employer-provided materials is not compensation earnable if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities.

**Example:** An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not compensation earnable.

**(b) The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses.** Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not compensation earnable.

**(c) If your employer provides you with materials for your personal use, the value of that use is nonmoney**

**maintenance compensation and is included in your earnable compensation.**

(i) "Nonmoney maintenance compensation" means the fair market value of any form of materials other than cash legally furnished by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance does not include any form of payment other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

**(d) Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services.** In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as compensation earnable. If you pay any amount to your employer in order to own or use the materials, your employer must report as compensation earnable the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

**Example:** An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation. The employer must report \$400.00 per month to the department as compensation earnable for the employee.

**(e) How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation.** In addition to the records required under (d) of this subsection, you may provide the department with any oral or written evidence which you or your employer believe corroborates that your use of employer-provided materials

qualifies as compensation earnable. However, oral evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than oral evidence or written evidence created years later.

(2) **PERS Plan II members.** If you are a PERS Plan II member, you are not entitled to count the value of any non-money maintenance compensation you receive from your employer as compensation earnable.

[Statutory Authority: RCW 41.50.050. 95-22-006, § 415-108-470, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.40.010(8) and 41.40.020. 87-17-061 (Order DRS 87-08), § 415-108-470, filed 8/19/87.]

**WAC 415-108-475 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 415-108-455) and employer retirement contributions.

Note: Mandatory salary deferrals are salary, not benefits. Such payments are reportable see WAC 415-108-459.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-475, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-477 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. 98-09-059, § 415-108-477, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-479 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.

Note: A member may elect to make contributions and receive service credit for periods of disability covered by industrial insurance, see RCW 41.40.038.

[Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-479, filed 4/17/98, effective 5/18/98.]

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**WAC 415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable? (1) PERS Plan I members:**

(a) **If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as compensation earnable.** Use of an employer-provided vehicle only qualifies as compensation earnable to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as compensation earnable if:

(i) You use the vehicle solely in connection with your employer's business; or

(ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.

(b) **The department presumes that any employer-provided vehicle is used solely in connection with your employer's business and does not qualify as compensation earnable.**

(c) **A portion of your use of an employer-provided vehicle may qualify as compensation earnable.** In order for any portion of your use of an employer vehicle to qualify as compensation earnable, your employer must either:

(i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or

(ii) Maintain monthly records reflecting your personal use of the vehicle.

(d) **Your personal use of an employer vehicle qualifies as compensation earnable if your employer reports your use to the IRS as taxable income.** Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as compensation earnable.

(e) **Your personal use of an employer vehicle qualifies as compensation earnable to the extent your employer documents your personal use of the vehicle.** If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as compensation earnable if your employer maintains monthly contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:

(i) Whether your employer authorized you to have the vehicle for personal use, including commuting;

(ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;

(iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;

(iv) The total number of miles you drove the vehicle during the month; and

(v) The percentage of the total miles you drove the car during the month for personal use, including commuting.

(f) **Your employer must report as compensation earnable an amount based on your personal use of the vehicle.** If your employer maintains records documenting your per-

sonal use of the vehicle as provided in (e) of this subsection, your employer must report to the department as monthly compensation the lesser of the following amounts:

- (i) Monthly Fair Market Lease Value of the Vehicle  
 $\times$   
 Percentage of Personal Use of the Vehicle During  
 the Month;
- or
- (ii) Miles of Personal Use  
 $\times$   
 IRS Mileage Rate

"IRS mileage rate" means the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.

(2) **PERS Plan II members.** If you are a PERS Plan II member, you are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

[Statutory Authority: RCW 41.50.050.95-22-006, § 415-108-480, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.40.010(8) and 41.40.020.87-17-061 (Order DRS 87-08), § 415-108-480, filed 8/19/87.]

**WAC 415-108-482 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 fringe benefit, the payment would be illegal and should not be reported.

[Statutory Authority: RCW 41.50.050.98-09-059, § 415-108-482, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-483 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 defer a portion of his or her salary. Because the employee does not have a right to receive the contribution based solely on the rendering of service, the employer payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050.98-09-059, § 415-108-483, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-484 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 415-108-485, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050.98-09-059, § 415-108-484, filed 4/17/98, effective 5/18/98.]

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**WAC 415-108-485 Vehicle allowances—Are vehicle allowances earnable compensation?** (1) **If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not compensation earnable.** Your vehicle allowance does not qualify as compensation earnable if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes. See WAC 415-108-450 (3)(e) and 415-108-460 (3)(g).

(2) **The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not compensation earnable.** If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) **Your vehicle allowance may qualify as compensation earnable to the extent that it exceeds your actual expenses.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is compensation earnable. Your employer must maintain monthly contemporaneous records documenting the following:

- The dates, if any, on which you used a privately owned vehicle in performing services for your employer;
- The miles you drove the vehicle on each of these trips; and
- Your itinerary for each of these trips.

(4) **How to determine what amount of your vehicle allowance, if any, is reportable as compensation earnable.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as compensation earnable:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

(b) "IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(5) **Your vehicle allowance qualifies as compensation earnable if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes.** If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is compensation earnable.

(6) **Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation.** If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the por-

tion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-108-485, filed 10/18/95, effective 11/18/95.]

**WAC 415-108-487 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 city 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 or terminate. Because the payment is in exchange for the agreement to retire or terminate and not for services, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-487, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-488 Severance pay not earned over time—Contract buy outs.** 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 employee's termination the employer agrees to pay a lump sum payment equal to two months salary. The employer identifies this payment as "severance pay." Because the payment was not earned for services rendered, it is not reportable compensation and will not be included in the retirement calculation.

For treatment of severance pay earned over time, see WAC 415-108-458.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-488, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-491 Salary imputed to periods of unpaid leave.** In some circumstances specified in statute, a member may elect to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) **Authorized unpaid leave.** RCW 41.40.710 provides Plan II members with an option to establish service credit for periods of unpaid leave. RCW 41.40.038 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.

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(2) **Military leave.** Salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member elects to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-108-491, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-510 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions.** (1) Cash compensation in lieu of unused annual or sick leave may be considered compensation earnable for Plan I members subject to the provisions of RCW 41.40.010 (8)(a) and WAC 415-108-450. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual or sick leave as compensation earnable in conflict with RCW 41.40.010 (8)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.40.010 (8)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual or sick leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned, and when or whether the leave was used or cashed out, with the following exceptions:

(a) As otherwise provided in WAC 415-108-530 and *Bowles v. Department of Retirement Systems*, 121 Wn.2d 52 (1993); and

(b) The employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-108-010, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any

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such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer from one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

[Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993), 94-11-009, § 415-108-510, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.40.010(8) and 41.40.020, 87-17-061 (Order DRS 87-08), § 415-108-510, filed 8/19/87.]

## MEMBERSHIP

**WAC 415-108-520 Membership exceptions—Student and spouse of student.** (1) A person employed by a Washington state institution of higher education or community college (employer), who is employed at such institution or college primarily for the purpose of furthering her/his education or the education of the person's spouse, is excepted from membership in PERS when:

(a) The person is a full-time student or the spouse of a full-time student; and

(b) The person is employed at the same institution where she/he is a full-time student or where the person's spouse is a full-time student; and

(c) The person determines her/his employment is primarily an incident to and in furtherance of her/his education or training, or the education or training of the person's spouse.

(2) For purposes of this section, RCW 41.40.120(7) shall be administered as follows:

(a) When a person begins employment in a PERS eligible position, a determination shall be made by the person as to whether the provisions of this section apply. If this section applies to the person, she/he shall determine her/his membership status as either being excepted from membership in PERS, or being a member of PERS, based upon whether employment at the institution of higher education or community college is primarily as an incident to and in furtherance of her/his education or training, or the education or training of the person's spouse. The person shall notify the employer in writing of her/his determination of membership status no later than two months after commencing employment in a PERS eligible position. Based upon the provisions herein and the written notification of status, the person shall either be excepted from membership in PERS or become a member of PERS. In the event that no written notification of status is provided to the employer, based upon the provisions of this section, the employer shall make the presumption:

(i) That the person shall remain a member of PERS where the person is employed in a PERS eligible position and is a member of PERS at the time the person, or his or her spouse, becomes a full-time student;

(ii) That the person shall be excepted from PERS membership where the person or the person's spouse is a full-time student at the time of becoming employed in a PERS eligible position.

(b) A person employed in a PERS eligible position at the time of becoming a full-time student or becoming the spouse

of a full-time student, shall remain a member of PERS; except, at the time of becoming a full-time student or becoming the spouse of a full-time student, the person may elect to waive her/his membership in PERS, based upon the provisions of this section excepting membership. The person must provide written notification of the waiver to the employer. If the person elects to waive membership in PERS, she/he cannot later elect membership in PERS unless there is a change of status of the person or of the person's spouse, as set forth below, and the employer has received written notification from the person of the change of status.

(c) A person who is a full-time student or who is the spouse of a full-time student at the time of becoming employed in a PERS eligible position, shall not be eligible for membership in PERS; except, at the time of becoming employed in a PERS eligible position, the person may elect to become a member of PERS, based upon the person's determination that the provisions of this section excepting membership do not apply. The person must provide written notification of the election to be a member of PERS to the employer. If the person elects to become a member of PERS, she/he cannot later waive PERS membership unless there is a change of status of the person or of the person's spouse, as set forth below, and the employer has received written notification from the person of the change of status.

(d) For purposes of this section, status is defined as:

(i) Student status - is full-time student, part-time student or nonstudent. Part-time student and nonstudent status do not meet the threshold for exception from PERS; only full-time student status meets the threshold:

(ii) Employment status - is employment in a PERS eligible position, employment in a PERS ineligible position, or unemployment. Unemployment refers to termination of employment from a Washington state institution of higher education or community college employer;

(iii) Marital status - is single, married, widowed or divorced.

(3) The department shall rely upon the institutions of higher education and community college employers to:

(a) Notify each person, at the time of hire, of the provisions of this section;

(b) Request all written notifications from persons electing membership or waiving membership under this section;

(c) Retain and make available to the department upon request, all written notifications electing membership or waiving membership on a sixty-four year record retention schedule.

(4) It is recommended, but not required, that no less than annually employers provide notice that employees are required to notify the employer of any change in status as set forth in this section.

[Statutory Authority: RCW 41.50.050, 91-21-083, § 415-108-520, filed 10/18/91, effective 12/31/91.]

**WAC 415-108-550 Elected officials—Eligibility and application for retirement service membership.** (1) For purposes of this section and WAC 415-108-570, and pursuant to RCW 41.40.023, 41.40.010 (25)(b), 41.40.010 (9)(a) and 41.40.035, "elected" officials means individuals elected to

any state, local or political subdivision office or individuals appointed to any vacant elective office.

(2) Pursuant to RCW 41.40.023 (3)(a), elected officials are exempted from retirement system membership but may apply for membership during the official's current term of elected office. To apply for membership, the official shall submit a written application directly to the department. If the department approves the application, the elected official is entitled to establish membership and service credit retroactive to the first day of the official's current term of elected service. To establish such membership, the official shall pay the required employee contributions for the official's current term of elected service with interest as determined by the department.

(3) Upon establishing membership for the official's current term of elected office, the official is entitled to establish membership and service credit retroactive to the first day of any previous elected term or terms of office. To exercise this option, the official shall apply to the department pursuant to subsection (2) of this section. If the department approves the application, the official shall:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, at its discretion, pay the required employer contributions plus interest in lieu of the employee making payment of this amount.

(4) If an official is employed in an eligible position at the time of election to office and will hold multiple positions concurrently, the official may:

(a) Apply to the department to participate in membership pursuant to the official's elected position as provided in subsection (3) of this section; or

(b) Choose not to participate pursuant to the official's elected position while continuing membership through the nonelected position.

(5) Except as provided under RCW 41.40.023 (3)(b), once an elected official has exercised the option of becoming a member of the retirement system the official shall be a member until the official separates from all eligible public employment pursuant to RCW 41.40.150. An official does not separate from public employment when that official's term of office ends and the official commences another term of office in the same or a different position for the same employer without a break in service. An official does not separate from service if the official resigns from the official's elected position and is later reappointed to the same position during the same term.

(6) This section codifies the department's long-standing administrative practice in relation to elected officials. The department will apply this section to service by elected officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050, 94-12-014, § 415-108-550, filed 5/23/94, effective 6/23/94.]

**WAC 415-108-560 Appointed officials—Eligibility and application for retirement service membership.** (1)

For purposes of this section and WAC 415-108-570, and pur-

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suant to RCW 41.40.023, 41.40.010 (25)(b), 41.40.010 (9)(a) and 41.40.035, "appointed" officials means only those individuals appointed directly by the governor to any position, including but not limited to agency directorships and memberships on a state committee, board or commission.

(2) An individual must be a gubernatorial appointee or be appointed to serve in a position that meets the requirements of RCW 41.40.010 (25)(a) in order to be eligible for membership and service credit.

(3) Pursuant to RCW 41.40.023 (3)(a), appointed officials are exempted from retirement system membership but may apply for membership during the official's current appointed term of office. To apply for membership, the official shall submit a written application directly to the department. If the department approves the application the official is entitled to establish membership and service credit retroactive to the first day of the official's current term of appointed service. To establish such membership, the official shall pay the required employee contributions for the official's current term of appointed service with interest as determined by the department.

(4) Upon establishing membership for the official's current term of appointed service, the official is entitled to establish membership retroactive to the first day of any previous elected term or terms of office. To exercise this option, the official shall apply to the department pursuant to subsection (3) of this section. If the department approves the application the official shall:

(a) Pay the required employee contributions for such previous term or terms of elected service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of elected service with interest as determined by the department. The employer may, at its discretion, pay the required employer contributions plus interest in lieu of the employee making payment of this amount.

(c) "Current term of appointed service" includes an appointed official's entire current term of service. If the official has not been appointed to a position with a set term of office, "current term of appointed service" includes all uninterrupted service in the official's current appointed position.

(5) If an appointed official is employed in an eligible position at the time of appointment to office and will hold the two positions concurrently the official may:

(a) Apply to the department to participate in membership pursuant to the appointed position as provided in subsection (3) of this section; or

(b) Choose not to participate pursuant to the official's appointed position while continuing membership through the nonappointive position.

(6) Once an appointed official has exercised the option of becoming a member of the retirement system either at the start of the official's initial term or at a successive term, the official shall be a member until the official separates from all eligible public employment pursuant to RCW 41.40.150. An appointed official does not separate from public employment when that official's term of office ends and the official commences another term of office in the same or a different position for the same employer without a break in service. An appointed official does not separate from service if the offi-

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cial resigns from the appointed position and is later reappointed to the position during the same term.

(7) This section codifies the department's long-standing administrative practice in relation to appointed officials. The department will apply this section to service by appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050, 94-12-014, § 415-108-560, filed 5/23/94, effective 6/23/94.]

**WAC 415-108-570 Elected and appointed officials—Requirements for service credit.** (1)(a) Plan I elected officials and appointed officials may receive one month of service credit for each month during which they earn compensation pursuant to their elected or appointed positions.

(b) Plan I members who were appointed by the governor prior to July 1, 1976, to serve as members of any committee, board or commission may receive one month of service credit for each month during which they earn compensation pursuant to their appointed positions.

(c) Plan I members who were appointed or reappointed by the governor on or after July 1, 1976, to serve as members of any committee, board or commission may receive one month of service credit for each month during which they are compensated for at least seventy total hours of work.

(d) Plan I members who serve in governor-appointed positions as members of any committee, board or commission on or after September 1, 1991, may receive one-quarter month of service credit for each month during which they are compensated for less than seventy total hours of work.

(2)(a) Plan II members who were elected to office by state-wide election may receive one month of service credit for each month during which they earn compensation pursuant to their elected positions.

(b) Except for Plan II elected officials covered under (a) of this subsection, Plan II members who were elected to office or appointed by the governor to positions prior to September 1, 1991, may receive service credit only for months during which they are compensated:

(i) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; and

(ii) For ninety or more total hours of work.

(c) On or after September 1, 1991, except for Plan II elected officials covered under (a) of this subsection, Plan II members who were elected to office or appointed by the governor to positions may earn:

(i) One month of service credit for each month during which they are compensated:

(A) For ninety or more total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(ii) One-half month of service credit for each month during which they are compensated:

(A) For less than ninety hours but equal to or more than seventy total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(iii) One-quarter month of service credit for each month during which they are compensated:

(A) For less than seventy total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time they render the service.

(3) This section codifies the department's long-standing administrative practice in relation to elected and appointed officials. The department will apply this section to service by elected and appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: RCW 41.50.050, 94-12-014, § 415-108-570, filed 5/23/94, effective 6/23/94.]

**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.

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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 ÷ A x 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;

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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 retirement 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.]

**WAC 415-108-679 Purpose and scope of eligibility rules.** WAC 415-108-680 through 415-108-728 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in PERS Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-679, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-680 Am I eligible for membership? (1) You are eligible for membership if you are employed in an eligible position.** Your position is eligible under RCW 41.40.010 if the position, as defined by your employer, normally requires at least five months of seventy or more hours of compensated service per month during each year.

(2) **If you leave an eligible position to serve in a project position, you may retain eligibility.** If you are a member and you leave employment in an eligible position to serve in a project position, the project position is eligible if:

(a) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

(b) The position requires at least seventy hours per month and you take the position with the understanding that you are expected to return to your permanent eligible position at the completion of the project.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Member" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

(e) "Normally" - WAC 415-108-0102.

(f) "Project position" - WAC 415-108-0103.

(g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-680, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-690 How is my eligibility evaluated?**

**(1) Your eligibility is based on your position.**

In evaluating whether your position is eligible, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010. Your employer will not consider your membership status or individual circumstances unless you:

(a) Leave employment in an eligible position to serve in a project position (See WAC 415-108-680(2)); or

(b) Work in both a PERS and TRS position during the same school year (See WAC 415-108-728).

**(2) Your employer will evaluate your position's eligibility for a particular year at the beginning of the year.**

(3) **Your employer or the department may reclassify your position's eligibility based upon your actual work history.** If your employer declares your position to be ineligible at the beginning of a year and by the end of the year, you have actually worked five or more months of seventy or more hours, your employer will, at that time, review your position's eligibility. If at the end of the first year:

(a) Your employer believes your position meets the requirements for an eligible position and declares the position as eligible, you will enter membership and your employer will report you to the department effective from the date your employer declares the position as eligible; or

(b) Your employer believes that the position will not meet the criteria for an eligible position during the next year, your employer may continue to define your position as ineligible. However, if during the next year the position actually requires you to again work seventy or more hours each month for at least five months, the department will declare your position as eligible. You will enter membership in the retirement system.

(i) Except as provided in (b)(ii) of this subsection, your employer will report you to the department effective from the first month of the first year in which your position required you to work for seventy or more hours.

(ii) If:

(A) Your employer has monitored the work history of your position for PERS eligibility;

(B) Has notified you in writing when you entered the position that the position was not considered eligible; and

(C) The months of employment in a twelve-month period required by the position are determined by the occurrence or nonoccurrence of natural disasters such as forest fires;

You will enter membership prospectively.

(4) **The department will not reclassify your position's eligibility until history of the position shows that it meets the criteria for an eligible position.** If your employer has declared your position ineligible, the department will not reclassify your position as eligible until history of the position shows a period of two consecutive years of at least five months of seventy or more hours of compensated employment each month.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

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(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Ineligible position" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

(e) "Project position" - WAC 415-108-0103.

(f) "Report" - WAC 415-108-0104.

(g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-690, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-700 Can I qualify for membership if I work in more than one ineligible position with the same employer? (1) All of your monthly work for an employer counts as one position.** If you are employed with the same employer in two ineligible positions during a year which, when combined, equate to an eligible position and your employer expects you to continue in this employment for a second consecutive year, your employer will report the total hours you work in both positions to the department as an eligible position.

Example:

A person normally works for one employer as a cook for forty hours each month and as a bus driver for forty hours each month. The person is eligible for membership because he works a total of eighty hours each month for at least five months each year and this is the normal pattern of his employment.

Example:

A person normally works for one employer for forty hours each month as a cook. For one year only, she takes on extra duties by also working forty hours per month as a bus driver. Although she worked eighty hours each month for five or more months during one year, she is not eligible for membership because these hours are not the normal pattern of her employment.

Example:

A person works for one employer for forty hours each month as a cook and also works for another employer for forty hours each month as a bus driver. The person is not eligible for membership because he cannot combine the hours of employment with these separate employers to establish membership.

**(2) You may be reported in TRS if you work in two positions and one position is covered under TRS.** See WAC 415-108-728.

**(3) Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Ineligible position" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

(e) "Normally" - WAC 415-108-0102.

(f) "Report" - WAC 415-108-0104.

(g) "Year" - WAC 415-108-0108.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-700, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-710 If I work for an employer after I retire, will my retirement benefit be affected? (1) If you**

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reenter membership after retiring, the department will suspend payment of your benefit.

(2) **You may work for an employer in some circumstances without reentering membership.** You may enter employment with an employer after retirement without having to reenter membership if:

(a) You are employed in an ineligible position; or

(b) You are employed in an eligible position on a temporary basis for five months or less in a calendar year.

(i) If you enter compensated employment in an eligible position during a month, that month is counted as a month of employment in the calendar year regardless of the number of hours you worked in the month.

(ii) If you are employed in an eligible position for any five months during a calendar year, the department will count your employment as five months of employment, regardless of whether or not the months are consecutive or your employment is with one or more employers.

(3) **You are required to reenter membership if you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year.** If you become reemployed in an eligible position on a temporary basis for more than five months in a calendar year you will reenter membership in the retirement system beginning with the sixth month of your employment. Effective at the beginning of the sixth month of your employment:

(a) Your employer will report you to the department; and

(b) The department will suspend your retirement allowance.

(4) **You are required to reenter membership if you become permanently reemployed in an eligible position.** If you become reemployed in an eligible position on a permanent basis you will immediately become a member. Effective from the date of your reemployment in a permanent eligible position:

(a) Your employer will report you to the department; and

(b) The department will suspend your retirement allowance.

(5) **Meaning of employment on a temporary or permanent basis.**

(a) "Employed on a temporary basis" under subsection (2) of this section means your employer expects your employment to last for five months or less and not be on a recurring basis.

(b) "Employed on a permanent basis" under subsection (3) of this section means either:

(i) Your employer expects you to continue in your position for more than five months in any calendar year; or

(ii) Your employer expects you to continue in the same position for more than one year on a recurring basis and your employment is for five months or less during each year.

(6) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Ineligible position" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

(e) "Report" - WAC 415-108-0104.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-710, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position?** (1) **You may be exempt from participating in membership even if you meet eligibility criteria.** Even if you are employed in an eligible position you are exempt from participating in PERS if your individual circumstances qualify you for one of the exceptions to membership under RCW 41.40.023.

(2) **If you work for a PERS employer after you retire, you are subject to post-retirement employment restrictions even if you are excluded from participating in membership.** If you become employed in an eligible position after you retire, you are subject to the post-retirement employment restrictions under RCW 41.40.150 and 41.40.690 even if you are excluded from membership.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Ineligible position" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-720, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-725 If I have retired from another retirement plan or am eligible to retire, am I excluded from participating in PERS?** (1) If you have retired or are eligible to retire from another retirement system authorized by the laws of this state you cannot participate in PERS membership unless:

(a) You established membership in PERS prior to March 1, 1976; or

(b) You accrued less than fifteen years of service credit in the other retirement plan.

(2) If you are receiving a disability allowance from any retirement system administered by the department you can not participate in PERS unless you established membership in PERS prior to March 1, 1976.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Membership" - RCW 41.40.023.

(b) "Retirement plan" - WAC 415-108-0105.

(c) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-725, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-726 If I have accrued service credit in another retirement plan, am I excluded from participating in PERS?** (1) If you have earned service credit in any retirement plan operated wholly or in part by the state or a political subdivision, you can participate in PERS membership if an agreement exists between PERS and the other plan which permits you to retain service credit in more than one retirement system. See RCW 41.40.023(4). Such an agreement exists between PERS and the following systems:

(a) The retirement systems listed under RCW 41.50.030;

(b) The retirement systems of the cities of Seattle, Spokane and Tacoma; and

(c) The Teachers Insurance & Annuity Association/College Retirement Equity Fund retirement plan.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Membership" - RCW 41.40.023.
- (b) "Retirement plan" - WAC 415-108-0105
- (c) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-726, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-728 If I work in both a PERS position and TRS position during the same school year, which system will I be in?** (1) If you work in both a PERS and TRS position during the same year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either PERS or TRS according to the following table:

**Former TRS Plan I Members <sup>1/</sup>**

Type of Concurrent Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240.  If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240.  If you elect to establish TRS membership, you must elect either to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

**TRS Plan I Members**

Type of Concurrent Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect either to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for PERS position.</li> </ol>

Type of Concurrent Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

**TRS Plan II Members**

Type of Concurrent Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. <sup>3/</sup>
	A TRS employer and non-TRS employer	You must elect either to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

**PERS Members**

Type of Concurrent Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125(1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

## Neither TRS Nor PERS Member

Type of Concurrent Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

<sup>1/</sup> "Former TRS I member", as used here, means you terminate your membership by withdrawing your contributions.

<sup>2/</sup> "Concurrently" means during the same school year.

<sup>3/</sup> EXAMPLE: A TRS II member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS II through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS II.

EXAMPLE: A TRS II member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS II member, School District B employer must report his service and compensation from the PERS position to the Department in TRS II. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Ineligible position" - RCW 41.40.010.

(d) "Member" - RCW 41.40.010.

(e) "Membership" - RCW 41.40.023.

(f) "Report" - WAC 415-108-0104

(g) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-728, filed 7/25/95, effective 8/25/95.]

#### 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

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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.]

## SERVICE RETIREMENT

**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:

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(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**

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**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.
- 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.
- 415-112-720 Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-016, § 415-112-720, filed 1/7/91, effective 2/7/91.] Repealed by 96-01-047, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660.
- 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 415-112-010 Description of teachers' retirement system.** (1) The Washington state teachers' retirement system, established effective April 1, 1938, is an agency of the state of Washington operating under chapter 41.32 RCW, for the benefit of the public school teachers of the state. The

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

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

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

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

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

**WAC 415-112-015 Definitions.** (1) All definitions in RCW 41.32.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

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

"Annual leave" means leave provided by an employer for the purpose of vacation and does not include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work: *Provided, however,* That if an employer authorizes only one type of leave to provide paid leave for vacation and illness, as well as any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-112-015, filed 7/25/95, effective 8/25/95. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993), 94-11-009, § 415-112-015, filed 5/5/94, effective 6/5/94. 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 415-112-0151 Contract period—Definition.** "Contract period" means for Plan I members as used in RCW 41.32.345 means the period from July 1 to June 30 of the following year.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0151, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0152 Day—Definition.** For purposes of administering RCW 41.32.570 and WAC 415-112-540 and 415-112-545:

- (1) "Day" means seven compensated hours;
- (2) "One hundred five hours" is the number of compensated hours in fifteen days. For purposes of evaluating the postretirement employment restrictions of RCW 41.32.570, fifteen days is equal to one hundred five cumulative compensated hours;
- (3) "Five hundred twenty-five hours" is the number of compensated hours in seventy-five days. For purposes of evaluating the postretirement employment restrictions of RCW 41.32.570 seventy-five days is equal to five hundred twenty-five cumulative compensated hours.

[Statutory Authority: RCW 41.50.050. 97-01-015, § 415-112-0152, filed 12/6/96, effective 1/6/97; 95-16-053, § 415-112-0152, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0154 Ineligible position—Definition.** "Ineligible position" means a position which does not qualify as an eligible position under RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0154, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0156 Pension benefit—Definition.** "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.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0156, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0157 Public educational institution—Definition.** "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.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0157, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0158 Public school—Definition.** (1) "Public school," as defined in RCW 41.32.010, includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(2) As applied to other TRS employers, "public school" means an institution employing teachers and whose primary function is to educate students. "Employing teachers" means fifty percent or more of a public school's employees are qualified to teach as defined in WAC 415-112-0159.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0158, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0159 Qualified to teach—Definition.** "Qualified to teach," as used under RCW 41.32.010, means either:

- (1) Having the authority to provide instruction at a common school as defined under RCW 28A.150.020 pursuant to:

(1999 Ed.)

(a) A valid teaching certificate issued by the office of the superintendent of public instruction under WAC 180-75-055; or

(b) A permit to teach issued by lawful authority of this state under RCW 28A.405.010; or

(2) Being employed under a contract to teach with an institution of higher education as defined in RCW 28A.150.020.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0159, filed 7/25/95, effective 8/25/95.]

**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 415-112-0161 School year—Definition.** (1) "School year" for Plan I members means the fiscal year running from July 1 to June 30.

(2) "School year" for Plan II members means the twelve-month period from September 1 of one year to August 31 of the following year.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0161, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0162 Service in an administrative or supervisory capacity—Definition.** As used under RCW 41.32.010 and in this chapter:

(1) "Service in an administrative or supervisory capacity," means:

- (a) Service in a managerial role relating to the administration of a public school; or
- (b) Service involving the exercise of direction over employees of the public school.

(2) The phrase "service in an administrative or supervisory capacity" includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0162, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0163 Service in an instructional capacity—Definition.** "Service in an instructional capacity," means a qualified teacher performing services as a classroom teacher.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0163, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0165 Spousal consent—Definition.** "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."

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0165, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-0167 System acronyms—Definition.**

The acronyms used in this chapter mean:

(1) "PERS" means the Public Employees' Retirement System.

(2) "TRS" means the Teachers' Retirement System.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-112-0167, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-020 Public records.** See chapter 415-06 WAC.

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

**WAC 415-112-030 Appeals—Forms and procedures.**

Appeals from the board of trustees shall be made in the form and manner required by WAC 415-08-020. The disposition of such appeals shall be governed by the provisions of chapter 415-08 WAC.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-030, filed 2/15/78. Formerly WAC 462-08-010.]

**WAC 415-112-040 Actuarial tables, schedules, and factors.**

This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems for calculating optional retirement allowances of members of the Washington state teachers' retirement system. These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of teachers' retirement system. The tables, schedules, and factors contained in this chapter govern the retirement allowances only of members retiring on or after January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the adoption of such new tables, schedules, and factors.

Teachers Retirement System TRS I Optional COLA\* Teachers Retirement System TRS I Option 1 Monthly Benefit per \$1.00 of Accumulation

37	0.6653	37	.0063886
38	0.6679	38	.0064133
39	0.6706	39	.0064398
40	0.6734	40	.0064682
41	0.6762	41	.0064988
42	0.6792	42	.0065315
43	0.6822	43	.0065666
44	0.6853	44	.0066042
45	0.6885	45	.0066444
46	0.6918	46	.0066874
47	0.6952	47	.0067334
48	0.6986	48	.0067823
49	0.7022	49	.0068345
50	0.7058	50	.0068901
51	0.7095	51	.0069492
52	0.7133	52	.0070122
53	0.7173	53	.0070794
54	0.7213	54	.0071512
55	0.7254	55	.0072280
56	0.7296	56	.0073102
57	0.7339	57	.0073984
58	0.7382	58	.0074931
59	0.7427	59	.0075950
60	0.7473	60	.0077049
61	0.7520	61	.0078235
62	0.7567	62	.0079521
63	0.7615	63	.0080907
64	0.7665	64	.0082407
65	0.7714	65	.0084029
66	0.7765	66	.0085784
67	0.7816	67	.0087680
68	0.7868	68	.0089727
69	0.7920	69	.0091936
70	0.7972	70	.0094312
71	0.8025	71	.0096865
72	0.8078	72	.0099604
73	0.8132	73	.0102542
74	0.8185	74	.0105696
75	0.8239	75	.0109088
76	0.8292	76	.0112739
77	0.8346	77	.0116669
78	0.8399	78	.0120898
79	0.8452	79	.0125439
80	0.8504	80	.0130304
81	0.8557	81	.0135505
82	0.8608	82	.0141057
83	0.8659	83	.0146979
84	0.8710	84	.0153295
85	0.8760	85	.0160001
86	0.8810	86	.0167200
87	0.8859	87	.0174922
88	0.8908	88	.0183233
89	0.8956	89	.0192217
90	0.9003	90	.0201938
91	0.9049	91	.0212433
92	0.9095	92	.0223781
93	0.9140	93	.0236079
94	0.9184	94	.0249403
95	0.9227	95	.0263868
96	0.9269	96	.0279635
97	0.9310	97	.0296927
98	0.9350	98	.0315504
99	0.9390	99	.0335425

\* For converting from the normal form Option 0 without a COLA, to Option 0 with a COLA

Teachers Retirement System TRS I Optional COLA*	Teachers Retirement System TRS I Option 1 Monthly Benefit per \$1.00 of Accumulation
20	0.6315
21	0.6330
22	0.6345
23	0.6361
24	0.6378
25	0.6395
26	0.6413
27	0.6432
28	0.6451
29	0.6471
30	0.6491
31	0.6512
32	0.6534
33	0.6556
34	0.6579
35	0.6603
36	0.6628

TEACHERS  
RETIREMENT SYSTEM  
PLAN 1

Early Retirement Factors  
by Year and Month

Early Retirement Factors  
by Year and Month

TEACHERS RETIREMENT SYSTEM PLAN 1			Early Retirement Factors by Year and Month		
				9	.5995
				10	.5951
				11	.5907
			6	0	.5863
				1	.5823
				2	.5783
				3	.5743
				4	.5703
				5	.5663
				6	.5623
				7	.5583
				8	.5543
				9	.5503
				10	.5463
				11	.5423
			7	0	.5383
				1	.5346
				2	.5310
				3	.5273
				4	.5237
				5	.5201
				6	.5164
				7	.5128
				8	.5092
				9	.5055
				10	.5019
				11	.4982
			8	0	.4946
				1	.4913
				2	.4880
				3	.4847
				4	.4813
				5	.4780
				6	.4747
				7	.4714
				8	.4681
				9	.4648
				10	.4615
				11	.4582
			9	0	.4548
				1	.4518
				2	.4488
				3	.4458
				4	.4428
				5	.4397
				6	.4367
				7	.4337
				8	.4307
				9	.4276
				10	.4246
				11	.4216
			10	0	.4186
				1	.4158
				2	.4131
				3	.4103
				4	.4076
				5	.4048
				6	.4020
				7	.3993
				8	.3965
				9	.3938
				10	.3910
				11	.3882
			11	0	.3855
				1	.3830
				2	.3804
				3	.3779
				4	.3754
				5	.3729
				6	.3704
				7	.3678
				8	.3653
0	0	1.0000			
	1	.9927			
	2	.9854			
	3	.9780			
	4	.9707			
	5	.9634			
	6	.9561			
	7	.9488			
	8	.9414			
	9	.9341			
	10	.9268			
	11	.9195			
1	0	.9122			
	1	.9056			
	2	.8990			
	3	.8924			
	4	.8858			
	5	.8792			
	6	.8727			
	7	.8661			
	8	.8595			
	9	.8529			
	10	.8463			
	11	.8397			
2	0	.8331			
	1	.8272			
	2	.8213			
	3	.8153			
	4	.8094			
	5	.8034			
	6	.7975			
	7	.7916			
	8	.7856			
	9	.7797			
	10	.7737			
	11	.7678			
3	0	.7619			
	1	.7565			
	2	.7511			
	3	.7457			
	4	.7404			
	5	.7350			
	6	.7296			
	7	.7243			
	8	.7189			
	9	.7135			
	10	.7082			
	11	.7028			
4	0	.6974			
	1	.6926			
	2	.6877			
	3	.6829			
	4	.6780			
	5	.6731			
	6	.6683			
	7	.6634			
	8	.6586			
	9	.6537			
	10	.6489			
	11	.6440			
5	0	.6391			
	1	.6347			
	2	.6303			
	3	.6259			
	4	.6215			
	5	.6171			
	6	.6127			
	7	.6083			
	8	.6039			

Title 415 WAC: Retirement Systems, Department of

Early Retirement Factors  
by Year and Month

Early Retirement Factors  
by Year and Month

	9	.3628		9	.2246
	10	.3603		10	.2231
	11	.3578		11	.2216
12	0	.3552	18	0	.2201
	1	.3529		1	.2187
	2	.3506		2	.2173
	3	.3483		3	.2159
	4	.3460		4	.2146
	5	.3437		5	.2132
	6	.3414		6	.2118
	7	.3391		7	.2104
	8	.3368		8	.2090
	9	.3345		9	.2077
	10	.3322		10	.2063
	11	.3299		11	.2049
13	0	.3276	19	0	.2035
	1	.3254		1	.2023
	2	.3233		2	.2010
	3	.3212		3	.1997
	4	.3191		4	.1984
	5	.3170		5	.1972
	6	.3149		6	.1959
	7	.3128		7	.1946
	8	.3107		8	.1934
	9	.3085		9	.1921
	10	.3064		10	.1908
	11	.3043		11	.1896
14	0	.3022	20	0	.1883
	1	.3003		1	.1871
	2	.2983		2	.1860
	3	.2964		3	.1848
	4	.2945		4	.1836
	5	.2925		5	.1824
	6	.2906		6	.1813
	7	.2887		7	.1801
	8	.2867		8	.1789
	9	.2848		9	.1778
	10	.2828		10	.1766
	11	.2809		11	.1754
15	0	.2790	21	0	.1743
	1	.2772		1	.1732
	2	.2754		2	.1721
	3	.2736		3	.1710
	4	.2719		4	.1699
	5	.2701		5	.1689
	6	.2683		6	.1678
	7	.2665		7	.1667
	8	.2648		8	.1656
	9	.2630		9	.1646
	10	.2612		10	.1635
	11	.2594		11	.1624
16	0	.2577	22	0	.1613
	1	.2560		1	.1603
	2	.2544		2	.1593
	3	.2528		3	.1583
	4	.2511		4	.1573
	5	.2495		5	.1563
	6	.2479		6	.1554
	7	.2462		7	.1544
	8	.2446		8	.1534
	9	.2430		9	.1524
	10	.2413		10	.1514
	11	.2397		11	.1504
17	0	.2381	23	0	.1494
	1	.2366		1	.1485
	2	.2351		2	.1476
	3	.2336		3	.1466
	4	.2321		4	.1457
	5	.2306		5	.1448
	6	.2291		6	.1439
	7	.2276		7	.1430
	8	.2261		8	.1421

Teachers' Retirement Board of Trustees

415-112-040

Early Retirement Factors  
by Year and Month

Early Retirement Factors  
by Year and Month

	9	.1411		9	.0896
	10	.1402		10	.0890
	11	.1393		11	.0884
24	0	.1384	30	0	.0879
	1	.1375		1	.0873
	2	.1367		2	.0868
	3	.1358		3	.0863
	4	.1350		4	.0858
	5	.1341		5	.0852
	6	.1333		6	.0847
	7	.1325		7	.0842
	8	.1316		8	.0836
	9	.1308		9	.0831
	10	.1299		10	.0826
	11	.1291		11	.0820
25	0	.1282	31	0	.0815
	1	.1274		1	.0810
	2	.1267		2	.0805
	3	.1259		3	.0801
	4	.1251		4	.0796
	5	.1243		5	.0791
	6	.1235		6	.0786
	7	.1227		7	.0781
	8	.1220		8	.0776
	9	.1212		9	.0771
	10	.1204		10	.0766
	11	.1196		11	.0761
26	0	.1188	32	0	.0756
	1	.1181		1	.0752
	2	.1174		2	.0747
	3	.1167		3	.0743
	4	.1159		4	.0738
	5	.1152		5	.0734
	6	.1145		6	.0729
	7	.1138		7	.0725
	8	.1131		8	.0720
	9	.1123		9	.0716
	10	.1116		10	.0711
	11	.1109		11	.0707
27	0	.1102	33	0	.0702
	1	.1095		1	.0698
	2	.1088		2	.0694
	3	.1082		3	.0689
	4	.1075		4	.0685
	5	.1068		5	.0681
	6	.1062		6	.0677
	7	.1055		7	.0673
	8	.1048		8	.0668
	9	.1041		9	.0664
	10	.1035		10	.0660
	11	.1028		11	.0656
28	0	.1021	34	0	.0652
	1	.1015		1	.0648
	2	.1009		2	.0644
	3	.1003		3	.0640
	4	.0997		4	.0636
	5	.0991		5	.0632
	6	.0984		6	.0628
	7	.0978		7	.0624
	8	.0972		8	.0620
	9	.0966		9	.0617
	10	.0960		10	.0613
	11	.0953		11	.0609
29	0	.0947	35	0	.0605
	1	.0942		1	.0554
	2	.0936		2	.0504
	3	.0930		3	.0454
	4	.0924		4	.0403
	5	.0919		5	.0353
	6	.0913		6	.0302
	7	.0907		7	.0252
	8	.0902		8	.0202

Early Retirement Factors  
by Year and Month

9	.0151
10	.0101
11	.0050

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
39	0.756	0.823	0.861
40	0.755	0.822	0.860

Age difference = member's age minus beneficiary age

TRS I Survivor Options  
Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.956	0.971	0.978
-19	0.955	0.969	0.977
-18	0.952	0.967	0.975
-17	0.950	0.966	0.974
-16	0.947	0.964	0.973
-15	0.944	0.962	0.971
-14	0.942	0.960	0.970
-13	0.939	0.958	0.968
-12	0.936	0.956	0.967
-11	0.933	0.954	0.965
-10	0.929	0.952	0.963
-9	0.927	0.950	0.962
-8	0.923	0.948	0.960
-7	0.920	0.945	0.958
-6	0.917	0.943	0.956
-5	0.913	0.940	0.955
-4	0.910	0.938	0.953
-3	0.904	0.934	0.950
-2	0.897	0.929	0.946
-1	0.887	0.922	0.940

TEACHERS  
RETIREMENT SYSTEM  
PLAN 2

Monthly Benefit per \$1.00  
of Accumulation

20	.0038822
21	.0038963
22	.0039111
23	.0039267
24	.0039430
25	.0039602
26	.0039783
27	.0039972
28	.0040171
29	.0040380
30	.0040600
31	.0040831
32	.0041074
33	.0041329
34	.0041598
35	.0041882
36	.0042180
37	.0042494
38	.0042826
39	.0043175
40	.0043544
41	.0043934
42	.0044346
43	.0044781
44	.0045240
45	.0045725
46	.0046237
47	.0046777
48	.0047347
49	.0047948
50	.0048583
51	.0049252
52	.0049959
53	.0050707
54	.0051499
55	.0052339
56	.0053230
57	.0054178
58	.0055186
59	.0056262
60	.0057410
61	.0058637
62	.0059953
63	.0061358
64	.0062864
65	.0064475
66	.0066200
67	.0068046
68	.0070018
69	.0072122
70	.0074365
71	.0076750
72	.0079285
73	.0081977
74	.0084836
75	.0087870
76	.0091089
77	.0094497
78	.0098095
79	.0101882
80	.0105851
81	.0109995
82	.0114309

Member Older

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.877	0.914	0.934
1	0.867	0.907	0.929
2	0.857	0.900	0.923
3	0.850	0.894	0.919
4	0.844	0.890	0.916
5	0.840	0.887	0.913
6	0.835	0.884	0.910
7	0.831	0.881	0.908
8	0.828	0.878	0.906
9	0.824	0.876	0.904
10	0.821	0.873	0.902
11	0.818	0.871	0.900
12	0.814	0.868	0.898
13	0.811	0.865	0.895
14	0.806	0.862	0.893
15	0.799	0.857	0.888
16	0.795	0.853	0.886
17	0.791	0.850	0.883
18	0.789	0.849	0.882
19	0.786	0.847	0.880
20	0.784	0.845	0.879
21	0.782	0.843	0.877
22	0.780	0.841	0.876
23	0.778	0.840	0.875
24	0.776	0.838	0.874
25	0.774	0.837	0.872
26	0.772	0.835	0.871
27	0.770	0.834	0.870
28	0.769	0.833	0.869
29	0.767	0.831	0.868
30	0.766	0.831	0.867
31	0.765	0.830	0.867
32	0.763	0.828	0.865
33	0.762	0.827	0.865
34	0.761	0.827	0.864
35	0.760	0.826	0.864
36	0.759	0.825	0.863
37	0.758	0.824	0.862
38	0.757	0.824	0.862



Teachers' Retirement Board of Trustees

415-112-040

Monthly Benefit per \$1.00 of Accumulation		Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
83	.0118787	24	0.666	0.749	0.799
84	.0123425	25	0.663	0.747	0.797
85	.0128212	26	0.659	0.743	0.794
86	.0133167	27	0.655	0.740	0.792
87	.0138277	28	0.652	0.738	0.789
88	.0143534	29	0.649	0.735	0.787
89	.0148925	30	0.646	0.732	0.785
90	.0154423	31	0.643	0.730	0.783
91	.0159988	32	0.640	0.727	0.781
92	.0165585	33	0.637	0.725	0.778
93	.0171179	34	0.635	0.723	0.777
94	.0176717	35	0.632	0.721	0.775
95	.0182139	36	0.630	0.719	0.773
96	.0187396	37	0.628	0.717	0.772
97	.0192453	38	0.626	0.715	0.770
98	.0197237	39	0.624	0.714	0.769
99	.0201727	40	0.622	0.712	0.767

Age difference = member's age minus beneficiary age

TRS II Survivor Options

Age Difference	Member Younger		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.949	0.965	0.974
-19	0.947	0.964	0.974
-18	0.945	0.962	0.973
-17	0.941	0.960	0.972
-16	0.939	0.958	0.972
-15	0.936	0.956	0.971
-14	0.932	0.954	0.971
-13	0.928	0.951	0.969
-12	0.924	0.948	0.968
-11	0.919	0.945	0.966
-10	0.915	0.942	0.965
-9	0.912	0.939	0.962
-8	0.909	0.937	0.960
-7	0.905	0.934	0.956
-6	0.902	0.932	0.954
-5	0.898	0.930	0.951
-4	0.892	0.925	0.947
-3	0.883	0.919	0.941
-2	0.869	0.908	0.931
-1	0.851	0.895	0.920

TEACHERS  
RETIREMENT SYSTEM  
PLAN 2

Early Retirement Factors  
by Year and Month

	0	0	1.0000
		1	.9916
		2	.9832
		3	.9748
		4	.9664
		5	.9580
		6	.9495
		7	.9411
		8	.9327
		9	.9243
		10	.9159
		11	.9075
1	0	0	.8991
		1	.8916
		2	.8842
		3	.8768
		4	.8693
		5	.8619
		6	.8545
		7	.8470
		8	.8396
		9	.8322
		10	.8247
		11	.8173
2	0	0	.8099
		1	.8033
		2	.7967
		3	.7901
		4	.7835
		5	.7769
		6	.7704
		7	.7638
		8	.7572
		9	.7506
		10	.7440
		11	.7374
3	0	0	.7308
		1	.7250
		2	.7191
		3	.7133
		4	.7074
		5	.7016
		6	.6957
		7	.6899
		8	.6840
		9	.6781
		10	.6723

Age Difference	Member Older		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.832	0.881	0.908
1	0.814	0.868	0.897
2	0.797	0.855	0.887
3	0.784	0.845	0.879
4	0.777	0.839	0.875
5	0.770	0.834	0.870
6	0.763	0.829	0.866
7	0.757	0.824	0.862
8	0.751	0.819	0.858
9	0.746	0.815	0.855
10	0.740	0.810	0.851
11	0.735	0.806	0.847
12	0.729	0.801	0.843
13	0.722	0.795	0.838
14	0.713	0.789	0.833
15	0.706	0.783	0.828
16	0.700	0.778	0.824
17	0.696	0.774	0.821
18	0.691	0.771	0.818
19	0.687	0.767	0.814
20	0.683	0.763	0.811
21	0.679	0.760	0.809
22	0.675	0.757	0.806
23	0.670	0.753	0.802

Early Retirement Factors by Year and Month			Early Retirement Factors by Year and Month		
4	11	.6664	10	11	.3740
	0	.6606		0	.3710
	1	.6554		1	.3683
	2	.6502		2	.3656
	3	.6449		3	.3628
	4	.6397		4	.3601
	5	.6345		5	.3574
	6	.6293		6	.3547
	7	.6241		7	.3520
	8	.6189		8	.3493
	9	.6137		9	.3465
5	10	.6085	11	10	.3438
	11	.6032		11	.3411
	0	.5980		0	.3384
	1	.5934		1	.3359
	2	.5887		2	.3335
	3	.5841		3	.3310
	4	.5794		4	.3286
	5	.5748		5	.3261
	6	.5701		6	.3237
	7	.5654		7	.3212
	8	.5608		8	.3188
6	9	.5561	12	9	.3163
	10	.5515		10	.3139
	11	.5468		11	.3114
	0	.5422		0	.3089
	1	.5380		1	.3067
	2	.5338		2	.3045
	3	.5297		3	.3023
	4	.5255		4	.3001
	5	.5214		5	.2979
	6	.5172		6	.2956
	7	.5130		7	.2934
7	8	.5089	13	8	.2912
	9	.5047		9	.2890
	10	.5005		10	.2868
	11	.4964		11	.2846
	0	.4922		0	.2823
	1	.4885		1	.2803
	2	.4847		2	.2783
	3	.4810		3	.2763
	4	.4773		4	.2743
	5	.4735		5	.2723
	6	.4698		6	.2703
8	7	.4661	14	7	.2683
	8	.4623		8	.2663
	9	.4586		9	.2643
	10	.4549		10	.2623
	11	.4511		11	.2603
	0	.4474		0	.2582
	1	.4441		1	.2564
	2	.4407		2	.2546
	3	.4374		3	.2528
	4	.4340		4	.2510
	5	.4307		5	.2491
9	6	.4273	15	6	.2473
	7	.4239		7	.2455
	8	.4206		8	.2437
	9	.4172		9	.2419
	10	.4139		10	.2400
	11	.4105		11	.2382
	0	.4072		0	.2364
	1	.4042		1	.2348
	2	.4012		2	.2331
	3	.3981		3	.2315
	4	.3951		4	.2298
5	.3921	5	.2282		
6	.3891	6	.2265		
7	.3861	7	.2248		
8	.3831	8	.2232		
9	.3800	9	.2215		
10	.3770	10	.2199		

Teachers' Retirement Board of Trustees

415-112-040

Early Retirement Factors  
by Year and Month

Early Retirement Factors  
by Year and Month

16	11	.2182	22	11	.1309
	0	.2166		0	.1299
	1	.2151		1	.1291
	2	.2136		2	.1282
	3	.2121		3	.1274
	4	.2106		4	.1265
	5	.2091		5	.1256
	6	.2076		6	.1248
	7	.2061		7	.1239
	8	.2046		8	.1230
	9	.2031		9	.1222
17	10	.2016	23	10	.1213
	11	.2001		11	.1205
	0	.1986		0	.1196
	1	.1972		1	.1188
	2	.1959		2	.1180
	3	.1945		3	.1172
	4	.1931		4	.1164
	5	.1918		5	.1156
	6	.1904		6	.1149
	7	.1890		7	.1141
	8	.1877		8	.1133
18	9	.1863	24	9	.1125
	10	.1849		10	.1117
	11	.1836		11	.1109
	0	.1822		0	.1101
	1	.1810		1	.1094
	2	.1797		2	.1087
	3	.1785		3	.1079
	4	.1772		4	.1072
	5	.1760		5	.1065
	6	.1747		6	.1058
	7	.1735		7	.1051
19	8	.1723	25	8	.1043
	9	.1710		9	.1036
	10	.1698		10	.1029
	11	.1685		11	.1022
	0	.1673		0	.1014
	1	.1662		1	.1008
	2	.1650		2	.1001
	3	.1639		3	.0994
	4	.1628		4	.0988
	5	.1616		5	.0981
	6	.1605		6	.0975
20	7	.1594	26	7	.0968
	8	.1582		8	.0961
	9	.1571		9	.0955
	10	.1560		10	.0948
	11	.1548		11	.0941
	0	.1537		0	.0935
	1	.1527		1	.0929
	2	.1516		2	.0923
	3	.1506		3	.0917
	4	.1496		4	.0911
	5	.1485		5	.0904
21	6	.1475	27	6	.0898
	7	.1465		7	.0892
	8	.1454		8	.0886
	9	.1444		9	.0880
	10	.1433		10	.0874
	11	.1423		11	.0868
	0	.1413		0	.0862
	1	.1403		1	.0856
	2	.1394		2	.0851
	3	.1384		3	.0845
	4	.1375		4	.0840
5	.1366	5	.0834		
6	.1356	6	.0828		
7	.1347	7	.0823		
8	.1337	8	.0817		
9	.1328	9	.0812		
10	.1318	10	.0806		

## Title 415 WAC: Retirement Systems, Department of

Early Retirement Factors  
by Year and MonthEarly Retirement Factors  
by Year and Month

	11	.0801		11	.0497
28	0	.0795	34	0	.0493
	1	.0790		1	.0490
	2	.0785		2	.0487
	3	.0780		3	.0484
	4	.0775		4	.0481
	5	.0769		5	.0478
	6	.0764		6	.0475
	7	.0759		7	.0472
	8	.0754		8	.0469
	9	.0749		9	.0465
	10	.0744		10	.0462
	11	.0739		11	.0459
29	0	.0734	35	0	.0456
	1	.0729		1	.0453
	2	.0724		2	.0450
	3	.0720		3	.0448
	4	.0715		4	.0445
	5	.0710		5	.0442
	6	.0705		6	.0439
	7	.0701		7	.0436
	8	.0696		8	.0433
	9	.0691		9	.0430
	10	.0687		10	.0428
	11	.0682		11	.0425
30	0	.0677	36	0	.0422
	1	.0673		1	.0419
	2	.0669		2	.0417
	3	.0664		3	.0414
	4	.0660		4	.0411
	5	.0656		5	.0409
	6	.0651		6	.0406
	7	.0647		7	.0403
	8	.0643		8	.0401
	9	.0638		9	.0398
	10	.0634		10	.0396
	11	.0630		11	.0393
31	0	.0625	37	0	.0390
	1	.0621		1	.0388
	2	.0617		2	.0385
	3	.0613		3	.0383
	4	.0609		4	.0381
	5	.0605		5	.0378
	6	.0602		6	.0376
	7	.0598		7	.0373
	8	.0594		8	.0371
	9	.0590		9	.0368
	10	.0586		10	.0366
	11	.0582		11	.0364
32	0	.0578	38	0	.0361
	1	.0574		1	.0359
	2	.0570		2	.0357
	3	.0567		3	.0354
	4	.0563		4	.0352
	5	.0559		5	.0350
	6	.0556		6	.0348
	7	.0552		7	.0345
	8	.0548		8	.0343
	9	.0545		9	.0341
	10	.0541		10	.0339
	11	.0537		11	.0336
33	0	.0534	39	0	.0334
	1	.0530		1	.0332
	2	.0527		2	.0330
	3	.0524		3	.0328
	4	.0520		4	.0326
	5	.0517		5	.0324
	6	.0514		6	.0322
	7	.0510		7	.0320
	8	.0507		8	.0318
	9	.0503		9	.0316
	10	.0500		10	.0313

Early Retirement Factors  
by Year and Month

MEMBERSHIP

	11	.0311
40	0	.0309
	1	.0307
	2	.0306
	3	.0304
	4	.0302
	5	.0300
	6	.0298
	7	.0296
	8	.0294
	9	.0292
	10	.0290
41	11	.0288
	0	.0286
	1	.0285
	2	.0283
	3	.0281
	4	.0279
	5	.0278
	6	.0276
	7	.0274
	8	.0272
	9	.0271
42	10	.0269
	11	.0267
	0	.0265
	1	.0264
	2	.0262
	3	.0260
	4	.0259
	5	.0257
	6	.0255
	7	.0254
	8	.0252
43	9	.0251
	10	.0249
	11	.0247
	0	.0246
	1	.0244
	2	.0243
	3	.0241
	4	.0240
	5	.0238
	6	.0237
	7	.0235
44	8	.0234
	9	.0232
	10	.0231
	11	.0229
	0	.0228
	1	.0226
	2	.0225
	3	.0223
	4	.0222
	5	.0221
	6	.0219
45 or more	7	.0218
	8	.0216
	9	.0215
	10	.0214
	11	.0212
	0	.0211

[Statutory Authority: RCW 41.50.050. 96-03-100, § 415-112-040, filed 1/19/96, effective 2/19/96. Statutory Authority: RCW 41.50.050 and 41.32.140. 91-19-065, § 415-112-040, filed 9/16/91, effective 10/17/91; 91-02-020, § 415-112-040, filed 12/21/90, effective 1/21/91.]

**WAC 415-112-100 Minimum requirement for membership.** Ninety calendar days of employment within a fiscal year as a full-time teacher, or the equivalent of ninety days of service within a fiscal year as a teacher employed on a part-time, occasional, hourly, or daily basis, shall be required, together with necessary contributions, before membership in the teachers' retirement system is established and before the director may approve an application for cancellation of exemption, for the granting of additional credit for previous service, or for the payment of any benefit.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-100, filed 2/15/78. Formerly WAC 462-16-010.]

**WAC 415-112-110 Teachers' retirement system employees eligible for membership.** New employees of the department who are qualified teachers and former members of the teachers' retirement system will be eligible for membership in the teachers' retirement system with the director's permission.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-110, filed 2/15/78. Formerly WAC 462-16-020.]

**WAC 415-112-119 Purpose and scope of eligibility rules.** WAC 415-112-120 through 415-112-155 codifies the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in TRS Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-119, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-120 Am I eligible to establish membership? (1) You must be a teacher.** You are eligible to establish membership as provided under WAC 415-112-125 only if you work as a teacher. You are a teacher if you are qualified to teach and work for a public school in an instructional, administrative or supervisory capacity.

**(2) Nonteaching positions.** Positions which do not require service in an instructional, administrative or supervisory capacity include, but are not limited to, the following: Custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, and payroll clerk.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-120, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-125 If I am eligible, how can I establish membership? (1) If you met the conditions in the following table, you established TRS membership.** Your plan status depends upon the date you established membership, as indicated in the following table:

Period of Service	Type of Employment	Plan
Prior to 10/01/77 <sup>1</sup>	If you were contracted to teach full-time you were mandated into membership. If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days <sup>2</sup> during a fiscal year.	Plan I
10/01/77 through 06/06/90	If you were contracted to teach full-time you were required to be a member. If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days <sup>2</sup> during a school year, provided 1 month had at least 90 hours.	Plan II
6/07/90 through 08/31/91	You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during a school year). For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.	Plan II
9/01/91 forward	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during a school year). For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan II

<sup>1</sup> If you previously established Plan I membership as detailed above, you may reestablish Plan I membership after October 1, 1977.

<sup>2</sup> "Ninety days of employment," under RCW 41.32.240 and this section means either:

- Ninety full-time calendar days, or the equivalent, during a school year if you were employed as a teacher under a contract; or
- Ninety full-time days of actual, compensated service, or the equivalent, during a school year if you were employed as a substitute teacher.
- The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- "Member" - RCW 41.32.010.
- "Eligible position" - RCW 41.32.010.
- "Employer" - RCW 41.32.010.
- "Full-time" - RCW 41.32.240
- "Service" - RCW 41.32.010.
- "Substitute teacher" - RCW 41.32.010.
- "Teacher" - RCW 41.32.010.
- "School year" - WAC 415-112-0161.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-125, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-130 If I separate from, and then reenter employment, can I continue to participate in TRS? (1) If you are a TRS Plan I member, you will participate in TRS Plan I if you become reemployed with a TRS employer.** If you are a Plan I member and have separated from service without withdrawing contributions, you will participate in the system again if you become reemployed with a TRS employer, even if you are not working as a teacher.

(2) **If you terminate TRS Plan I membership, you will not reenter TRS Plan I unless you requalify for membership or repay withdrawn contributions as a dual member.** If you were a Plan I member and have terminated your membership, you can reestablish your membership and be eligible to participate in the system again only if you:

- Become reemployed as a teacher in a position or positions meeting the membership eligibility criteria under RCW 41.32.240 and WAC 415-112-125(1); or

- Repaid withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).

(3) **If you have service credit in TRS Plan II, you will only reestablish membership if you work as a teacher in an eligible position.** If you were a Plan II member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:

- Become reemployed as a teacher; and
- Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- "Dual member" - RCW 41.54.010 and WAC 415-113-041.
- "Eligible position" - RCW 41.32.010.
- "Employer" - RCW 41.32.010.
- "Member" - RCW 41.32.010.
- "Service" - RCW 41.32.010.
- "Service in an administrative or supervisory capacity" - WAC 415-112-0162.
- "Service in an instructional capacity" - WAC 415-112-0163.
- "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-130, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-135 Can I be a member if I work as an educational staff associate? (1) You are eligible for membership if you are certificated and employed as an educa-**

**tional staff associate.** You are a teacher for purposes of TRS membership if you:

(a) Possess a valid educational staff associate certificate issued by the office of the superintendent of public instruction under WAC 180-75-055(3); and

(b) Serve in an educational staff associate position.

(2) **Positions which qualify as an educational staff associate.** "Educational staff associate," includes but is not limited to a person employed by a public school in any of the following positions: Communications disorder specialist, occupational therapist, physical therapist, reading resource technician, school counselor, school nurse, school psychologist, school social worker and school librarian.

(3) **If you were enrolled in PERS before June 7, 1984, based on your employment as an educational staff associate, you may remain in PERS.** If you were enrolled in the PERS prior to June 7, 1984, based on employment as an educational staff associate, you will remain in PERS unless you choose either to:

(a) Transfer your membership to TRS within the time limits established in RCW 41.32.032; or

(b) Terminate your membership in PERS by withdrawing your accumulated contributions.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010.

(b) "Employer" - RCW 41.32.010.

(c) "Public school" - RCW 41.32.010 and WAC 415-112-0158.

(d) "Service" - RCW 41.32.010.

(e) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-135, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher? (1) You may apply for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria.**

(a) **TRS Plan I.**

(i) If you are a former Plan I member, you may apply to reestablish Plan I membership if you work ninety or more full-time days during a school year as a teacher.

(ii) If you are a Plan I member, you may apply to the department for service credit in Plan I as a substitute teacher if you work a minimum of twenty full-time days during a school year.

(b) **TRS Plan II.**

(i) You may apply to the department for membership in Plan II if you:

(A) Work at least seventy hours for five or more months during a school year; or

(B) Worked at least ninety hours for two consecutive months during the school year of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan II and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher during a school year.

(1999 Ed.)

(2) **To apply, you must submit your employer's quarterly reports to the department at the end of a year.**

(a) To apply for membership and service credit as a substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:

(i) June 30 of the year for which you are applying for Plan I service credit; or

(ii) August 31 of the year for which you are applying for Plan II service credit.

(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010.

(b) "Service" - RCW 41.32.010.

(c) "Substitute teacher" - RCW 41.32.010.

(d) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-140, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-145 Can I terminate my status as a member? (1) If you are a TRS Plan I member, you will remain a member until you:**

(a) Die;

(b) Retire for service or disability; or

(c) Withdraw your accumulated contributions.

(2) If you are a TRS Plan II member, you will remain a member until you:

(a) Die;

(b) Retire for service or disability; or

(c) Separate from service as a teacher in an eligible position.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.32.010.

(b) "Member" - RCW 41.32.010.

(c) "Service" - RCW 41.32.010.

(d) "Teacher" - RCW 41.32.010.

[Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-145, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-155 If I work in both a TRS position and PERS position during the same school year, which system will I be in? (1) If you work in both a TRS and PERS position during the same school year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS or PERS according to the following tables:**

[Title 415 WAC—p. 103]

Former TRS Plan I Members <sup>2L</sup>

Type of Concurrent Employment <sup>2L</sup>	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240. If you elect to establish TRS membership, you must elect either to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>

## TRS Plan I Members

Type of Concurrent Employment <sup>2L</sup>	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	You must elect either to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

## TRS Plan II Members

Type of Concurrent Employment <sup>2L</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.
An eligible TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. <sup>2L</sup>
	A TRS employer and non-TRS employer	You must elect either to: <ol style="list-style-type: none"> <li>1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or</li> <li>2. Have your TRS service reported in TRS and not receive service credit for the PERS position.</li> </ol>



PERS Members

Type of Concurrent Employment <sup>2</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125 (1).  If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either:  1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Neither TRS Nor PERS Member

Type of Concurrent Employment <sup>2</sup>	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

<sup>1</sup> "Former TRS I member", as used here, means you terminate your membership by withdrawing your contributions.

<sup>2</sup> "Concurrently" means during the same school year.

<sup>3</sup> EXAMPLE: A TRS II member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS II through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS II.

EXAMPLE: A TRS II member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS II member, School District B employer must report his service and compensation from the PERS position to the Department in TRS II. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.32.010 (TRS); RCW 41.40.010 (PERS).

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Full time" - RCW 41.32.240.

(d) "Ineligible position" - WAC 415-112-0154 (TRS); RCW 41.40.010 (PERS).

(e) "Member" - RCW 41.40.010.

(f) "Membership" - RCW 41.40.023.

(g) "Report" - WAC 415-108-0104.

(h) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050, 95-16-053, § 415-112-155, filed 7/25/95, effective 8/25/95.]

**SERVICE CREDIT**

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

(2) Once a member becomes eligible to establish or reestablish additional credit for previous service, he retains the right to establish or reestablish such additional credit while his membership is in effect and whether or not he is continuously employed in Washington public school service, provided he applies to the department, submits satisfactory proof

of his service, and makes the required initial payment within the time limit established by law.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-200, filed 2/15/78. Formerly WAC 462-20-005.]

**WAC 415-112-210 Withdrawal before final date for establishing additional credit.** Any member who withdraws from the teachers' retirement system within the period provided by law for establishing additional service credit may, upon returning to membership, have another opportunity to establish credit for previous creditable service, subject to the laws in effect when his membership is reestablished.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-210, filed 2/15/78. Formerly WAC 462-20-010.]

**WAC 415-112-220 Withdrawal before making final payment to establish additional credit.** A member who has completed arrangements to establish or reestablish additional credit for previous service, but who withdraws before the final payment is due and before making the final payment may, upon returning to membership, have another opportunity to establish such additional credit, subject to the laws in effect when he returns to membership.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-220, filed 2/15/78. Formerly WAC 462-20-015.]

**WAC 415-112-230 Failure to make final payment to establish credit.** When a member enters into an arrangement to establish or reestablish additional credit for previous service and fails to make the final payment within the time limit established by law, such arrangement is terminated, and any payments made for such service credit shall be returned to the member.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-230, filed 2/15/78. Formerly WAC 462-20-020.]

**WAC 415-112-240 Service credit to be retroactive.** Service rendered during the ninety days of employment or the ninety days of service required to establish membership after July 1, 1964, shall qualify as creditable service after membership has been established, except as to Plan II members.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-240, filed 2/15/78. Formerly WAC 462-20-025.]

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

Plan II members may receive such credit in accordance with chapter 295, Laws of 1977 ex. sess. as now or hereafter amended.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-250, filed 2/15/78. Formerly WAC 462-20-030.]

**WAC 415-112-260 Credit for service in higher institutions.** Service credit for teaching in public higher educational institutions shall be evaluated under the same rules and

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regulations as apply to service credit in public common schools.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-260, filed 2/15/78. Formerly WAC 462-20-035.]

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

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-270, filed 2/15/78. Formerly WAC 462-20-040.]

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

Military service credits for Plan II members will be governed by the provisions of chapter 293, Laws of 1977 ex. sess.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-280, filed 2/15/78. Formerly WAC 462-20-045.]

**WAC 415-112-290 Credit for out-of-state service.** (1) A member who leaves Washington public school service and terminates his membership in the teachers' retirement system by lapsation or withdrawal and who subsequently returns to service and membership may establish or reestablish only such credit for out-of-state service as may be credited under the laws in effect at the time when he reestablishes membership.

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

(3) Out-of-state membership service credit, regardless of when the service was rendered, may be established or reestablished after July 1, 1964, within the limitations of existing law, only if the out-of-state service was rendered while the member was on official leave of absence granted by a state of Washington employer.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-290, filed 2/15/78. Formerly WAC 462-20-055.]

**WAC 415-112-300 Red Cross service.** Service credit shall not be allowed for service with the National Red Cross organization.

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[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-300, filed 2/15/78. Formerly WAC 462-20-060.]

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

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

**WAC 415-112-320 Service as a Peace Corps volunteer.** A member of the teachers' retirement system who serves as a Peace Corps volunteer shall not be considered as employed in public school teaching service and shall, therefore, not be eligible under RCW 41.32.300 and 41.32.320 to establish out-of-state service credit for service rendered as a Peace Corps volunteer.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-320, filed 2/15/78. Formerly WAC 462-20-070.]

**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

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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.]

## EARNABLE COMPENSATION—MEMBER CONTRIBUTIONS

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

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

(b) If a teacher who is not a member is employed for less than ninety days in a school year, and thus fails to establish

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membership, any salary deductions for retirement shall be refunded in full upon termination of his employment as a teacher and upon filing a refund application with the department. If a member is employed by an employer for less than twenty days in a school year, any salary deductions for retirement based on service during that year shall be refunded in full upon termination of his employment for that year and the filing of a refund application with the department.

(2) Plan II.

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

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

[Statutory Authority: RCW 41.50.050(6), 79-10-024 (Order 79-02), § 415-112-400, filed 9/10/79. Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-400, filed 2/15/78. Formerly WAC 462-24-010.]

**WAC 415-112-412 Nonmoney maintenance compensation. Are payments from my employer in any form other than money considered compensation earnable?**

(1) TRS Plan I members.

(a) **If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not earnable compensation.**

(i) The value of employer-provided materials is not earnable compensation if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities:

Example: An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not earnable compensation.

(b) **The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses.** Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not earnable compensation.

(c) **If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.**

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(i) "Nonmoney maintenance compensation" means the fair market value of materials legally furnished by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance compensation does not include any form of compensation other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) **Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services.** In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as earnable compensation. If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records, or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

Example: An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation. The employer must report \$400.00 per month to the department as earnable compensation for the employee.

(e) **How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation.** In addition to the records required under (d) of this subsection, you may provide the department with any oral or written evidence which you or your employer believe corroborates that your use of employer-provided materials qualifies as earnable compensation. However, oral evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer

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provides you with the item of compensation is generally much stronger than oral evidence or written evidence created later.

(2) **TRS Plan II members.** If you are a TRS Plan II member, you are not entitled to count the value of any non-money maintenance compensation you receive from your employer as earnable compensation.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-112-412, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.32.010(11) and 41.32.160, 87-17-060 (Order DRS 87-07), § 415-112-412, filed 8/19/87.]

**WAC 415-112-413 Vehicles—Does the value of my use of an employer vehicle qualify as earnable compensation? (1) TRS Plan I members:**

(a) **If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as earnable compensation.** Use of an employer-provided vehicle only qualifies as earnable compensation to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as earnable compensation if:

(i) You use the vehicle solely in connection with your employer's business; or

(ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.

(b) **The department presumes that any employer-provided vehicle is used solely in connection with your employer's business and does not qualify as earnable compensation.**

(c) **A portion of your use of an employer-provided vehicle may qualify as earnable compensation.** In order for any portion of your use of an employer vehicle to qualify as earnable compensation, your employer must either:

(i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or

(ii) Maintain monthly records reflecting your personal use of the vehicle.

(d) **Your personal use of an employer vehicle qualifies as earnable compensation if your employer reports your use to the IRS as taxable income.** Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as earnable compensation.

(e) **Your personal use of an employer vehicle qualifies as earnable compensation to the extent your employer documents your personal use of the vehicle.** If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as earnable compensation if your employer maintains monthly contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:

(i) Whether your employer authorized you to use the vehicle for personal use, including commuting;

(ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;

(iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;

(iv) The total number of miles you drove the vehicle during the month; and

(v) The percentage of the total miles you drove the vehicle during the month for personal use, including commuting.

(f) **Your employer must report as earnable compensation an amount based on your personal use of the vehicle.** If your employer maintains records documenting your personal use of the vehicle as provided in (e) of this subsection, your employer must report to the department as monthly earnable compensation the lesser of the following amounts;

(i) Monthly Fair Market Lease Value of the Vehicle

x

Percentage of Personal Use of the Vehicle During the Month;

or

Miles of Personal Use

x

IRS Mileage Rate

(ii) "IRS mileage rate" means the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.

(2) **TRS Plan II members.** If you are a TRS Plan II member, you are not entitled to count any of the value of an employer-provided vehicle as earnable compensation.

[Statutory Authority: RCW 41.50.050, 95-22-006, § 415-112-413, filed 10/18/95, effective 11/18/95. Statutory Authority: RCW 41.32.010(11) and 41.32.160, 87-17-060 (Order DRS 87-07), § 415-112-413, filed 8/19/87.]

**WAC 415-112-41301 Vehicle allowances—Are vehicle allowances earnable compensation? (1) If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not earnable compensation.** Your vehicle allowance does not qualify as earnable compensation if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes. See WAC 415-112-410 (3)(e) and 415-112-411 (3)(g).

(2) **The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not earnable compensation.** If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.

(3) **Your vehicle allowance may qualify as earnable compensation to the extent that it exceeds your actual expenses.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is earnable compensation. Your employer must maintain

monthly contemporaneous records documenting the following:

(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;

(b) The miles you drove the vehicle on each of these trips; and

(c) Your itinerary for each of these trips.

(4) **How to determine what amount of your vehicle allowance, if any, is reportable as earnable compensation.** If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as earnable compensation:

Your Vehicle Allowance LESS (Miles X IRS Rate)

(a) "Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.

(b) "IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(5) **Your vehicle allowance qualifies as earnable compensation if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes.** If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is earnable compensation.

(6) **Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation.** If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050. 95-22-006, § 415-112-41301, filed 10/18/95, effective 11/18/95.]

**WAC 415-112-415 Treatment of cash payments made in lieu of unused leave—First-in-first-out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions.** (1) Cash compensation in lieu of unused annual leave may be considered earnable compensation for Plan I members subject to the provisions of RCW 41.32.010 (10)(a) and WAC 415-112-410. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual leave as compensation earnable in conflict with RCW 41.32.010 (10)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules applied by an employer that conflict with RCW 41.32.010 (10)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned and when or whether the leave was used or cashed out, unless the employer has in place a regulation, charter provision, ordinance, collective bargaining

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agreement, or other comparable written policy statement which clearly delineates when the cashed out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-112-015, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer of one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.

[Statutory Authority: RCW 41.50.050. 94-23-049, § 415-112-415, filed 11/10/94, effective 12/11/94. Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-112-415, filed 5/5/94, effective 6/5/94. Statutory Authority: RCW 41.32.010(11) and 41.32.160. 87-17-060 (Order DRS 87-07), § 415-112-415, filed 8/19/87.]

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

(2) In determining a member's earnable compensation for any fiscal year prior to July 1, 1967, the director shall in all cases of doubt secure confirmation from the employer of all salary and wages paid to a member for any fiscal year in question.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-420, filed 2/15/78. Formerly WAC 462-24-030.]

**WAC 415-112-430 Computing the average earnable compensation.** In computing a member's average earnable compensation, the computations shall include only the ser-

vice during which a member was employed for salary or wages by a state of Washington employer and for which he established Washington membership service credit with the teachers' retirement system. This excludes out-of-state service, military service and professional preparation or other service for which credit may have been established but for which no salary or wages were paid to the member by a state of Washington employer. Contributions based on sabbatical leave, paid sick leave, or other leave paid for by a state of Washington employer and for which credit has been established with the teachers' retirement system shall be included in computing the earnable compensation.

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

**WAC 415-112-440 Withdrawal of contributions. (1)**

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

(2) A member who is on official leave of absence from a Washington public school employer shall not be considered to have terminated his employment and, therefore, shall not be eligible to qualify for withdrawal of his accumulated contributions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-440, filed 2/15/78. Formerly WAC 462-24-050.]

**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 earnable compensation 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 <sup>1</sup>	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 <sup>2</sup>	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 <sup>3</sup>	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

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

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

<sup>3</sup>A 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 <sup>4</sup>
Time Off with Pay	Yes - WAC 415-112-473 WAC 415-112-4605	Yes - WAC 415-112-473 WAC 415-112-4605
Union Leave <sup>5</sup>	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Worker's Compensation	No - WAC 415-112-483	No - WAC 415-112-483

<sup>4</sup> Reportable only if member is employed in an eligible position.

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

[Statutory Authority: RCW 41.50.050, 98-09-059, § 415-112-445, filed 4/17/98, effective 5/18/98; 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 employee 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 TRS Plan I member employed as 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 TRS Plan I 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. 98-09-059, § 415-112-4608, filed 4/17/98, effective 5/18/98; 97-03-016, § 415-112-4608, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-4609 Payroll deductions.** Salary or wages for services rendered that are withheld from a member's pay still qualify as reportable compensation.

(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. 98-09-059, § 415-112-4609, filed 4/17/98, effective 5/18/98; 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

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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

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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 "severance 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.]

## SERVICE RETIREMENT

**WAC 415-112-500 Minimum service required for retirement.** In qualifying a member for a retirement allowance the minimum service requirement of "five years of credit for public school service in this state" as set forth in

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RCW 41.32.470 shall not include credit for professional preparation or credit for military service, but shall be limited to credit for Washington public school service.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-500, filed 2/15/78. Formerly WAC 462-28-005.]

**WAC 415-112-510 Eligibility for retirement with less than five years of Washington service credit.** A member whose membership was established prior to July 1, 1964, and who continued his membership without interruption beyond July 1, 1964, may, if otherwise eligible, qualify for a retirement allowance even though he has less than five years of credit for public school service in this state, provided he has been a member of the teachers' retirement system, the former state fund or a local fund, or both together, for at least five years.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-510, filed 2/15/78. Formerly WAC 462-28-010.]

**WAC 415-112-515 When a member of the teacher's retirement system Plan I enters retirement status.** A member of the teacher's retirement system Plan I enters retirement status when he or she:

- (1) Has terminated all public school employment in the state of Washington;
- (2) Has no written agreement to return to public school employment; and
- (3) Has received his or her first monthly retirement payment.

[Statutory Authority: RCW 41.50.050 and 41.32.570. 91-21-084, § 415-112-515, filed 10/18/91, effective 11/18/91.]

**WAC 415-112-520 Date from which service retirement allowance accrues.** (1) Upon approval by the board of trustees of an application for service retirement, the teachers' retirement allowance shall accrue from the first of the month following that in which a member terminated public school service, unless a full year of Washington service credit is established for the school year in which a member retires, in which case the date of accrual of his retirement allowance shall be July 1st following the member's final year of service. In no case shall the accrual date be prior to the first of the month following that in which proof and payment are received to establish membership or additional service credit.

(2) If a member terminates public school employment prior to eligibility for a service retirement allowance and at some future date qualifies for a deferred retirement allowance on the basis of age, the accrual date of such member's retirement allowance shall be the date on which the member reaches the minimum age required for such an allowance, provided the member is not employed in public education at the time. (Cross reference: WAC 415-112-620)

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-520, filed 2/15/78. Formerly WAC 462-28-020.]

**WAC 415-112-530 Balance of monthly payment due on date of death.** In the event of death between allowance payment dates of an individual receiving a monthly retirement allowance, the proportionate amount accrued to and

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including the date of death shall be paid to the designated beneficiary or to the decedent's estate.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-530, filed 2/15/78. Formerly WAC 462-28-035.]

**WAC 415-112-540 How will returning to work affect my TRS I monthly pension?** This section implements RCW 41.32.570(1) which limits employment for TRS I retirees with public educational institutions to five hundred twenty-five hours regardless of the nature of service. In certain circumstances RCW 41.32.570 (2) and (3) allow additional service without suspension of your TRS I pension. Those limitations are discussed in WAC 415-112-545.

**(1) You may return to any type of service with a public educational institution for up to five hundred twenty-five hours per school year without affecting your TRS I monthly pension.** RCW 41.32.570(1).

(a) Your employer must notify the department if you work more than five hundred twenty-five hours for a public educational institution during a school year, unless you qualify for additional service under RCW 41.32.570 (2) or (3), see WAC 415-112-545.

(b) If you are a TRS Plan I retiree, you may elect to return to membership if you are employed by a public school. If you so elect, the department will suspend your monthly pension effective from the first of the month during which you return to employment.

(c) If you are a TRS Plan I retiree working for a public educational institution as a bona fide independent contractor as determined under WAC 415-02-110, you are not considered an employee of the institution and are not subject to the work limitations of RCW 41.32.570.

**(2) If you work for more than five hundred twenty-five hours during a school year the department will suspend your monthly pension.** In some cases you may be able to work an additional one hundred five hours, see WAC 415-112-545.

(a) If you return to any type of service with a public educational institution pursuant to a written contract or other continuing employment relationship, and you work for more than five hundred twenty-five hours during a school year, the department will suspend your monthly pension beginning with the five hundred twenty-sixth hour of employment.

(b) If you serve as a substitute teacher for more than five hundred twenty-five hours during a school year, the department will reduce your monthly pension by five percent for each day you work beyond the five hundred twenty-five hour limit until your monthly pension is reduced to zero.

**(3) You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section or WAC 415-112-545.**

**(4) The department will reinstate your pension at the end of the school year or after you terminate your employment.** If the department suspends or reduces your monthly pension due to your reemployment, the department will reinstate the original amount of your pension, less deductions to recapture any overpayment, effective the day following your termination of employment, or at the end of the school year, whichever comes first.

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**(5) Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Day"; "five hundred twenty-five hours" - WAC 415-112-0152.

(b) "Public educational institution" - WAC 415-112-0157.

(c) "School year" - WAC 415-112-0161.

(d) "Substitute teacher" - RCW 41.32.010(36).

[Statutory Authority: RCW 41.50.050. 97-01-015, § 415-112-540, filed 12/6/96, effective 1/6/97. Statutory Authority: RCW 41.50.050 and 41.32.570. 91-21-084, § 415-112-540, filed 10/18/91, effective 11/18/91. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-540, filed 2/15/78. Formerly WAC 462-28-040.]

**WAC 415-112-545 How can I qualify for an additional one hundred five hours of service without having my TRS I monthly pension reduced?** In addition to the five hundred twenty-five hours of service permitted for TRS I retirees under RCW 41.32.570(1), you are eligible to also serve for up to one hundred five more hours as a substitute teacher or substitute administrator without affecting your pension if you meet each of the following criteria. See RCW 41.32.570 (2) and (3).

**(1) You must be employed by a school district.** The option for TRS I retirees to work an additional one hundred five hours during a school year without affecting their pension is only available to school district employees. An employee of a school district participating in a multidistrict substitute cooperative is also covered. An employee of an educational service district, the State Schools For the Deaf or Blind, or an institution of higher education is not covered.

**(2) You must be employed as a substitute teacher or substitute administrator.**

(a) The term "substitute teacher" as used in RCW 41.32.570(2) is limited to classroom teachers serving on an on-call basis. A person working under a contract with a guaranteed number of hours or days does not qualify as a substitute teacher, see RCW 41.32.010(36).

**Example:**

A school district employs a retiree as a substitute teacher under a contract for ninety days. Because the retiree is employed under a contract and not on an on-call basis, she may not serve for more than five hundred twenty-five hours as a substitute teacher without having her monthly pension suspended.

(b) A substitute administrator is a person who fills in for an absent administrator on a temporary basis. A substitute administrator can be employed under a contract with a guaranteed number of hours. Substitute administrator positions include but are not limited to:

- (i) Principal and assistant principal;
- (ii) Superintendent and assistant superintendent;
- (iii) Personnel manager;
- (iv) Business manager; and
- (v) School librarian.

**(3) Your school district employer must adopt a resolution.** Before a school district can employ a TRS Plan I retiree for an additional one hundred five hours in a fiscal year without affecting his or her TRS I pension, the district must adopt a resolution establishing the need for the additional employment. Each resolution is valid only for the

school year in which it is adopted. The resolution authorizes additional employment only on or after the date it has been adopted and cannot be applied retroactively.

(a) Authorizing additional hours for substitute teachers: To authorize a TRS Plan I retiree to work an additional one hundred five hours in a fiscal year as a substitute teacher, a school district must adopt a resolution stating that it has exhausted or can reasonably anticipate exhausting its list of qualified and available substitutes, and therefore, the services of retired teachers or administrators are necessary to address that shortage.

(i) If a school district is a member of a multidistrict cooperative, the board of each school district in the cooperative must adopt such a resolution.

(ii) After a resolution has been adopted, a school district may employ a TRS Plan I retiree as a substitute teacher for up to an additional one hundred five hours once its list of other qualified and available substitutes has been exhausted.

(b) Authorizing additional hours for substitute administrators: To authorize a TRS Plan I retiree to work an additional one hundred five hours in a fiscal year as a substitute administrator, a school district must adopt a resolution stating that an emergency exists and the services of a retired administrator or retired teacher are required because the school district cannot find a replacement administrator to fill a vacancy.

**(4) Your school district must provide information to the department.** If your school district employer is not a member of a multidistrict substitute cooperative, the district must:

(a) Within thirty days after a resolution is adopted:

(i) Send a copy of the resolution; and

(ii) If the resolution is for substitute teaching, send a list of all TRS Plan I retirees working for the school district as substitute teachers.

(b) During the fiscal year:

(i) Send a copy of any amendments to the resolution or to the list of TRS Plan I retirees working as substitutes;

(ii) Send written notice immediately if any TRS Plan I retiree works beyond six hundred thirty hours.

(c) At the end of the fiscal year: Send a letter indicating the total number of hours worked by each TRS Plan I retiree that exceeded the six hundred thirty hours.

**(5) If your employer is a member of a multidistrict substitute cooperative, the cooperative must provide the information.**

If you are employed by a school district which is a member of a multidistrict substitute cooperative, the cooperative must provide the information specified in subsection (4) of this section on behalf of each participating school district.

**(6) If you serve as a substitute teacher or substitute administrator for the additional one hundred five hours but you are not eligible to do so, the department will reduce your monthly pension.** If you and your school district employer do not meet each of the criteria under this section, you are not eligible to serve as a substitute teacher for the additional one hundred five hours under RCW 41.32.570 (2) or (3). If you serve for more than five hundred twenty-five hours during a school year, the department will reduce

your monthly pension as provided under WAC 415-112-540(3).

**(7) Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Day"; "one hundred five hours"; "five hundred twenty-five hours" - WAC 415-112-0152.

(b) "School year" - WAC 415-112-0161.

(c) "Substitute teacher" - RCW 41.32.010(36).

[Statutory Authority: RCW 41.50.050, 97-01-015, § 415-112-545, filed 12/6/96, effective 1/6/97.]

**WAC 415-112-550 Peace Corps volunteers not employed in public education.** In administering the provisions of RCW 41.32.570, retired teachers who serve as volunteers in the Peace Corps of the United States shall not be considered as employed in a public educational institution and shall, therefore, continue to receive pension payments while engaged as Peace Corps volunteers.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090, 78-03-023 (Order IV), § 415-112-550, filed 2/15/78. Formerly WAC 462-28-045.]

**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.]

### DISABILITY BENEFITS

**WAC 415-112-600 Eligibility for temporary disability benefits.** A member of the teachers' retirement system shall be covered for benefits under the temporary disability

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program only while employed on a full-time basis. The disability premium paid by a member during one school year shall afford disability protection until the beginning of the regular school term the following school year.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-600, filed 2/15/78. Formerly WAC 462-32-010.]

**WAC 415-112-610 Payment of temporary disability benefits due upon death of a member.** Any disability benefits which have accrued and are payable upon the death of a member who had applied for or who had qualified for a temporary disability allowance, shall be paid to the deceased member's designated beneficiary as recorded and filed with the department in connection with his application for temporary disability benefits, or to his estate.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-610, filed 2/15/78. Formerly WAC 462-32-020.]

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

(2) If a member qualifies for a disability retirement allowance after having first qualified for temporary disability benefits, the effective date of his disability retirement allowance shall be the first of the month following termination of his temporary disability allowance, and shall otherwise be consistent with WAC 415-112-520 which governs service retirement.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-620, filed 2/15/78. Formerly WAC 462-32-050.]

**WAC 415-112-630 Employment of persons retired for disability.** The provisions of RCW 41.32.570 with regard to service in public education by a retired teacher shall apply equally to teachers retired for disability.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-630, filed 2/15/78. Formerly WAC 462-32-060.]

### SURVIVOR BENEFITS

**WAC 415-112-700 Determining dependency under RCW 41.32.520.** In order for a beneficiary under RCW 41.32.520 to qualify as the dependent of a deceased member, the following conditions shall prevail:

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

(2) The term "financial support" shall include the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-700, filed 2/15/78. Formerly WAC 462-36-010.]

**WAC 415-112-710 Accrual date of survivor benefits under RCW 41.32.520.** (1) The accrual date of a monthly

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survivor benefit under RCW 41.32.520(1) shall be the date following the date of the member's death or the fiftieth birthday of the beneficiary if the latter follows the date of the member's death.

(2) The accrual date of a survivor retirement allowance under RCW 41.32.520(2) shall be the day following the date of death of the member who was eligible for retirement, unless the deceased member had established a full year of service credit for his final year of service, in which case the effective date of the survivor retirement allowance shall be July 1st of the ensuing fiscal year. In all cases the rate of the annuity benefit shall be computed as of the date following the date of the member's death.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-112-710, filed 2/15/78. Formerly WAC 462-36-020.]

**WAC 415-112-725 Married member's benefit selection—Spousal consent required.** A member, if married, must provide the spouse's written consent to the option selected under WAC 415-112-727. If a married member does not provide spousal consent, the department will pay the retired member a joint and fifty percent survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.32.530(2) and 41.32.785(2). Spousal consent means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660. 96-01-047, § 415-112-725, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-016, § 415-112-725, filed 1/7/91, effective 2/7/91.]

**WAC 415-112-727 Retirement benefit options.** RCW 41.32.530 (Plan I) and RCW 41.32.785 (Plan II) enable the department to provide retiring members with four retirement benefit options. In addition, retiring Plan I members may select the COLA (cost-of-living adjustment) option. The retiring member must choose an option(s) when applying for service or disability retirement.

**(1) Benefit options without survivor feature.**

(a) Maximum benefit allowance. Plan I retirees may elect to receive the maximum benefit possible which is based on a single life annuity. The maximum benefit allowance does not include a survivor allowance or beneficiary payment. When the retiree dies, all benefits cease. Any remaining balance in employee contributions is retained by the retirement system.

(b) Option One (standard allowance). The department pays a monthly retirement allowance based on a reduced single life annuity of the member, as provided in RCW 41.32.480 (Plan I - Service), RCW 41.32.550 (Plan I - Disability), RCW 41.32.765 (Plan II - Service), or RCW 41.32.790 (Plan II - Disability). When the retiree dies, all benefits cease. Any remaining balance of the member's accumulated contributions will be paid to:

- (i) The retiree's designated beneficiary; or if none, to
- (ii) The retiree's surviving spouse; or if none, to
- (iii) The retiree's legal representative.

A member selecting Option One must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) **Benefit options with a survivor feature.** A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a retirement allowance equal to the gross monthly allowance received by the retiree.

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor an allowance equal to one-half of the retiree's gross monthly retirement allowance.

(c) Option Four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor an allowance equal to two-thirds (66.667%) of the retiree's gross monthly retirement benefit allowance.

(3) **Supplemental COLA option for Plan I members.** Retiring Plan I members may select an annual cost-of-living adjustment (COLA) option in addition to their choice of retirement benefit options listed above in subsections (1) and (2) of this section. Retiring members who choose this supplemental option will have their monthly retirement allowance actuarially reduced to offset the cost of annual adjustment.

(4) **Benefit increases when survivor predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) Plan I members. If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen the maximum benefit, minus;

(ii) Any reduction in the maximum allowance resulting from a withdrawal of contributions, plus;

(iii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Plan II members. If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen the standard allowance; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(d) Pop-up recalculation example.

Plan One:

Lucinda retires from TRS Plan I in 1996 (Year 0) with \$55,000 in accumulated contributions. As a TRS I member she is allowed to withdraw some or all of her contributions when she retires. She decides to withdraw \$5,000 so she and Garth, her husband, can take a cruise. This will actuarially reduce Lucinda's maximum benefit from \$2,000 per month to \$1,963.86. Lucinda would also like Garth to receive a monthly allowance after she dies. Therefore, Lucinda chooses one of the benefit options with a survivor feature. As a result, her monthly allowance is further actuarially reduced from \$1,963.86 to \$1,846.03. Unfortunately, Garth dies in January 2001 (Year 5). Under the "pop-up" provision, Lucinda's monthly benefit will increase to \$1,963.86, the amount she would have received had she chosen the maximum benefit (after reduction for her withdrawals). If Lucinda selected the COLA option or if she has otherwise become eligible for a COLA, the accumulated COLAs (based on the prior benefit allowance) will be added to the \$1,963.86\*.

Plan Two:

Agnes retires from TRS Plan II in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's:

Year	Option One (Standard Allowance)	Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount \$2000		+ Total COLA's + \$191.05	= New Benefit Amount = \$2,191.05*	

\*In the future (i.e., 2001 or Year 5), COLAs will be based on the increased benefit amount.

(e) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(5) **Survivor.** For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

[Statutory Authority: RCW 2.10.146, 41.26.460, 41.32.530, 41.50.050, 41.32.785, 41.40.188 and 41.40.660, 96-01-047, § 415-112-727, filed 12/14/95, effective 1/14/96. Statutory Authority: RCW 34.05.050 and 1990 c 249, 91-03-016, § 415-112-727, filed 1/7/91, effective 2/7/91.]

**WAC 415-112-800 Scope.** WAC 415-112-800 through 415-112-820 govern the application of RCW 41.32.010 (11)(a)(ii), as amended by section 1, chapter 265, Laws of 1987 and by section 2, chapter 265, Laws of 1987, and shall apply only to persons who became members prior to October 1, 1977.

[Statutory Authority: Chapter 41.32 RCW as amended by 1987 c 265, 87-20-082 (Order 87-09), § 415-112-800, filed 10/7/87.]

**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 consti-

tutes 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.]

**WAC 415-112-840 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 41.32.800 as follows:

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

(i) Calculate the retirement allowance pursuant to RCW 41.32.760 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 41.32.800 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 41.32.800 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.

[Statutory Authority: RCW 41.50.050, 94-09-040, § 415-112-840, filed 4/19/94, effective 5/20/94.]

**WAC 415-112-850 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 both the amount of salary projected by the member for periods of employment through the date of the member's retirement and the amount of salary as previously reported by the employer.

(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, the department shall complete a final computation of the member's retirement allowance. In computing the final computation of the member's retirement allowance, the department may also require the employer to provide the department with leave cash out information for Plan I retirees, earnings history, and copies of the employment contract or contracts and employer compensation policies. 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.

[Statutory Authority: RCW 41.50.050 and Bowles v. Retirement Systems, 121 Wn.2d 52 (1993). 94-11-009, § 415-112-850, filed 5/5/94, effective 6/5/94.]

**Chapter 415-113 WAC**

**PORTABILITY OF PUBLIC EMPLOYMENT BENEFITS**

<b>WAC</b>	
415-113-005	Purpose and scope.
	DEFINITIONS
415-113-030	Definitions for purposes of WAC 415-113-035 through 415-113-100.
415-113-0301	Accumulated contributions—Definition.
415-113-0302	Average compensation—Definition.
415-113-0303	Dual member system—Definition.
415-113-0304	First class city retirement systems—Definition.
415-113-0305	Member participant—Definition.
415-113-0306	Multiple system benefit—Definition.
415-113-0307	Multiple system participant—Definition.
415-113-0308	Multiple system retiree—Definition.
415-113-0309	Nonmember participant—Definition.
415-113-0310	System acronyms—Definition.

**ELIGIBILITY FOR DUAL MEMBER BENEFITS**

415-113-041	Am I a dual member?
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## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 415-113-010 Background and purpose. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-010, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
- 415-113-020 Authority to assess costs of portability. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-020, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
- 415-113-040 Additional costs. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-040, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
- 415-113-050 Election to participate. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-050, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.
- 415-113-060 Reimbursement of additional costs. [Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-060, filed 11/1/90, effective 12/2/90.] Repealed by 95-03-001, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 41.50.050.

**WAC 415-113-005 Purpose and scope. (1) Purpose.**

The rules adopted in this chapter further define and clarify the application of the portability statutes, chapter 41.54 RCW. Chapter 41.54 RCW allows:

- (a) Service in dual member systems to be combined to determine service retirement eligibility; and
- (b) Compensation earned in one dual member system to be used to calculate a retirement allowance in another designated system.

(2) **Scope.** This chapter shall apply to the retirement systems listed in RCW 41.50.030, except for LEOFF Plan I. This chapter must be read to be consistent with the statutory provisions of chapter 41.54 RCW and the statutory provisions governing the dual member systems. These rules may be used by the first class city retirement systems but do not mandatorily apply to them. These rules do apply to all dual member benefits calculated and paid by the department, even if one of the member's systems is a first class city retirement system.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-005, filed 1/4/95, effective 2/4/95.]

## DEFINITIONS

**WAC 415-113-030 Definitions for purposes of WAC 415-113-035 through 415-113-100.** All definitions in RCW 41.54.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are

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defined in this chapter at WAC 415-113-0301 through 415-113-0310.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-030, filed 1/4/95, effective 2/4/95. Statutory Authority: RCW 34.05.350 and 1990 c 192 § 5(4). 90-22-038, § 415-113-030, filed 11/1/90, effective 12/2/90.]

**WAC 415-113-0301 Accumulated contributions—Definition.** "Accumulated contributions" means all member contributions to a system plus interest as determined by the director.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0301, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0302 Average compensation—Definition.** "Average compensation" means the compensation used by a particular retirement system to calculate a dual member's service retirement allowance. The actual meaning of the term varies depending upon the retirement system. With respect to each dual member system, "average compensation" means:

- (1) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;
- (2) **State-wide cities retirement systems:** Final compensation as defined in 41.44.030(14);
- (3) **TRS:**
  - (a) Plan I: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;
  - (b) Plan II: Average final compensation as defined in RCW 41.32.010(30);
- (4) **PERS:** Average final compensation as defined in RCW 41.40.010(17);
- (5) **LEOFF Plan II:** Final average salary as defined in RCW 41.26.030 (12)(b); and
- (6) **WSPRS:** Average final salary as defined in RCW 43.43.120.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0302, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0303 Dual member system—Definition.** "Dual member system" means the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems are:

- (1) PERS Plans I and II;
- (2) TRS Plans I and II;
- (3) LEOFF Plan II;
- (4) WSPRS;
- (5) State-wide city employees' retirement system; and
- (6) The first class city retirement systems.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0303, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0304 First class city retirement systems—Definition.** "First class city retirement systems" means the retirement systems for the non-LEOFF member employees of the cities of Seattle, Spokane and Tacoma authorized by chapter 41.28 RCW.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0304, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0305 Member participant—Definition.** (1) For all dual member systems administered by the

department other than TRS Plan I "member participant" means a person who is employed for compensation in a dual member system qualifying position and is admitted into the membership of the system.

(2) For TRS Plan I, "member participant" includes persons meeting the definition of subsection (1) of this section and also means a member who is not employed for compensation but has accumulated contributions standing to his or her credit with TRS.

(3) For the first class city systems, this definition may not apply, see WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-0305, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0306 Multiple system benefit—Definition.** "Multiple system benefit" means retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

[Statutory Authority: RCW 41.50.050, 96-20-004, § 415-113-0306, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-0306, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0307 Multiple system participant—Definition.** "Multiple system participant" means a person who is a participant in two or more dual member systems.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-0307, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0308 Multiple system retiree—Definition.** "Multiple system retiree" means a person who elects to retire under the provisions of chapter 41.54 RCW.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-0308, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0309 Nonmember participant—Definition.** (1) "Nonmember participant," means a person who is no longer employed in a dual member system qualifying position but has not withdrawn his or her accumulated employee contributions.

(2) This definition does not apply to TRS Plan I. A TRS Plan I member who meets the criteria of subsection (1) of this section is a member participant, see WAC 415-113-0307.

(3) This section applies only to the retirement systems listed in RCW 41.50.030.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-0309, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-0310 System acronyms—Definition.** The acronyms used in this chapter mean:

(1) "LEOFF Plan II" means Law Enforcement Officers' and Fire Fighters' Retirement System Plan II.

(2) "PERS Plan I" means Public Employees' Retirement System Plan I.

(3) "PERS Plan II" means Public Employees' Retirement System Plan II.

(4) "TRS Plan I" means Teachers' Retirement System Plan I.

(5) "TRS Plan II" means Teachers' Retirement System Plan II.

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(6) "WSPRS" means Washington State Patrol Retirement System.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-0310, filed 1/4/95, effective 2/4/95.]

## ELIGIBILITY FOR DUAL MEMBER BENEFITS

**WAC 415-113-041 Am I a dual member?** You must meet all of the following criteria to be a dual member:

(1) **You must be a member of a dual member system.** You must be a current member participant in at least one dual member system to be a dual member. You may have established dual member status if you are or were a member participant of a dual member system on or after:

(a) July 1, 1988, for current or former members of PERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan II; or

(c) January 1, 1994, for current or former members of a first class city retirement system;

(2) **You must be a former or current member of another dual member system.**

(3) **You must not have been retired for service from a retirement system.** You are not a dual member if you have ever been retired for service from any retirement system administered by the department of retirement systems or a first class city retirement system.

(4) **You must not be in receipt of a disability benefit from a dual member system.** If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan I, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan II, TRS Plan II or LEOFF Plan II you are in receipt of a disability benefit unless the department has found that you are no longer disabled.

(b) You are not receiving a disability retirement allowance or disability leave benefits if you:

(i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or

(ii) Retired for disability from service from WSPRS.

**Example 1:** A former PERS Plan I member who has never been retired and becomes a member participant in TRS Plan II through employment with a TRS employer becomes a dual member.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4).

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-041, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-042 Can I terminate my status as a dual member? Termination of dual member status—Reestablishing dual member status.** (1) **If you are not a member, you are not a dual member.** If you are no longer

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a member participant in any dual member system, you are no longer a dual member. If you later become a member of a dual member system, you again become a dual member.

**Example 2:** Upon separation from TRS Plan II eligible employment, the person in Example 1 in WAC 415-113-041 is no longer a member of TRS Plan II nor a dual member.

**(2) If you retire, you are no longer a dual member.**

Upon retirement from any or all dual member systems, a person is no longer a dual member except for the purpose of receiving a deferred retirement allowance under RCW 41.54.030(3) and WAC 415-113-070.

**(3) If you are not a dual member, you may still be eligible for a multiple system benefit.** If you are no longer a dual member you may still be able to receive a multiple system benefit if otherwise eligible. The accrual date of your retirement allowance will vary depending upon the provisions of the particular system. You can find the accrual dates of different dual member systems in the following provisions:

- (a) **PERS I:** RCW 41.40.193;
- (b) **PERS II:** RCW 41.40.680;
- (c) **TRS I:** WAC 415-112-520;
- (d) **TRS II:** RCW 41.32.795;
- (e) **LEOFF II:** RCW 41.26.490.

**(4) Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.
- (b) "Dual member system" - WAC 415-113-0303.
- (c) "Member participant" - WAC 415-113-0305.
- (d) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-042, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-045 Can I reestablish service credit in a prior system? (1) You may reestablish service credit terminated by a withdrawal of contributions from a prior system.** If you repay contributions you withdrew from a prior dual member system plus interest from the date of withdrawal you will recover the service terminated by the withdrawal. To qualify, you must repay the contributions plus interest within twenty-four consecutive months from the date you became a dual member.

(a) The twenty-four-month restoration period continues to run even if you terminate dual member status.

(b) If you terminate your dual member status but later become a dual member again, you have twenty-four consecutive months from the date you regain dual member status to repay withdrawn contributions.

**Example 3:** A person becomes a dual member on January 1, 1994. She has until December 31, 1995, to restore any previously withdrawn contributions for service credit in a prior system regardless of whether she subsequently loses her status as a dual member.

**Example 4:** A person becomes a dual member on January 1, 1994, separates from membership on January 1, 1995, and then reenters membership on January 1, 1996. He has until December 31, 1997,

twenty-four consecutive months from the date he regained dual member status, to restore withdrawn contributions in any prior system.

(c) If you have previous service in LEOFF Plan II or a first class city system:

(i) If you were a dual member on July 25, 1993, and you used to be a member of LEOFF Plan II, you have until July 24, 1995, to repay your withdrawn contributions.

(ii) If you were a dual member on January 1, 1994, and you used to be a member of a first class city retirement system, you have until December 31, 1995, to repay your withdrawn contributions.

**Example 5:** A person is a member participant in PERS Plan II and has previous service in LEOFF Plan II. LEOFF Plan II was newly admitted to participate under the portability provisions of chapter 41.54 RCW on July 25, 1993. Therefore, the person has until July 24, 1995, to restore her prior LEOFF Plan II service.

**(2) You may reestablish TRS Plan I membership.** If a PERS member restores withdrawn TRS Plan I contributions under this section he or she:

- (a) Reestablishes membership in TRS Plan I; and
- (b) Will participate prospectively in TRS Plan I if employed by a state agency, school district or other TRS employer.

**(3) Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.
- (b) "Dual member system" - WAC 415-113-0303.
- (c) "First class city retirement system" - WAC 415-113-0304.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-045, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-055 Am I eligible for a multiple system benefit?** To be eligible for a multiple system benefit, you must meet the criteria listed in this section.

**(1) You may retire for service or disability.** You may retire with a multiple system benefit if you retire from all systems for service. You may also retire with a disability retirement from your current system, other than a benefit provided by RCW 41.40.220 or WSPRS, and a service retirement from your prior system.

**(2) You must retire from all systems.** You may only retire with a multiple system benefit if you retire from all dual member systems that you participate in.

**(3) Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Accumulated contributions" - WAC 415-113-0301.
- (b) "Dual member system" - WAC 415-113-0303.
- (c) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050. 96-20-004, § 415-113-055, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-055, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-057 Am I required to retire with a multiple system benefit? You are not required to retire with a multiple system benefit.** You may elect to retire

from a system or systems without the benefits or restrictions of chapter 41.54 RCW. If you choose to retire from more than one system without receiving a multiple system benefit, you are not subject to the maximum benefit limitation of RCW 41.54.070 and WAC 415-113-090(1).

(1) **Waiver of benefits.** If you decide not to receive a multiple system benefit, you waive the right to:

(a) Substitute your base salary between retirement systems for purposes of calculating a retirement allowance; or

(b) Combining your service from each system for purposes of determining retirement eligibility.

(2) **You are not required to retire with a multiple system benefit even if you repaid contributions as a dual member.** If you repaid previously withdrawn contributions from a prior dual member system under RCW 41.54.020, you may still elect to retire from one or more systems without receiving a multiple system benefit.

(3) **If you decline a multiple system benefit, you may withdraw your contributions.** If you elect to retire without receiving a multiple system benefit, you may withdraw your accumulated contributions from a system in lieu of receiving a retirement allowance, provided that withdrawal is otherwise permissible under the systems' provisions.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Accumulated contributions" - WAC 415-113-0301.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member" - RCW 41.54.010(4), WAC 415-113-0303.

(d) "Dual member system" - WAC 415-113-0303.

(e) "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-057, filed 1/4/95, effective 2/4/95.]

## CALCULATING YOUR DUAL MEMBER BENEFIT

**WAC 415-113-059 Can I combine service from different systems to qualify for increased benefits? (1) You may combine service to determine retirement eligibility.** You may combine your service in all systems for the sole purpose of determining your eligibility for a disability or service retirement allowance from your current system and a service retirement allowance from your prior system.

(2) **You may not combine service for any other purpose.** You may not combine your service in all systems to qualify for additional benefits offered by a particular system. Those additional benefits include but are not limited to:

(a) PERS Plan I military service. You may not combine service from other systems to qualify for military service credit in PERS Plan I under RCW 41.40.170.

(b) LEOFF Plan II post-separation benefits. You may not combine your accrued service under both systems for purposes of qualifying for:

(i) A LEOFF Plan II indexed retirement allowance under RCW 41.26.530(2); or

(ii) A refund of one hundred fifty percent of the LEOFF Plan II member's accumulated contributions under RCW 41.26.540.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "System" - RCW 41.54.010(6).

[Statutory Authority: RCW 41.50.050, 96-20-004, § 415-113-059, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-059, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-065 Can I substitute salary from one system to another? (1) You can substitute base salary between systems.**

(a) If you elect to retire with a multiple system benefit, you may substitute your base salary under one dual member system for your includable compensation in a second dual member system for purposes of computing a retirement allowance from the second system. Using the substituted salary, the department will compute your average compensation under each system's own requirements.

**Example 6:** At retirement, a person is a member participant in PERS Plan II and has prior creditable service in TRS Plan I. Assume the multiple system retiree earned her highest compensation during her PERS Plan II service. The retiree's PERS Plan II retirement allowance will be based on her PERS Plan II average compensation. For purposes of computing her TRS average compensation and retirement allowance, she may substitute her PERS Plan II base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

**Example 7:** At retirement, a person is a member participant in TRS Plan I and has prior creditable service in PERS Plan I. Assume the multiple system retiree earned his highest compensation during his membership in TRS Plan I. The retiree may substitute his base salary earned while a member in TRS Plan I for his PERS Plan I compensation earnable. However, because he may substitute only his base salary from TRS Plan I for his compensation earnable in PERS, his PERS average compensation will not include any cashout payments from his TRS employer.

(b) If you do not have sufficient service credit months in one dual member system to complete an average compensation period under that system, the department will substitute the appropriate number of months of base salary from another system to complete the average compensation period.

**Example 8:** A person who has creditable service in TRS Plan I and PERS Plan II retires at age sixty-five having accrued twenty-four months of service in PERS Plan II. Under PERS Plan II, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute the multiple system retiree's PERS Plan II retirement allowance, the department will substitute her highest consecutive thirty-six service credit months of TRS base salary to complete the PERS sixty-month average compensation period.

(2) **Adjusted full-time salary is not base salary.** A multiple system retiree's adjusted full-time salary under RCW 41.32.345 shall not constitute base salary for purposes of computing the retiree's multiple system benefit.



(3) **Includable compensation defined.** For purposes of this chapter, "includable compensation" means:

- (a) Earnable compensation under TRS Plan I or II as defined in RCW 41.32.010(10);
- (b) Compensation earnable under PERS Plan I or II as defined in RCW 41.40.010(8);
- (c) Basic salary under LEOFF Plan II as defined in RCW 41.26.030 (13)(b); and
- (d) Monthly salary under WSPRS as used in RCW 43.43.120(15).

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Average compensation" - WAC 415-113-0302.
- (b) "Base salary" - RCW 41.54.010(1).
- (c) "Dual member system" - WAC 415-113-0303.
- (d) "Member participant" - WAC 415-113-0305.
- (e) "Multiple system benefit" - WAC 415-113-0306.
- (f) "Multiple system retiree" - WAC 415-113-0308.

[Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-065, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-070 Can I defer my retirement allowance from a system if I retire with a multiple system benefit?** (1) **You may defer receipt of your retirement allowance.** If, by combining creditable service, you qualify to retire in one system but not in a second system, you must either:

- (a) Receive an actuarially reduced retirement allowance from the second system; or
- (b) Defer retirement in the second system until a later date of your choice. If you choose to begin receiving a retirement allowance from your second system before you are fully eligible, the benefit will be actuarially reduced.

(i) If you elect to defer retirement in the second system, you retain dual member status for the sole purpose of receiving a deferred multiple system benefit;

(ii) If you retire from all systems but elect to defer retirement in one dual member system under RCW 41.54.030(3), you may not subsequently withdraw accumulated contributions from that system.

(c) An actuarial reduction under (a) or (b) of this subsection, if applicable, will account for the difference between your age at the time you begin receiving the retirement allowance and the earliest age where you would be fully eligible based upon your combined service. "Fully eligible" means a person who has enough combined service to qualify for a retirement allowance from a dual member system without receiving a reduction for:

- (i) Early retirement from a Plan II system pursuant to RCW 41.40.630(2), 41.32.765(2), 41.26.430(2); or
- (ii) Retirement as a nonmember participant from WSPRS under RCW 43.43.280(2).

(2) **If you defer your retirement allowance and later reenter membership, you are no longer a dual member.** If, after deferring retirement, you enter membership in a dual member system, your dual member status terminates. Once your dual member status terminates:

- (a) You may only retire under the deferred system if eligible based solely upon that system's retirement eligibility criteria; and

(b) Your retirement allowance under the deferred system will be based solely upon service actually established in that system.

**Example 9:**

A sixty-two year old dual member of PERS Plan I and TRS Plan II retires. He elects to receive PERS Plan I benefits but defer receipt of a TRS Plan II retirement allowance. If he becomes reemployed in a TRS Plan II eligible position, he will reenter TRS Plan II membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan I retirement allowance. The member's eligibility to retire from TRS Plan II will be based solely on his accrued service credit in TRS Plan II and his TRS Plan II retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan II.

**Example 10:**

Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan II position. The retiree would reenter PERS Plan I membership, if otherwise eligible, and terminate his dual member status. The effect on the person's right to a TRS Plan II benefit is the same as in Example 9. Because the retiree reentered PERS membership, the department would also suspend his PERS Plan I retirement allowance.

(3) **If you defer your retirement allowance and die before you begin receiving the allowance, your survivor may receive a continuing benefit.** If you defer receipt of your retirement allowance from a system and die before you elect to begin receiving the allowance:

(a) Your surviving spouse, if any, must elect to receive either:

(i) A joint and one hundred percent survivor option from the deferred system. If your surviving spouse selects this option, your base salary under one system may be substituted for your includable compensation in the deferred system to compute the survivor retirement allowance from the deferred system; or

(ii) A refund of your accumulated contributions from the deferred system.

(b) If you do not have a surviving spouse, the department will pay your accumulated contributions from the deferred system to:

- (i) Your designated beneficiary or beneficiaries; or
- (ii) Your estate, if there are no living beneficiaries.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member system" - RCW 41.32.010(4), WAC 415-113-041.
- (b) "Member participant" - WAC 415-113-0305.
- (c) "Includable compensation" - WAC 415-113-065(3)
- (d) "Multiple system participant" - WAC 415-113-0307.
- (e) "Nonmember participant" - WAC 415-113-0309.
- (f) "System" - RCW 41.54.010(6).

[Statutory Authority: RCW 41.50.050. 96-20-004, § 415-113-070, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-070, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-080 Can I retire retroactively? You may retire retroactively.** If you retire from all dual member

systems, your retirement allowance from a prior system will be retroactive back to your accrual date under the prior system.

(1) **Accrual date determined.** The department will determine your accrual date in each system by combining your total service and applying the statute or rule designating accrual dates in the particular system. Your accrual date for purposes of this section is the date that your combined service first makes you eligible for an unreduced benefit.

**Example 11:** A person is a fifty-five year old member participant in PERS Plan II and a nonmember participant in LEOFF Plan II. The person decides not to retire from LEOFF Plan II until he is eligible to retire with full benefits from PERS Plan II at age sixty-five. Upon retirement, he will be entitled to a LEOFF Plan II retirement allowance effective on his accrual date under LEOFF Plan II (i.e., age fifty-five).

**Example 12:** A person with twenty years of prior service in TRS Plan I becomes a member participant in PERS Plan II on her fifty-fourth birthday. By combining her service in both systems under chapter 41.54 RCW, she will become eligible to retire under TRS Plan I at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty-five. Her TRS Plan I retirement allowance will be effective back to the date it accrued under TRS Plan I (i.e., the first of month following the month she turns fifty-nine).

(2) **You cannot use salary earned after your accrual date in calculating your retroactive benefit.** If you retire retroactively from a prior system, the department will not use any of the salary you earned after your accrual date to compute your benefit from the prior system.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member system" - WAC 415-113-0303.
- (b) "Member participant" - WAC 415-113-0305.
- (c) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-080, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-082 Could retroactive retirement cancel my membership in a subsequent system?** (1) **If you retire retroactively from a prior system, you could cancel your membership in a subsequent system.** If your membership in a subsequent system would have been prohibited under RCW 41.04.270 but for your status as a dual member, and you retire retroactively from a prior system, the department will cancel your membership and refund your contributions in the subsequent system under RCW 41.54.020(1). Your retroactive retirement from a prior system may cancel your membership in a subsequent system according to the following table:

How much service did you earn in your prior system?	Were you eligible to retire in the prior system before you became a member of your subsequent system?	Will retroactive retirement from your prior system cancel your membership in subsequent system?
15 years or more	No	No (See Example 13)
15 years or more	Yes	Yes, unless you retire from both the prior and subsequent system under RCW 41.54.030(2). (See Example 14)
Less than 15 years	No	No (See Example 15)
Less than 15 years	Yes	No (See Example 15)

See RCW 41.54.020(1) and RCW 41.04.270.

**Example 13:** A nonmember participant in LEOFF Plan II who has accrued sixteen years of service in LEOFF Plan II became a member of PERS Plan II at age fifty-four. Because she became a member participant of PERS Plan II at age fifty-four, prior to attaining retirement eligibility under LEOFF Plan II (i.e., age fifty-five), she may later retire retroactively from LEOFF Plan II, subject to LEOFF Plan II criteria, while continuing membership in PERS Plan II.

**Example 14:** A nonmember participant in LEOFF Plan II with sixteen years of accrued service became a member of PERS Plan II at age fifty-five. If he attempts to retire from LEOFF Plan II while continuing membership in PERS Plan II, the department will cancel his PERS Plan II membership and refund his PERS contributions. However, if he retires from both systems, he is entitled to retain the benefits of his PERS Plan II membership.

**Example 15:** Assume either of the retirees in Examples 13 and 14 above had accrued less than fifteen years of service in LEOFF Plan II. In this case, RCW 41.04.270 would not apply to prevent the retirees from establishing PERS Plan II membership. Either person could retire retroactively from the LEOFF Plan II without canceling membership and participation in PERS Plan II.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.
- (b) "Member participant" - WAC 415-113-0305.
- (c) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-082, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-084 How will my benefit be computed if I retire retroactively from LEOFF Plan II?** (1) **Computation of your retroactive LEOFF Plan II retirement allowance.** If you retire with a multiple system benefit and

one of your retirement allowances is a retroactive LEOFF Plan II allowance, the department will compute your LEOFF Plan II allowance based upon the greater of:

(a) Your LEOFF Plan II final average salary, substituting some or all of your base salary under the second system which you earned prior to the date your LEOFF Plan II retirement allowance began to accrue (i.e., age fifty-five); or

(b) An indexed retirement allowance under RCW 41.26.530(2) using your LEOFF Plan II average compensation.

**Example 16:** A person who is a nonmember participant of LEOFF Plan II and a member participant of PERS Plan II retires from both systems at age sixty-five. If he had accrued twenty-one years of creditable service in LEOFF Plan II, the multiple system retiree's LEOFF Plan II retirement allowance may be based upon either: His substituted PERS Plan II base salary which he earned prior to attaining retirement eligibility in LEOFF at age fifty-five; or the LEOFF Plan II indexed retirement allowance under RCW 41.26.530(2) using his LEOFF Plan II average compensation. The department will use the method which results in the largest retirement allowance.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member participant" - WAC 415-113-0305.

(b) "Multiple system benefit" - WAC 415-113-0306.

(c) "Multiple system retiree" - WAC 415-113-0308.

(d) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-084, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW? (1) Your benefit may not exceed the highest benefit limit under any one system.** Your multiple system benefit may not exceed the highest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring. See RCW 41.54.070.

(2) **The department will compute your maximum multiple system benefit in the following order:**

(a) **Calculate the maximum benefit you could receive under each system.** The department will compute your maximum benefit according to the benefit limitation provisions of each system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under each system, the department will:

(i) Apply the provisions of each system governing the calculation of your average compensation in that system; and

(ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

**Example 17:** A multiple system retiree retires from TRS Plan I state employment with prior creditable PERS Plan I service. His state employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as earnable compensation, the department will not include the cashout in the retiree's average compensation.

tion for purposes of computing either his PERS Plan I or TRS Plan I maximum benefit.

**Example 18:**

A multiple system retiree retires from PERS Plan I local government employment and receives a sick leave cashout. Because a sick leave cashout from a local government employer may be included as earnable compensation, the department will include the sick leave cashout to compute the retiree's maximum benefits under both PERS Plan I and TRS Plan I.

(b) **Determine your retirement allowances from each system.** After computing your maximum benefit, the department will determine the retirement allowances which you are entitled to from each system under chapter 41.54 RCW before making any reduction under RCW 41.54.070. If applicable, the department will then reduce the amount of your retirement allowances provided by either of the dual member systems for:

(i) Your status as a nonmember participant of WSPRS pursuant to RCW 43.43.280(2); or

(ii) Your election to retire early from a Plan II system pursuant to RCW 41.40.630(2), 41.32.765(2), and 41.26.430(2).

(c) **Compute your total multiple system benefit.** Upon computing your retirement allowances from each system and making any applicable reductions under (b) of this subsection, the department will add the systems' allowances to compute your total multiple system benefit.

(d) **Compare your total multiple system benefit with your maximum benefit and, if necessary, proportionately reduce your retirement allowances.** The department will then compare your total multiple system benefit with your maximum benefit calculated in (a) of this subsection. If your total multiple system benefit exceeds your maximum benefit, the department will proportionately reduce your retirement allowances provided by each system as follows:

(i) Calculate what proportion your total multiple system benefit is provided by each system separately;

(ii) Proportionately reduce the benefit provided by each system to account for the excess of your total multiple system benefit over your maximum benefit.

**Example 19:**

A person with twenty-nine years of prior service in TRS Plan I and one year of subsequent service in PERS Plan II retires from both systems at age sixty-five. The retiree's TRS Plan I average compensation is thirty thousand dollars. The TRS Plan I maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. The retiree's PERS Plan II average compensation is twenty-eight thousand dollars. The retiree's maximum PERS II benefit is sixteen thousand eight hundred dollars or one thousand four hundred dollars per month. The retiree's maximum benefit is the higher of the two amounts, one thousand five hundred dollars per month.

Assume the retiree's accrued service is such that her actual TRS Plan I monthly benefit is one thousand four hundred fifty dollars and her PERS Plan II monthly benefit is one hundred dollars. The retiree's total multiple system bene-

fit is the sum of her TRS Plan I and PERS Plan II benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would proportionately reduce her TRS Plan I and PERS Plan II benefits. Her TRS Plan I benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan II benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan I benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x .97) and her PERS Plan II benefit by three percent of the overage, or one dollar and fifty cents (50 x .03).

(3) **If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate.** After making any applicable maximum benefit reductions, the department will further reduce your benefit if you elect:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan I;

(b) A survivor benefit option; or

(c) A cost-of-living adjustment (COLA) option.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-0302.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-0303.

(d) "First class city system" - WAC 415-113-0304.

(e) "Member participant" - WAC 415-113-0305.

(f) "Multiple system benefit" - WAC 415-113-0306.

(g) "Multiple system retiree" - WAC 415-113-0308.

(h) "Nonmember participant" - WAC 415-113-0309.

[Statutory Authority: RCW 41.50.050, 96-20-004, § 415-113-090, filed 9/19/96, effective 10/20/96; 95-03-001, § 415-113-090, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-100 Am I eligible for a lump sum retirement allowance?** (1) If you retire with a multiple system benefit and one of your retirement allowances is less than fifty dollars per month, you may receive a lump sum payment as allowed under RCW 41.54.090.

(2) Unless you are retiring from TRS Plan I, the department will use your standard retirement allowance to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(3) If you are retiring from TRS Plan I, the department will use your maximum retirement allowance under TRS Plan I to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "Multiple system benefit" - WAC 415-113-0306.

[Statutory Authority: RCW 41.50.050, 95-03-001, § 415-113-100, filed 1/4/95, effective 2/4/95.]

## Chapter 415-114 WAC ASSESSMENT OF INTEREST CHARGES ON OVERDUE RECEIVABLES

### WAC

415-114-100	Purpose.
415-114-200	Definitions.
415-114-400	Assessment of interest charge.
415-114-700	Erroneous charges of interest.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-114-010	Purpose. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-010, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-010, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-020	Definitions. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-020, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-020, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-030	What is considered an overdue payment of an obligation owed to the department. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-030, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-030, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-040	Assessment of interest charge. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-040, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-040, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-050	Assessment of interest charge on accrued obligations. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-050, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-050, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-055	Assessment of interest charge on debit balance forward. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-055, filed 6/14/91, effective 7/15/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-060	Billing of interest charges. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-060, filed 6/14/91, effective 7/15/91; 91-11-061, § 415-114-060, filed 5/16/91, effective 6/16/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-070	Erroneous charges of interest. [Statutory Authority: Chapter 34.05 RCW, RCW 41.50.050 and 41.50.120, 91-13-049, § 415-114-070, filed 6/14/91, effective 7/15/91.] Repealed by 91-19-062, filed 9/16/91, effective 10/17/91. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW.
415-114-300	What is considered an overdue payment of an obligation owed to the department. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW, 91-19-062, § 415-114-300, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.
415-114-500	Assessment of interest charge on accrued obligations. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW, 91-19-062, § 415-114-500, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.

- 415-114-550 Assessment of interest charge on debit balance forward. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-550, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.
- 415-114-600 Billing of interest charges. [Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-600, filed 9/16/91, effective 10/17/91.] Repealed by 98-24-083, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125.

**WAC 415-114-100 Purpose.** These rules relate to the implementation of RCW 41.50.120 and 41.50.125 which provide the department of retirement systems the authority to assess interest on the overdue unpaid balance of a receivable owed to the department. These rules are intended to encourage payment in a timely manner.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-100, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-100, filed 9/16/91, effective 10/17/91.]

**WAC 415-114-200 Definitions.** As used in this chapter, unless a different meaning is plainly required by the context:

- (1) "Department" - refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended;
- (2) "Receivable" - refers to an amount owed to DRS, where there is a legal obligation to pay DRS and DRS has a legal obligation to collect the amount owed. That includes, but is not limited to, amounts owed to trust funds administered by the department of retirement systems;
- (3) "Close of business day" - refers to 5:00 p.m. of a business day;
- (4) "Overdue receivable" - refers to a receivable with an unpaid balance at the close of business three business days after the due date;
- (5) "Employer receivable" - refers to a receivable which is owed by any one of the employers within the retirement systems and programs administered by the department as defined in RCW 41.50.030;
- (6) "Member receivable" - refers to a receivable which is owed by any one of the current or previous members of the retirement systems and programs administered by the department as defined in RCW 41.50.030, or is owed by a member's beneficiary, legal owner payee, or other agent in conjunction with the member's account;
- (7) "Administrative receivable" - refers to any receivable owed the department which is not considered an employer receivable or a member receivable.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-200, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-200, filed 9/16/91, effective 10/17/91.]

**WAC 415-114-400 Assessment of interest charge.** The first calendar day that the receivable is overdue, interest will be charged, based on the due date.

A 1% per month simple interest charge will be assessed against an employer's overdue balance. Interest charges for other receivables will be determined by the director of the department of retirement systems. For member receivables,

interest will be based on the long-term investment return assumption adopted under RCW 41.45.030. These rates approximate interest lost to trust funds because the receivables have not been paid in a timely manner.

Assessed interest will appear on the monthly accounts receivable statement issued by the department.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-400, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-400, filed 9/16/91, effective 10/17/91.]

**WAC 415-114-700 Erroneous charges of interest.** If the department erroneously charges interest, the department will credit the account within sixty days of the date that the erroneous bill is corrected. The credit will equal all erroneous interest charged. Those who believe they have been charged interest in error must submit written justification of their claim within ninety days of the interest charge.

[Statutory Authority: RCW 41.50.050, 41.50.120 and 41.50.125. 98-24-083, § 415-114-700, filed 12/1/98, effective 1/1/99. Statutory Authority: RCW 41.50.050, 41.50.120 and chapter 34.05 RCW. 91-19-062, § 415-114-700, filed 9/16/91, effective 10/17/91.]

**Chapter 415-115 WAC  
ASSESSMENT OF AN ADDITIONAL  
ADMINISTRATIVE FEE**

**WAC**

- 415-115-010 Purpose.
- 415-115-020 Definitions.
- 415-115-030 Assessment of additional administrative fee.
- 415-115-040 What is considered an untimely report.
- 415-115-050 What is considered an inaccurate report.
- 415-115-060 Deficiencies in reporting.
- 415-115-070 Evaluation of reports and assessment of additional administrative fee.
- 415-115-080 Determination of additional administrative fee.
- 415-115-090 Maximum additional administrative fee allowable for the public employees', teachers', and law enforcement officers' and fire fighters' retirement systems.
- 415-115-100 Maximum additional administrative fee allowable for the judges, judicial, and Washington state patrol retirement systems.
- 415-115-120 Reconsideration of additional administrative fee billing.

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

- 415-115-110 Billing of the additional administrative fee. [Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-110, filed 6/12/91, effective 7/13/91.] Repealed by 93-16-032, filed 7/29/92, effective 8/29/92. Statutory Authority: RCW 41.50.050 and 41.50.110(3).

**WAC 415-115-010 Purpose.** These rules relate to the implementation of RCW 41.50.110(3) which provides the department of retirement systems the authority to assess additional administrative fees related to increased costs incurred by the department in processing deficient reports. These rules are intended to encourage employers to report timely and accurate member information.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-010, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-020 Definitions.** As used in this chapter, unless a different meaning is plainly required by the context:

1) "Department" refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended.

2) "Employers" refers to all employers within the retirement systems administered by the department, as defined in RCW 41.50.030.

3) "Reports" refers to the department of retirement systems transmittal report sent each month by employers to the department.

4) "Close of business" refers to 5:00 p.m. of a business day.

5) "Standard administrative fee" for employers in the public employees', teachers', and law enforcement officers' and fire fighters' retirement systems refers to the administrative fee provided for under RCW 41.50.110, 41.40.080, 41.32.401, and 41.26.070; for employers in the judges, judicial, and Washington state patrol retirement systems refers to the biennial appropriation that the department receives for administering each system.

6) "Additional administrative fee" refers to the fee provided for under RCW 41.50.110(3) which is related to increased costs incurred by the department in processing deficient reports.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-020, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-030 Assessment of additional administrative fee.** (1) An employer who fails to submit timely and accurate reports to the department will be assessed an additional fee related to the increased costs incurred by the department to process the deficient reports.

(2) Every month, the department will determine the amount of the fee to be assessed by evaluating the timeliness and accuracy of the reports submitted by employers in the preceding month. If those reports are either untimely or inaccurate, the department will assess an additional administrative fee. This additional administrative fee will not exceed fifty percent of the standard administrative fee.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-030, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-030, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-040 What is considered an untimely report.** Reports for a calendar month, or any portion thereof, are due on or before the 15th day of the following calendar month. Reports are considered overdue if not received by the close of business on the third business day after the 15th of the following calendar month.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-040, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-050 What is considered an inaccurate report.** Reports are inaccurate if they cannot be processed or if they contain errors.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-050, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-050, filed 6/12/91, effective 7/13/91.]

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**WAC 415-115-060 Deficiencies in reporting.** Any report which is overdue or which is inaccurate is considered a deficient report. Each day a report is late, each report which cannot be processed, or each error contained in a report constitutes a single deficiency in reporting. Employers are notified of reporting deficiencies each month through the department of retirement systems transmittal edit report.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-060, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-060, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-070 Evaluation of reports and assessment of additional administrative fee.** Beginning with July 1995 reports which are due on or before August 15, 1995, the department will evaluate reports under the 1995 amendments to this chapter.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-070, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-070, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-080 Determination of additional administrative fee.** The department will determine the additional administrative fee that may be assessed to employers who have submitted untimely or inaccurate reports. This fee will be determined as follows:

(1) The department will base the additional administrative fee on costs incurred for processing late or inaccurate reports. Costs related to processing deficient data may include, but are not limited to, costs of personnel, equipment, services and facilities.

(2) The department will determine the total number of deficiencies reported by all employers during each month.

(3) Based upon the costs identified in subsection (1) of this section, the department will determine the additional administrative fee to be charged per deficiency.

(4) The department will determine the additional administrative fee to charge each employer. The total fee shall be an amount equal to the per deficiency fee determined under subsection (3) of this section multiplied by the deficiencies reported by an employer.

(5) From time to time, the department may review and adjust the charge calculated under subsection (3) of this section.

(6) Additional administrative fees are due and payable the 15th day of the calendar month following the month that the statement is dated.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-080, filed 6/2/95, effective 7/3/95. Statutory Authority: RCW 41.50.050 and 41.50.110(3). 92-16-032 § 415-115-080, filed 7/29/92, effective 8/29/92. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-080, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-090 Maximum additional administrative fee allowable for the public employees', teachers', and law enforcement officers' and fire fighters' retirement systems.** The maximum additional administrative fee that may be charged to employers in the public employees' retirement system, the teachers' retirement system, and the law

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enforcement officers' and fire fighters' retirement system for any six-month period shall not exceed fifty percent of the standard administrative fee due for that six-month period. In instances where the standard administrative fee rate changes during the six-month period, the new standard administrative fee rate will be applied beginning with the month in which the new rate becomes effective. The maximum additional administrative fee that may be assessed is determined as follows:

1) If the additional administrative fee as determined in accordance with WAC 415-115-080 is less than fifty percent of the standard administrative fee, the additional administrative fee is the maximum fee allowable.

2) If the additional administrative fee as determined in accordance with WAC 415-115-080 is greater than or equal to fifty percent of the standard administrative fee, fifty percent of the standard administrative fee is the maximum fee allowable. The standard administrative fee will be calculated in accordance with Chapter 415-116 WAC.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-090, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-100 Maximum additional administrative fee allowable for the judges, judicial, and Washington state patrol retirement systems.** The standard administrative fee for employers in the judges retirement system, the judicial retirement system, and the Washington state patrol retirement system for a six-month period is one-fourth of the biennial appropriation the department receives for administering each system. The maximum additional administrative fee that may be charged to employers in the judges, judicial, and Washington state patrol retirement systems for any six-month period shall not exceed fifty percent of the standard administrative fee due for that six-month period. The maximum additional administrative fee that may be assessed is determined as follows:

1) If the additional administrative fee as determined in accordance with WAC 415-115-080 is less than fifty percent of the standard administrative fee, the additional administrative fee is the maximum fee allowable.

2) If the additional administrative fee as determined in accordance with WAC 415-115-080 is greater than or equal to fifty percent of the standard administrative fee, fifty percent of the standard administrative fee is the maximum fee allowable.

[Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-100, filed 6/12/91, effective 7/13/91.]

**WAC 415-115-120 Reconsideration of additional administrative fee billing.** (1) An employer who has received a billing for untimely or inaccurate reporting under this chapter may request a reconsideration of the billing. The employer must request reconsideration within six months of the date that the billing was issued by the department. The employer must state the reason why, and present evidence that, the specific assessment was not untimely or inaccurate.

(2) In instances where an additional administrative fee has been assessed incorrectly, the department will credit the employer's account in the amount of the incorrect assessment. An employer must provide suitable verification of the

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incorrectness of the assessment. An employer will be credited only for those reporting deficiencies charged to the employer for which the employer is not responsible.

[Statutory Authority: RCW 41.50.050 and 41.50.110 (3)(c). 95-12-058, § 415-115-120, filed 6/2/95, effective 7/3/95. Statutory Authority: Chapter 43.05 [34.05] RCW, RCW 41.50.050 and 41.50.110(3). 91-13-030, § 415-115-120, filed 6/12/91, effective 7/13/91.]

**Chapter 415-116 WAC  
ADMINISTRATIVE FEE RATE**

**WAC**

415-116-010	Purpose.
415-116-020	Definitions.
415-116-030	Administrative fee rate.
415-116-040	Criteria for changing administrative fee rate.
415-116-050	Current administrative fee rate.

**WAC 415-116-010 Purpose.** These rules relate to the implementation of RCW 41.50.110, 41.26.070, 41.32.401, and 41.40.080 which provide the department of retirement systems the authority to set an administrative fee rate to cover costs incurred by the Department to operate the state retirement systems.

[Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-010, filed 6/12/91, effective 7/13/91.]

**WAC 415-116-020 Definitions.** As used in this chapter, unless a different meaning is plainly required by the context:

1) "Department" refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended.

2) "Director" refers to the director of the department of retirement systems.

3) "Employers" refers to all employers within the retirement systems administered by the department as defined in RCW 41.50.030; with the exception of the Washington state patrol retirement system, the judges' retirement system and the judicial retirement system.

[Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-020, filed 6/12/91, effective 7/13/91.]

**WAC 415-116-030 Administrative fee rate.** The administrative fee rate that the department sets will be reviewed annually by the director. It is within the director's discretion to change the administrative fee rate at any time. If a change is necessary, then the department will inform employers of this decision through the department's employer notice. Changes will be made based on the criteria provided for in WAC 415-116-040 and will be changed in accordance with the Administrative Procedure Act.

[Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-030, filed 6/12/91, effective 7/13/91.]

**WAC 415-116-040 Criteria for changing administrative fee rate.** The director will use the following criteria in determining whether the administrative fee rate should change. The department's projected revenue for upcoming fiscal years will be compared with the department's projected administrative costs for the same upcoming fiscal years. If the projected revenues exceed the projected costs, the depart-

ment, in its discretion, may reduce the administrative fee rate. If projected revenues are less than the projected administrative costs, at the director's discretion, the department may increase the administrative fee rate.

[Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-040, filed 6/12/91, effective 7/13/91.]

#### **WAC 415-116-050 Current administrative fee rate.**

The department's current administrative fee rate is .0022 of the reportable monthly member compensation. This administrative fee rate is applicable to all employers described in WAC 415-116-020(3). This administrative fee rate shall remain in effect until the director makes a change in accordance with the Administrative Procedure Act.

[Statutory Authority: RCW 41.50.110, 41.26.070, 41.32.401 and 41.40.080. 91-13-029, § 415-116-050, filed 6/12/91, effective 7/13/91.]

### **Chapter 415-200 WAC**

#### **EMPLOYEE RETIREMENT BENEFITS BOARD**

##### **WAC**

415-200-020	Regular board meetings.
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 415-200-020 Regular board meetings.** The regular meetings of the employee retirement benefits board are held on the fourth Tuesday of each month beginning at 9:00 a.m. at the offices of the State Investment Board, 2424 Heritage Court S.W., Olympia, Washington 98504-0916.

[Statutory Authority: RCW 41.50.086 and 41.50.050. 96-23-025, § 415-200-020, filed 11/13/96, effective 12/14/96.]

**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.

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(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 participating 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

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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 415-210 WAC

TEACHERS' RETIREMENT SYSTEM PLAN III—  
DEFINED CONTRIBUTION PLAN

## WAC

415-210-020 Contribution rate options for TRS Plan III members.

**WAC 415-210-020 Contribution rate options for TRS Plan III members.** In administering RCW 41.34.040, a TRS Plan III member shall contribute from his or her compensation according to one of the following rate structures:

Option A	Contribution Rate
All ages.	5.0% fixed
<b>Option B</b>	
Up to age 35	5.0%
Age 35 to 44	6.0%
Age 45 and above	7.5%
<b>Option C</b>	
Up to age 35	6.0%
Age 35 to 44	7.5%
Age 45 and above	8.5%
<b>Option D</b>	
All ages.	7.0%
<b>Option E</b>	
All ages.	10.0%
<b>Option F</b>	
All ages.	15.0%

[Statutory Authority: RCW 41.34.040 and 41.50.050. 97-01-013, § 415-210-020, filed 12/6/96, effective 12/27/96.]

Chapter 415-501 WAC  
PLAN ESTABLISHED

## WAC

415-501-010 Plan established.  
415-501-020 Separate plan.

**WAC 415-501-010 Plan established.** In accordance with the provisions of RCW 41.50.030(2), 41.50.088(5), 41.50.770, and 41.50.780, and as provided in Section 457 of the Internal Revenue Code, the state of Washington hereby establishes the deferred compensation plan for employees of the state of Washington and approved political subdivisions of the state of Washington, hereinafter referred to as the "plan." Nothing contained in this plan shall be deemed to constitute an employment agreement between the participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-501-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-501-020 Separate plan.** The provisions in chapters 415-501 through 415-568 WAC apply only to the deferred compensation plan and not to any other plan administered by the department.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-501-020, filed 7/29/96, effective 7/29/96.]

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## Chapter 415-504 WAC

## DEFINITIONS

## WAC

415-504-010	Accumulated deferrals.
415-504-020	Beneficiary.
415-504-030	Compensation.
415-504-040	Deferred compensation.
415-504-050	Department.
415-504-060	Eligible employee.
415-504-070	Employee retirement benefits board.
415-504-080	Employer.
415-504-090	Participant.
415-504-100	Participation agreement.
415-504-110	Separation from service.

**WAC 415-504-010 Accumulated deferrals.** "Accumulated deferrals" means compensation deferred under the plan, adjusted until date of payment by income received, increases or decreases in investment value, fees, and any prior distributions made.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-020 Beneficiary.** "Beneficiary" means a beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-030 Compensation.** "Compensation" means all payments made to a public employee by the employer as remuneration for services rendered.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-040 Deferred compensation.** "Deferred compensation" means the amount of the participant's compensation which the participant and the employer shall mutually agree (prior to the date on which such compensation is earned) will be deferred.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-050 Department.** "Department" means the department of retirement systems created by RCW 41.50.020.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-050, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-060 Eligible employee.** "Eligible employee" means any person who is employed by and receives any type of compensation from the employer for whom services are rendered, and who is a full-time, permanent part-time working half-time, or more, or career seasonal employee of the employer, whether or not covered by civil service; an elected or appointed official of the executive branch of the government, including any full-time member of a board, commission, or committee; a justice of the supreme court, or a judge of the court of appeals or of a superior court; or a member of the state legislature.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-060, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-070 Employee retirement benefits board.** "Employee retirement benefits board" means the board created by RCW 41.50.086.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-070, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-080 Employer.** "Employer" means:

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

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

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-080, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-090 Participant.** "Participant" means any eligible employee of the employer who executes a participation agreement with the department assenting to the provisions of this plan, once the agreement has been approved by the department or its designee.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-090, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-100 Participation agreement.** "Participation agreement" means the agreement executed and filed by an eligible employee with the employer pursuant to WAC 415-512-010, in which the eligible employee elects to become a participant in the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-100, filed 7/29/96, effective 7/29/96.]

**WAC 415-504-110 Separation from service.** "Separation (or separates) from service" means "separation from service" as that term is interpreted for purposes of Section 402 (d)(4)(A)(iii) of the Internal Revenue Code and refers to lump sum payments and the severance of the participant's employment with the employer. A participant will be deemed to have severed his or her employment as of the date of his or her last payroll.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-504-110, filed 7/29/96, effective 7/29/96.]

## Chapter 415-508 WAC ADMINISTRATION

### WAC

415-508-010	Administered by department.
415-508-020	Department to adopt rules and regulations.
415-508-030	Department and employee retirement benefits board actions.
415-508-040	Department to maintain records of accounts.
415-508-050	Deferred compensation accounts.

**WAC 415-508-010 Administered by department.** This plan shall be administered by the department which shall represent the employer in all matters concerning the administration of this plan.

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[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-508-020 Department to adopt rules and regulations.** The department shall have full power and authority to adopt rules and regulations for the administration of the plan, and to interpret, alter, amend, or revoke any rules and regulations so adopted.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-508-030 Department and employee retirement benefits board actions.** Every action taken by the department and employee retirement benefits board shall be presumed to be fair and reasonable exercise of the authority vested in or the duties imposed upon it. The department officers and employees and members of the employee retirement benefits board shall be deemed to have exercised reasonable care, diligence, and prudence, and to have acted impartially as to all persons interested, unless the contrary is proven by affirmative evidence.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-508-040 Department to maintain records of accounts.** To facilitate an orderly administration of the plan, the department shall maintain or cause to be maintained a deferred compensation ledger account with respect to each participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-508-050 Deferred compensation accounts.** All deferred compensation hereunder shall be paid into a special fund created in the treasury of the state of Washington called the "deferred compensation principal account." All costs of administration and staffing of the plan, expenses of the department, and such other amounts determined by the department and permitted by law, shall be paid as necessary out of the deferred compensation administrative account. Amounts in the deferred compensation principal account may be invested pursuant to RCW 41.50.770 as directed by the department. All accumulated deferrals payable to participants or their respective beneficiary or beneficiaries shall be paid from the deferred compensation principal account unless otherwise paid.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-508-050, filed 7/29/96, effective 7/29/96.]

## Chapter 415-512 WAC PARTICIPATION IN THE PLAN

### WAC

415-512-010	Enrollment.
415-512-015	Plan to plan transfers.
415-512-020	Deferral limit.
415-512-030	Catch-up provision.
415-512-040	Department may disallow deferral.
415-512-050	Modification of deferral or investment option(s).
415-512-070	Suspension and reinstatement of deferrals.
415-512-075	Investment options.
415-512-080	Designation of beneficiaries.
415-512-085	Distribution to participant after separation from service.

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415-512-086	Distribution in the event of death of participant.
415-512-087	Distribution in event of death of beneficiary.
415-512-090	Elections regarding distribution.
415-512-095	Domestic relations orders.
415-512-110	Distribution of deferrals.

**WAC 415-512-010 Enrollment.** (1) An eligible employee may become a participant by executing a participation agreement. Compensation will be deferred for any calendar month only if a participation agreement providing for such deferral is executed by the participant and approved by the department or its designee before the beginning of such month.

(2) In signing the participation agreement, the participant elects to participate in this plan and consents to the employer deferring the amount specified in the participation agreement from the participant's gross compensation for each pay period. The amount specified must equal at least thirty dollars per month and shall continue until changed or revoked pursuant to WAC 415-512-050 or 415-512-070 of this plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-015 Plan to plan transfers.** (1) Transfers to the plan following a change in employment. If a participant was formerly a participant in an eligible deferred compensation plan (within the meaning of Section 457 of the code and its regulations), which permits the direct transfer of the participant's interest to another plan, then the transferee plan shall accept assets representing the value of such interest. However, the department may require in its sole discretion that some or all of such interest be transferred in cash or its equivalent. Such amount shall be held, accounted for, administered, and otherwise treated in the same manner as compensation deferred by the participant under the plan except that:

(a) Only the amount, if any, transferred to the plan which was deferred under the transferor plan in the taxable year when transfer occurs shall be treated as compensation deferred under the plan in such year.

(b) Such amount shall remain subject to, and shall be administered in accordance with, any irrevocable elections made under the transferor plan with respect to such amount.

(2) Transfers from the plan following a change in employment. The only rollovers or transfers allowable under Section 457 of the Internal Revenue Code are from one eligible Section 457 plan to another eligible Section 457 plan.

If a participant, prior to making a final election under WAC 415-512-090(2) regarding the method of payment, accepts employment with an employer who offers an eligible Section 457 plan, and the participant becomes a participant in that plan, then accumulated deferrals may, at the election of the participant and after written notice to the department, be transferred to the other plan, provided that plan provides for the acceptance of such transfers.

(3) Transfers by employees of participating political subdivisions. Transfers of funds by an employee of a participating political subdivision are allowed to and from other IRC Section 457 plans maintained by the political subdivision, but only if the other plan also allows transfers to and

from its plan and the participant has not made an irrevocable payout election relating to either plan.

(4) Application for transfer. If the conditions in subsection (1), (2), or (3) of this section are met and the participant wishes to transfer his/her account, he/she shall complete an application form and/or other documents as may be required by the department.

[Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-015, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-015, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-020 Deferral limit.** (1) Except as provided in WAC 415-512-030, relating to catch-up, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of seven thousand five hundred dollars, adjusted for the calendar year to reflect cost-of-living increases in accordance with Sections 457 (e)(15) and 415(d) of the Internal Revenue Code (dollar deferral limit) or thirty-three and one-third percent of the participant's includible compensation, each reduced:

(a) By any amount excludable from the participant's gross income for that taxable year under Section 403(b) of the Internal Revenue Code; and

(b) By any amount:

(i) Excluded from gross income under Section 402 (e)(3) or 402 (h)(1)(B) of the Internal Revenue Code (relating to a participant's elective deferrals to simplified employee pensions) for that taxable year;

(ii) For which a deduction is allowable for that taxable year by reason of a contribution to an organization described in Section 501 (c)(18) of the Internal Revenue Code (relating to pension trusts created before June 25, 1959, forming part of a plan for payment of benefits under a pension plan funded only by contributions of employees); or

(iii) Which is deferred by a participant under Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangement) during that taxable year; and

(c) By any amount the participant contributes to any other Section 457 of the Internal Revenue Code plan (relating to deferred compensation plan(s)) during the taxable year.

(2) "Includible compensation" for purposes of this section means includible compensation as defined in Section 457 (e)(5) of the Internal Revenue Code and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws. Includible compensation for a taxable year includes only compensation from the employer that is attributable to services performed for the employer and that is includible in the participant's gross income for the taxable year for federal income tax purposes. Accordingly, a participant's includible compensation for a taxable year does not include an amount payable by the employer that is excludable from the employee's gross income under:

(a) Section 457 of the Internal Revenue Code;

(b) Section 403(b) of the Internal Revenue Code (relating to annuity contracts purchased by Section 501 (c)(3) of the Internal Revenue Code organizations or public schools);

(c) Section 105(d) of the Internal Revenue Code (relating to wage continuation plans);

(d) Section 911 of the Internal Revenue Code (relating to citizens or residents of the United States living abroad);

(e) Section 402 (e)(3) or 402 (h)(1)(B) or 402(k) of the Internal Revenue Code (relating to simplified employee pensions);

(f) Section 501 (c)(18) of the Internal Revenue Code (relating to certain pension trusts); or

(g) Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangements).

(3) In computing includible compensation, total gross compensation as shown on state earnings statements must be reduced by:

(a) Section 414(h) of the Internal Revenue Code, before tax contributions to retirement plans (including those described in RCW 41.04.440, 41.04.445, and 41.04.450); and

(b) Any Section 125 of the Internal Revenue Code contributions to cafeteria plans (including those which include such items as dependent care salary reduction plans) before excluding the items listed in subsection (2)(a) through (g) of this section.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-020, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-030 Catch-up provision.** For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of:

(1) Fifteen thousand dollars for the taxable year, reduced in the same manner as the dollar deferral limit is reduced in WAC 415-512-020(1); or

(2) The sum of:

(a) The limits established for purposes of WAC 415-512-020 of the plan for the taxable year (determined without regard to this section), plus

(b) So much of the limit established under WAC 415-512-020 for taxable years before the taxable year as has not theretofore been used under WAC 415-512-020 or 415-512-030. A prior taxable year shall be taken into account only if:

(i) It begins after December 31, 1978;

(ii) The participant was eligible to participate in the plan during all or any portion of the taxable year, and;

(iii) Compensation deferred (if any) under the plan during the taxable year was subject to a maximum limit (as established under WAC 415-512-020).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity. In no event can the participant elect to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

"Normal retirement age," as used in chapters 415-501 through 415-568 WAC, means the range of ages:

Ending not later than age seventy and one-half; and

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

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This catch-up provision may not be used in the year in which the participant attains age seventy and one-half, and may not be used in any year thereafter.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-030, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-040 Department may disallow deferral.** The participant acknowledges the right of the department to disallow deferral of compensation under the plan in excess of the limitations in WAC 415-512-020 and 415-512-030. However, the department shall have no duty to assure that amounts deferred are in compliance with such limitations.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-050 Modification of deferral or investment option(s).** A participant may change his/her deferral or investment option(s) by executing a participation agreement. Changes in the amount of deferral must equal at least ten dollars or more per month. (Beneficiaries entitled to receive accumulated deferrals may also change investment options.)

A change in the deferral amount shall be effective for any calendar month only if the participant signs a new participation agreement prior to the earning period for which the change is requested. All participation agreements indicating changes in investment option(s) and transfer request forms indicating a transfer from one investment option to another must be filed with the department no later than twelve days prior to the established pay date for which the change will occur.

During the payout process, the department may periodically liquidate mutual fund shares in amounts necessary to meet distribution requirements for a six-month period.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-050, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-050, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-070 Suspension and reinstatement of deferrals. Suspension.** A participant may at any time direct that deferrals under the participant's participation agreement cease by completing the proper form and filing it with the department no later than the last day of the payroll period prior to the payroll period during which the deferrals are to cease; however, accumulated deferrals shall only be paid as provided in WAC 415-512-080 through 415-512-110.

**Reinstatement.** A participant who has directed the cessation of deferrals as part of an unforeseeable emergency payment request may resume deferrals by executing a new participation agreement to defer compensation. The deferrals cannot resume sooner than six months after deferrals ceased. Deferrals will begin the month immediately following the month that the participation agreement is signed. The six-month waiting period shall not apply to participants who are on leave without pay as discussed in WAC 415-528-010.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-070, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-070, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-075 Investment options.** Each participant shall designate on his/her participation agreement the investment option(s) in which he/she wishes to have funds invested. The investment option(s) shall be selected from those options made available for this purpose from time to time by the state investment board after consultation with the employee retirement benefits board.

The state investment board may make available as options for investment:

(1) A fixed rate investment or pool of investments including deposits with a credit union, savings and loan association, mutual savings bank and fixed annuities;

(2) Specified mutual fund shares, shares of an investment company, or variable annuities; or

(3) Fixed or variable life insurance, or other options permitted by law. In the event that a selected investment option experiences a loss, the participant's benefits payable hereunder shall likewise reflect a loss, rather than income, for the period.

Nothing in this section shall require the state investment board to invest any amount in the investments selected. The state investment board may open, change or close investment options according to its investment policy.

[Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-075, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-075, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-080 Designation of beneficiaries.** Each participant shall have the right to designate a beneficiary or beneficiaries to receive accumulated deferrals in the event of the participant's death. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change his/her beneficiary designation at any time by filing a change of beneficiary form with the department. A participant may also change his/her beneficiary designation by completing the beneficiary designation portion of a participation agreement form.

The participant may name:

(1) A designated organization or person (including without limitation his/her unborn or later adopted children). If unborn or later adopted children are to be included, the designation must so indicate. The date of birth must be furnished for any living person who is named as a beneficiary.

(2) His or her estate.

(3) A trust which is in existence, or which is to be established under the participant's last will. For an existing trust, the participant must provide a copy of the trust document and the name, address, and telephone number of the current trustee, and the tax identification number.

The participant may name contingent beneficiaries in addition to primary beneficiaries.

[Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-080, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-080, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-085 Distribution to participant after separation from service.** After separation from service, accumulated deferrals shall be paid to the participant in one

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or more installments as elected by the participant pursuant to WAC 415-512-090.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-086 Distribution in the event of death of participant.** Should the participant die at any time, whether before or after separation from service, accumulated deferrals shall be paid to the beneficiary or beneficiaries designated by the participant pursuant to WAC 415-512-080. The accumulated deferrals shall be paid out as provided in WAC 415-512-080 through 415-512-110. If no beneficiary is designated as provided in the participation agreement, or if the designated beneficiary does not survive by a period of thirty days, then a lump sum or series of payments shall be paid, in accordance with WAC 415-512-080 through 415-512-110, to the surviving spouse, or if none, a lump sum shall be paid to the estate of the participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-086, filed 7/29/96, effective 7/29/96.]

**WAC 415-512-087 Distribution in event of death of beneficiary.** In the event a beneficiary survives the participant by thirty days and becomes entitled to receive accumulated deferrals, accumulated deferrals shall become payable to the beneficiary's estate on the twenty-fifth day of the second month following the beneficiary's death, unless benefits are being paid in the form of an annuity, in which case the disposition of the remaining amount shall be determined by the annuity contract. Such annuity contracts shall be issued pursuant to the rules set forth in WAC 415-512-110.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-512-087, filed 7/29/96, effective 7/29/96.]

**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 preconditions and irrevocability. Except as otherwise provided in WAC 415-512-110(8) 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 except as described in subsection (2) of this section as to the participant or beneficiary making the election, unless:

(a) 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; or

(b) The participant, after separating from service is again hired by the employer and, before the originally elected date payment is to begin, reenrolls in the plan.

(2) If a participant has elected, under subsection (1)(a) of this section, to defer the commencement of distributions beyond the first permissible payout date, then the participant may make an additional election to further defer the commencement of distributions, provided that the election is filed

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before distributions actually begin and the later commencement date meets the required distribution commencement date provisions of Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code. A participant may not make more than one such additional deferral election after the first permissible payout date.

For purposes of the preceding paragraph, the "first permissible payout date" is the earliest date on which the plan permits payments to begin after separation from service, disregarding payments to a participant who has an unforeseeable emergency or attains age seventy and one-half, or under the in-service distribution provisions of the plan.

(3) Timing of election.

(a) A participant who separates from service other than by reason of death, must make an election no 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) A beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must make an election no 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. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(i) A court-appointed guardian; or

(ii) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for . . . . . (name of minor) under the Washington Uniform Transfers to Minors Act."

Where a legal guardianship is not obtained, and where the participant has not previously named a custodian under the Washington Uniform Transfers to Minors Act as described above, or if such custodian has been named but dies or is unable or unwilling to serve, the plan may, following the expiration of one hundred eighty days after the participant's death, request a court of competent jurisdiction to establish a custodianship under the Washington Uniform Transfers to Minors Act, chapter 11.114 RCW, irrespective of the amount at issue.

Once a custodianship has been established either by the participant's prior designation or by court order, the plan will transfer the funds in the deceased participant's account to the named custodian.

A transfer may be made only for one minor, and only one person may be the custodian, as set forth in the Washington Uniform Transfers to Minors Act. Written confirmation of delivery by the custodian constitutes a sufficient receipt and discharge of the plan for the deceased participant's account balance transferred to the custodian.

The custodian will have sixty days after the date of transfer to make an election regarding the payout period and when the payout will begin under this section.

(4) 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 (6) 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.

(5) 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. Only a court-appointed guardian may elect between a monthly and a lump sum benefit on behalf of the minor.

(6) 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 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.

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

(8) 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 (6) of this section.

(9) 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 41.50.050, 98-20-047, § 415-512-090, filed 9/30/98, effective 10/31/98. 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.]

**WAC 415-512-095 Domestic relations orders.** (1) Domestic relation orders, which establish a right of the non-participant to a portion of a participant's account after the participant separates from service, will be honored at the discretion of the department:

(a) Only if the plan participant is eligible for, or is in actual payout status; and

(b) Based upon the capabilities of the deferred compensation program recordkeeping system.

(2) The plan will honor domestic relation orders by either:

(a) Recognizing that there is a lien against the plan's assets (provided the order establishes a fixed or determinable future amount to be paid); or

(b) Establishing a separate account for the nonparticipant spouse.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-095, filed 9/30/98, effective 10/31/98.]

**WAC 415-512-110 Distribution of deferrals.** (1) General rule. Assuming a timely election is allowed and has been made pursuant to WAC 415-512-090, payment will be made in at least annual, substantially nonincreasing amounts. Payments are also subject to the limitations in subsections (2) through (8) of this section.

(2) Distribution to participant. A participant must either:

(a) Receive his/her entire interest prior to the later of:

(i) The April 1st immediately following the close of the calendar year in which the participant attains age seventy and one-half; or

(ii) The April 1st immediately following the close of the calendar year in which the participant separates from service with the employer; or

(b) Begin receiving his/her interest not later than the time specified in (a) of this subsection and receive it over a period not longer than one of the following:

(i) The life of the participant;

(ii) The life of the participant and a beneficiary designated by the participant;

(iii) The life expectancy of the participant; or

(iv) The life expectancy of the participant and a designated beneficiary.

Payment must be sufficiently rapid to satisfy the requirements of Section 457 (d)(2)(B)(i)(I) and Section 401 (a)(9)(G) of the Internal Revenue Code.

Once payments to a participant begin, the participant may accelerate the payment schedule only in the event of an unforeseeable emergency (and subject to the provisions of WAC 415-524-010 regarding such emergencies).

(3) Distribution to beneficiaries.

(a) When distribution begins prior to the participant's death, then payout must be made at least as rapidly as it was being made to the participant. When the beneficiary is an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death.

(b) When distribution does not begin prior to the participant's death, and is to be made:

(i) To an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death;

(ii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, not to begin within one year of the participant's death, then payment must be made within five years of the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for . . . . . (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-512-090 (3)(b);

(iii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, beginning within one year of the participant's death, then payment must be made within fifteen years of the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for . . . . . (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-512-090 (3)(b);

(iv) To the participant's surviving spouse, whether as designated beneficiary, or by default, then payment must begin prior to the April 1st immediately following the latter of the close of the plan year in which the participant would have attained age seventy and one-half or, if later, the year in which the participant separated from service. Payment may be made over the lifetime of the surviving spouse or over a period not longer than the life expectancy of the surviving spouse.

(4) For purposes of this section, life expectancies will be computed by use of the expected return multiples in Treasury Department Regulation 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company.

(5) Except as provided in subsection (6) of this section, periodic payments made by the department must be at least fifty dollars per month if paid monthly, and six hundred dollars per year, if paid annually.

(6) An annuity may be purchased from an insurance company that has a contract with the department. The minimum amount to purchase a monthly annuity is one hundred thousand dollars. The minimum amount for an annuity paid quarterly is twenty-five thousand dollars.

(7) Notwithstanding anything in this plan to the contrary, distributions from the plan will be made in compliance with the minimum distribution rules of Section 457 (d)(2) of the Internal Revenue Code, and in compliance with Treasury Department Regulations issued under Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code.



(8) Voluntary in-service distribution: A participant who is an active employee of an eligible employer shall receive a distribution of the total amount payable to the participant under the plan if the following requirements are met:

(a) The total amount payable to the participant under the plan does not exceed five thousand dollars (or the dollar limit under Section 411 (a)(11) of the Internal Revenue Code, if greater);

(b) The participant has not previously received an in-service distribution of the total amount payable to the participant under the plan;

(c) No amount has been deferred under the plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

(d) The participant elects to receive the distribution.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-512-110, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-512-110, filed 7/29/96, effective 7/29/96.]

**Chapter 415-524 WAC  
UNFORESEEABLE EMERGENCY**

WAC  
415-524-010 Unforeseeable emergency.

**WAC 415-524-010 Unforeseeable emergency.** (1) Pay-out request. Notwithstanding any other provisions in plan chapters 415-501 through 415-568 WAC, in the event of an unforeseeable emergency, a participant (or a beneficiary entitled to accumulated deferrals) may request the department to pay out all or a portion of accumulated deferrals. If the application for payment is approved by the department, payment will be made within sixty days following such an approval. The amount paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

(a) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,

(b) Loss of the participant's property due to casualty, or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment shall not be made to the extent that such hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

A divorce does not constitute an "unforeseeable emergency" or "severe financial hardship."

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(2) Applications for review. All applications for review of decisions on requests for pay out of accumulated deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

[Statutory Authority: RCW 41.50.050, 98-20-047, § 415-524-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-524-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-528 WAC  
LEAVE OF ABSENCE**

WAC  
415-528-010 Leave of absence.

**WAC 415-528-010 Leave of absence.** If a participant is on an approved leave of absence from the employer, participation in this plan shall continue.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-528-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-532 WAC  
AMENDMENT OR TERMINATION OF PLAN**

WAC  
415-532-010 Termination of plan.  
415-532-020 Amendment of plan.

**WAC 415-532-010 Termination of plan.** The employer or the department may at any time terminate this plan. Upon such termination, accumulated deferrals will be paid pursuant to chapter 415-512 WAC of the plan. The participants' deferrals will cease.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-532-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-532-020 Amendment of plan.** The department may also amend the provisions of this plan at any time: *Provided, however,* That no amendment shall affect the rights of participants or their beneficiaries regarding accumulated deferrals at the time of the amendment.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-532-020, filed 7/29/96, effective 7/29/96.]

**Chapter 415-536 WAC  
RELATIONSHIP TO OTHER PLANS**

WAC  
415-536-010 Retirement and Social Security not reduced.

**WAC 415-536-010 Retirement and Social Security not reduced.** It is intended that, pursuant to Section 457 of the Internal Revenue Code, the amount of deferred compensation will not be considered as current compensation for purposes of federal income taxation. Such amounts will, however, be included as compensation in determining benefits or rights under the employer's group insurance, other retirement plans and FICA. Payments under this plan will supplement retirement and death benefits payable under the employer's group insurance and other retirement plans.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11), 96-16-020, § 415-536-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-540 WAC**  
**TRANSFER IN LIEU OF CASH**

## WAC

415-540-010 Assets in lieu of cash.

**WAC 415-540-010 Assets in lieu of cash.** Upon the occurrence of any event requiring the payment of accumulated deferrals under this plan, the department may, in its sole discretion, elect to honor a request from the participant to substitute the transfer in kind and assignment of any asset which the employer has acquired, at fair market value.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-540-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-544 WAC**  
**NONASSIGNABILITY CLAUSE**

## WAC

415-544-010 Accumulated deferrals not assignable.

**WAC 415-544-010 Accumulated deferrals not assignable.** Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to sell, assign, transfer, commute, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law. In the event of any attempt to assign or transfer, the state investment board and the department will have no liability.

[Statutory Authority: RCW 41.50.050. 98-20-047, § 415-544-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-544-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-548 WAC**  
**ASSETS**

## WAC

415-548-010 Plan assets.

**WAC 415-548-010 Plan assets.** Despite any contrary provision of the plan, in accordance with Section 457(g) of the Internal Revenue Code, all compensation deferred under the plan, all property and rights purchased with such compensation, and all income attributable to such compensation, property, or rights shall be held in trust for the exclusive benefit of participants and beneficiaries under the plan. Any trust under the plan shall be established under the laws of Washington.

All amounts of compensation deferred under the plan shall be transferred to a trust established under the plan within a period that is not longer than is reasonable for the proper administration of the accounts of participants. Under RCW 41.50.780(4) the state investment board is made trustee of state deferred compensation plan assets.

[Statutory Authority: RCW 41.50.050. 98-20-047, § 415-548-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-548-010, filed 7/29/96, effective 7/29/96.]

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## Chapter 415-552 WAC

**PARTICIPATION BY DEPARTMENT OFFICERS  
AND EMPLOYEES AND MEMBERS OF THE  
EMPLOYEE RETIREMENT BENEFITS BOARD**

## WAC

415-552-010 Participation by department officers and employees and members of the employee retirement benefits board.

**WAC 415-552-010 Participation by department officers and employees and members of the employee retirement benefits board.** Department officers and employees and members of the employee retirement benefits board, who are otherwise eligible, may participate in the plan under the same terms and conditions as apply to other participants but such an officer, employee, or board member shall not participate in any department or board action uniquely affecting their own participation.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-552-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-556 WAC**  
**EMPLOYER PARTICIPATION**

## WAC

415-556-010 Employer contributions.

**WAC 415-556-010 Employer contributions.** The employer may, pursuant to a changed or new participation agreement filed by a participant as specified in WAC 415-512-050 or 415-512-070, add additional deferred compensation for services to be rendered by the employee to the employer during any calendar month, provided:

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

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by chapter 415-512 WAC.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-556-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-560 WAC**  
**INVESTMENT RESPONSIBILITY**

## WAC

415-560-010 Investment responsibility.

**WAC 415-560-010 Investment responsibility.** Action by the state investment board as plan trustee or by the department as plan administrator will not be considered an endorsement or guarantee of any investment. Such action will not be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations.

[Statutory Authority: RCW 41.50.050. 98-20-047, § 415-560-010, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-560-010, filed 7/29/96, effective 7/29/96.]

**Chapter 415-564 WAC  
DEPARTMENT POWERS**

## WAC

415-564-010	Plan prevails.
415-564-020	Decision binding.
415-564-030	Department to interpret.
415-564-040	Tax status not guaranteed.
415-564-050	Department may require court order.
415-564-060	Delegation of authority.

**WAC 415-564-010 Plan prevails.** In the event any form or other document used in administering this plan, including but not limited to enrollment forms and marketing materials, conflict with the terms of the plan, the terms of the plan shall prevail.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-564-020 Decision binding.** The department is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding on the participant and any beneficiary thereof.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-564-030 Department to interpret.** The department is authorized to construe this plan and resolve any ambiguity in the plan. The plan and any form or other document used in administering the plan shall be interpreted, and this plan shall be administered, so as to comply with Section 457 of the Internal Revenue Code and the regulations of the treasury department promulgated thereunder.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-564-040 Tax status not guaranteed.** The department does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of the participant's participation in this plan. The participant should consult with the participant's own representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in this plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-564-050 Department may require court order.** The department or the employer, if in doubt concerning the correctness of their action in making a payment of accumulated deferrals may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the amounts to be paid and the persons to receive them. The department and the employer shall comply with the final orders of the court in any such suit and the participant, for the participant and the participant's beneficiary or beneficiaries, consents to be bound thereby. Whenever payment of accumulated deferrals is suspended pursuant to this section, the time for a participant or beneficiary making any election under

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WAC 415-512-090 shall not begin until amount(s) and person(s) entitled are determined either by a written agreement of all parties concerned or by a court judgment that has become final.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-050, filed 7/29/96, effective 7/29/96.]

**WAC 415-564-060 Delegation of authority.** The department may delegate its functions to be performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-564-060, filed 7/29/96, effective 7/29/96.]

**Chapter 415-568 WAC  
APPLICABLE LAW**

## WAC

415-568-010	Plan to conform to state law.
415-568-020	Plan to conform to federal law.

**WAC 415-568-010 Plan to conform to state law.** This plan shall be construed under the laws of the state of Washington.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-568-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-568-020 Plan to conform to federal law.** This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code, and Treasury Department Regulation 1.457-2(a), and shall be interpreted accordingly.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-568-020, filed 7/29/96, effective 7/29/96.]

**Chapter 415-610 WAC  
DEPENDENT CARE ASSISTANCE SALARY  
REDUCTION PLAN**

## WAC

415-610-010	Plan established.
415-610-015	Separate plan.
415-610-020	Interpretation.
415-610-030	General description of plan.

**WAC 415-610-010 Plan established.** In accordance with the provisions of RCW 41.50.780(7) and 41.04.600 through 41.04.645, and consistent with sections 125 and 129 of the Internal Revenue Code, the state of Washington through the department of retirement systems, establishes a dependent care assistance salary reduction plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-610-015 Separate plan.** The provisions in chapters 415-610 through 415-695 WAC apply only to the dependent care assistance salary reduction plan and not to any other plan administered by the department. The provisions in chapters 415-501 through 415-568 WAC do not apply to the dependent care assistance salary reduction plan.

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[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-015, filed 7/29/96, effective 7/29/96.]

**WAC 415-610-020 Interpretation.** This plan is intended to qualify as a dependent care assistance salary reduction plan under sections 125 and 129 of the Internal Revenue Code, as amended from time to time, and is to be interpreted in a manner consistent with the requirements of those sections.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-610-030 General description of plan.** The dependent care assistance salary reduction plan subsidizes the cost of dependent care, enabling employees to be gainfully employed. The plan allows an eligible employee of the state of Washington to set aside a "before tax" portion of the employee's gross salary before federal income and Social Security taxes to be used to reimburse that employee's dependent care expenses.

The amount which may be reduced from salary and excluded from income is subject to annual fixed dollar and earned income limitations. The participant must incur and obtain reimbursement in an amount at least equal to the amount of salary reduction for the plan year or the unused portion of the amount excluded is forfeited.

Salary reduced under the plan continues to be included as regular compensation for the purpose of computing state benefits and is only excluded for purposes of computing federal income and Social Security taxes (OASI or FICA).

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-610-030, filed 7/29/96, effective 7/29/96.]

## Chapter 415-620 WAC DEFINITIONS

### WAC

415-620-010	Department.
415-620-015	Dependent care account.
415-620-020	Dependent care expenses.
415-620-025	Eligible employee.
415-620-030	Employer.
415-620-035	Internal Revenue Code.
415-620-040	Participant.
415-620-045	Plan.
415-620-050	Plan year.
415-620-055	Qualifying person(s).

**WAC 415-620-010 Department.** "Department" means the department of retirement systems.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-015 Dependent care account.** "Dependent care account" means a bookkeeping account containing the salary reduction amounts attributable to a participant, less reimbursements of the participant's dependent care expenses.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-015, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-020 Dependent care expenses.** "Dependent care expenses" means amounts paid for the care of a qualifying person in the participant's home (including

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amounts paid for related household services) or for care at a dependent care facility which meets all federal requirements, except that the following items shall not be considered dependent care expenses:

(1) Amounts paid to a person with respect to whom the participant or participant's spouse is entitled to claim an exemption for Federal Income Tax purposes;

(2) Amounts paid to a child of the participant who is eighteen years of age or younger;

(3) Amounts paid by an employer of the spouse or by an educational institution where the spouse is an enrolled student.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-025 Eligible employee.** "Eligible employee" means any elected official, officer, or employee of the employer.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-025, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-030 Employer.** "Employer" means the state of Washington.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-035 Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, Title 26 U.S.C. Reference to a specific provision of the code shall include such provision, any valid regulations promulgated thereunder, and any comparable provision of future legislation that amends, supplements, or supersedes such provision.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-035, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-040 Participant.** "Participant" means any eligible employee who elects, in lieu of cash compensation, to enter a salary reduction agreement with the department pursuant to this plan for a particular plan year and adheres to the requirements of the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-045 Plan.** "Plan" means this dependent care assistance salary reduction plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-045, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-050 Plan year.** "Plan year" means January 1 through December 31.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-050, filed 7/29/96, effective 7/29/96.]

**WAC 415-620-055 Qualifying person(s).** "Qualifying person(s)" means:

(1) An individual with respect to whom the participant is entitled to a dependency exemption under Internal Revenue Code section 151(c) and who is:

(a) Under the age of thirteen; or

(b) Physically or mentally incapable of self-care (regardless of age); or

(2) The spouse of a participant, if such spouse is physically or mentally incapable of self-care.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-620-055, filed 7/29/96, effective 7/29/96.]

### Chapter 415-630 WAC PARTICIPATION

#### WAC

415-630-010	Participation in plan.
415-630-020	Salary reduction agreement.
415-630-030	Changes in family status.

**WAC 415-630-010 Participation in plan.** An eligible employee may elect to become a participant by entering a salary reduction agreement during the open enrollment period or within sixty days of becoming an eligible employee, or at any time as a result of a qualifying change in family status set forth in WAC 415-630-030. The open enrollment period for each plan year will be the month of November. A participant may first incur reimbursable dependent care expenses on the first day of the month following completion of the salary reduction agreement. Salary reduction agreement forms are available through the department. The enrollment process shall be deemed complete on the date the department receives a completed salary reduction agreement form from the employee.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-630-020 Salary reduction agreement.** The salary reduction agreement is a contract whereby the employee elects irrevocably to forgo future wage payments from the employer in an amount equal to the maximum elected for the plan year. The reduction will be taken in equal amounts for each pay period during the plan year or, in the case of an employee who becomes eligible during the plan year, the remaining portion of the plan year. The agreement will require a participant to provide the Social Security number of the participant and the names and birth dates of dependents regarding whom reimbursement of dependent care expenses will be sought, and medical, family, and other information deemed necessary by the department for the operation of the plan. Pursuant to federal income tax regulations, once a salary reduction agreement has been entered for a plan year it may not be revoked except in the event of a change in family status as defined in WAC 415-630-030. A participant who separates from service and returns to service with the employer during the same plan year may participate upon return only to the extent allowed by Treasury Department regulations promulgated under sections 125 and 129 of the Internal Revenue Code.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-630-030 Changes in family status.** A participant is permitted to revoke a salary reduction agreement after the period of coverage has commenced and to enter a new salary reduction agreement regarding the remainder of

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the plan year if both the revocation and new election are on account of and consistent with any of the following changes in family status:

- (1) Marriage;
- (2) Divorce or legal separation;
- (3) Death of a spouse or dependent;
- (4) Birth or adoption of a child or addition of a dependent to the eligible employee's household;
- (5) Termination of employment of a spouse;
- (6) Employment of an unemployed spouse; and
- (7) A change in the eligible employee's or eligible employee's spouse's working hours which significantly alters the need for dependent care; example: A shift from full time to part time, part time to full time, or a change to or from leave without pay status.

(8) Such other events that the department determines will permit a change or revocation of an election during a plan year under regulations and rulings of the Internal Revenue Service.

An eligible employee may also become a participant in the plan on the basis of a change in family status.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-630-030, filed 7/29/96, effective 7/29/96.]

### Chapter 415-640 WAC BENEFITS

#### WAC

415-640-010	Plan benefits.
415-640-020	Maximum benefits.
415-640-030	Reduction of benefits.

**WAC 415-640-010 Plan benefits.** Benefits under the plan include and are limited to the reimbursement of dependent care expenses incurred for the care of qualifying persons. Such expenses must be incurred during the plan year. They are deemed to be incurred at the time the services to which the expenses relate are rendered. Only expenses which meet the criteria specified under section 129 of the Internal Revenue Code are eligible for reimbursement. Reimbursement of such expenses is limited to the participant's dependent care account balance.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-640-020 Maximum benefits.** The portion of salary a participant may exclude from gross income for federal income tax purposes is subject to the following maximums set forth in subsections 129 (a) and (b) of the Internal Revenue Code:

- (1) The amount excluded from the federal gross income of a participant for any taxable year may not exceed the earned income of the participant, if not married, or if married, the lesser of the "earned income" of the participant or the "earned income" of the participant's spouse. (If the spouse is a full-time student or is physically or mentally incapable of self-care, the spouse is deemed to have earned income of two hundred dollars per month if the participant has one dependent for whom care is provided and four hundred dollars per month if the participant has two or more dependents for whom care is provided.) "Earned income" for these purposes,

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is defined in section 32 (c)(2) of the Internal Revenue Code as "(i) wages, salaries, tips and other employee compensation, plus (ii) the amount of the taxpayer's net earnings from self-employment for the taxable year . . . ."

(2) In no event may the maximum amount excluded from the federal gross income of the participant for any taxable year exceed five thousand dollars (two thousand five hundred dollars in the case of a married participant filing separately).

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-640-030 Reduction of benefits.** The department may reduce the salary reduction amount of participants to the extent necessary to assure the plan does not discriminate in favor of highly-compensated persons who are the subject of a particular nondiscrimination test being applied under section 125 or 129 of the Internal Revenue Code (or any other applicable provision of law). When such reductions are necessary they shall be made pro rata to the amounts elected by the participants who are members of the participant group which is the subject of the particular nondiscrimination requirement.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-640-030, filed 7/29/96, effective 7/29/96.]

### Chapter 415-650 WAC REIMBURSEMENT OF DEPENDENT CARE EXPENSES

#### WAC

415-650-010	Submittal of claims.
415-650-020	Payment of claims.
415-650-030	Report to participant.
415-650-040	Deadline for submitting claims.
415-650-050	Forfeiture of unexpended funds.

**WAC 415-650-010 Submittal of claims.** Claims for dependent care expenses must be submitted on reimbursement claim forms and directed to the department. The reimbursement form shall be completed, signed, and accompanied by bills, invoices, receipts, copies of cancelled checks, or a statement signed by the provider of the services showing the amounts of dependent care expenses for which reimbursement is sought.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-650-020 Payment of claims.** The department will review and reimburse claims each week during the plan year to the extent funds are available in the participant's dependent care account. After all funds in a participant's account are expended, any claims remaining at the plan year end will be cancelled. In no event can these claims be resubmitted the next plan year, nor are any unpaid claims the employer's liability.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-650-030 Report to participant.** On or before January 31 following the end of the plan year, the department shall send each participant a written statement showing the

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reductions from salary and amounts reimbursed through the end of the plan year.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-650-040 Deadline for submitting claims.** Claims for expenses incurred during a given plan year must be submitted so that they are received by the department not later than March 31 following the end of the plan year.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-650-050 Forfeiture of unexpended funds.** Any funds remaining in a dependent care account after all timely submitted claims have been paid for the plan year will be forfeited. Such balance cannot be carried forward to a subsequent plan year and shall not be available to the participant in any form or manner, but shall remain the property of the state.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-650-050, filed 7/29/96, effective 7/29/96.]

### Chapter 415-660 WAC SOURCE OF REIMBURSEMENT

#### WAC

415-660-010	Salary reduction account.
415-660-020	Rights of participants.

**WAC 415-660-010 Salary reduction account.** Reimbursement of eligible expenses under this plan shall be from the salary reduction account in the state treasury. A participant shall have no rights to any particular assets of the employer, or to any assets except as provided by the plan. A participant's right to reimbursement under the plan shall be limited to the amount of salary reduction of the participant under the plan as reflected in the participant's dependent care account.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-660-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-660-020 Rights of participants.** The establishment of any account hereunder or of any other administrative practice shall not vest any participant with title in the assets of the state or entitle such participant to benefits, except as expressly provided by the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-660-020, filed 7/29/96, effective 7/29/96.]

### Chapter 415-670 WAC TERMINATION OF PARTICIPATION

#### WAC

415-670-010	Termination of participation.
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**WAC 415-670-010 Termination of participation.** (1) A participant shall cease to be a participant upon the occurrence of any of the following:

(a) The end of the plan year, unless the employee has reenrolled during an open enrollment period;

(b) The date the participant ceases to be an eligible employee;

(c) The date the participant refuses a request for updated information;

(d) The date the plan is terminated.

(2) A participant who terminates participation shall be entitled to reimbursement only for dependent care expenses incurred within the current plan year, and only if the participant (or personal representative of such participant in the event of death) submits a claim for such reimbursement which is received by the department on or before March 31 following the close of the plan year. No reimbursement shall exceed the balance in the participant's dependent care account for the plan year in which the expenses were incurred.

(3) For purposes of this section, the date a participant shall be deemed to have refused a request for updated information shall be thirty days after a letter requesting such information and notifying the participant of the consequences of failure to provide such information is mailed certified mail, return receipt requested, to such participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-670-010, filed 7/29/96, effective 7/29/96.]

### Chapter 415-680 WAC ADMINISTRATION

#### WAC

415-680-010	Administered by department.
415-680-020	Delegation of authority.
415-680-030	Proper proof.
415-680-040	Genuineness of documents.
415-680-050	Reliance on information.
415-680-060	Condition of participation.
415-680-070	Decision binding.

**WAC 415-680-010 Administered by department.** This plan shall be administered by the department.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-680-020 Delegation of authority.** The department may delegate functions to be performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-680-030 Proper proof.** In any case in which the employer, or the department is required under the plan to take action upon the occurrence of any event, they will be under no obligation to take such action unless and until satisfactory evidence of such occurrence has been received by them.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-680-040 Genuineness of documents.** The department and the employer and their respective officers and employees, will be entitled to rely upon any notice, request, consent, invoice, draft, letter, telegram, or other paper or document believed by them or any of them to be

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genuine and to have been signed or sent by the participant or other person at the participant's request.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-040, filed 7/29/96, effective 7/29/96.]

**WAC 415-680-050 Reliance on information.** In administering the plan, the department will be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions, and reports which are furnished by accountants, counsel, consultants, or other experts employed or engaged by the department in good faith.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-050, filed 7/29/96, effective 7/29/96.]

**WAC 415-680-060 Condition of participation.** Participants are required, as a condition of participation, to provide the department with medical, family, and other information deemed necessary by the department for the operation of the plan.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-060, filed 7/29/96, effective 7/29/96.]

**WAC 415-680-070 Decision binding.** The program administrator is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding upon the participant and any beneficiary thereof. Any participant affected by such a determination may submit written or oral comments to the department regarding its determination, which comments the director or the director's designee shall consider.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-680-070, filed 7/29/96, effective 7/29/96.]

### Chapter 415-690 WAC TERMINATION OR AMENDMENT OF PLAN

#### WAC

415-690-010	Termination or amendment of plan.
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**WAC 415-690-010 Termination or amendment of plan.** The employer may terminate the salary reduction plan at the end of the plan year or upon notification of federal action affecting the status of the plan. Upon such termination, a participant's right to reimbursement of dependent care expenses for that plan year will continue to apply to all such expenses incurred prior to the date of termination. The department may amend the salary reduction plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participant's dependent care account.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-690-010, filed 7/29/96, effective 7/29/96.]

### Chapter 415-695 WAC MISCELLANEOUS

#### WAC

415-695-010	Communication to employees.
415-695-020	Nonassignability of rights.
415-695-030	No guarantee of tax consequences.
415-695-040	Indemnification of employer by participants.

**WAC 415-695-010 Communication to employees.**

Reasonable notification of the availability and terms of the plan shall be provided to eligible employees.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-010, filed 7/29/96, effective 7/29/96.]

**WAC 415-695-020 Nonassignability of rights.**

The right of any participant to receive any reimbursement under the plan shall not be alienable by the participant by assignment or any other method, and will not be subject to be taken by his/her creditors by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-020, filed 7/29/96, effective 7/29/96.]

**WAC 415-695-030 No guarantee of tax consequences.**

Neither the employer nor the department makes any commitment or guarantee that any amount paid to or for the benefit of a participant will be excludable from the participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any participant. It shall be the obligation of each participant to determine whether and what amount, if any, is excludable from the participant's gross income for federal and state income tax purposes, and to notify the department if the participant has reason to believe that any amount excluded is not eligible for exclusion.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-030, filed 7/29/96, effective 7/29/96.]

**WAC 415-695-040 Indemnification of employer by participants.**

If any participant receives one or more payments or reimbursements that are not for dependent care expenses, such participant shall indemnify and reimburse the employer for any liability it may incur for failure to withhold federal income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal income tax that the participant would have owed if the payments or reimbursements had been made to the participants as regular cash compensation, plus the participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the participant.

[Statutory Authority: RCW 41.50.050 and 41.50.780(11). 96-16-020, § 415-695-040, filed 7/29/96, effective 7/29/96.]