

# Title 415 WAC

## RETIREMENT SYSTEMS, DEPARTMENT OF

### Chapters

<b>415-02</b>	<b>General provisions.</b>
<b>415-04</b>	<b>Petition procedure.</b>
<b>415-06</b>	<b>Public records.</b>
<b>415-08</b>	<b>Appeals.</b>
<b>415-10</b>	<b>Purchase of service credit after statutory deadline RCW 41.50.165.</b>
<b>415-100</b>	<b>Judicial retirement system.</b>
<b>415-103</b>	<b>Washington state patrol retirement system (WSPRS).</b>
<b>415-104</b>	<b>Law enforcement officers' and fire fighters' retirement system.</b>
<b>415-105</b>	<b>Local disability board procedures.</b>
<b>415-106</b>	<b>Public safety employees' retirement system.</b>
<b>415-108</b>	<b>Public employees' retirement system.</b>
<b>415-110</b>	<b>School employees' retirement system.</b>
<b>415-111</b>	<b>Plan 3—Defined contribution plans.</b>
<b>415-112</b>	<b>Teachers' retirement system.</b>
<b>415-113</b>	<b>Portability of public employment benefits.</b>
<b>415-114</b>	<b>Assessment of interest charges on overdue receivables.</b>
<b>415-115</b>	<b>Assessment of an additional administrative fee.</b>
<b>415-200</b>	<b>Employee retirement benefits board.</b>
<b>415-501</b>	<b>Deferred compensation plan.</b>

effective 1/12/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW.

### Chapter 415-504 DEFINITIONS

415-504-010	Accumulated deferrals. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-110.
415-504-020	Beneficiary. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-120.
415-504-030	Compensation. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-130.
415-504-040	Deferred compensation. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-140.
415-504-050	Department. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-150.
415-504-060	Eligible employee. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-160.
415-504-070	Employee retirement benefits board. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-170.
415-504-080	Employer. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-180.
415-504-090	Participant. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-190.
415-504-100	Participation agreement. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-200.
415-504-110	Separation from service. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-210.

### DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

#### Chapter 415-116 ADMINISTRATIVE FEE RATE

415-116-010	Purpose. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-020	Definitions. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-030	Administrative fee rate. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-040	Criteria for changing 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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-116-050	Current administrative fee rate. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.

#### Chapter 415-210 TEACHERS' RETIREMENT SYSTEM PLAN III—DEFINED CONTRIBUTION PLAN

415-210-020	Contribution rate options for TRS Plan III members. [Statutory Authority: RCW 41.34.040 and 41.50.050. 97-01-013, § 415-210-020, filed 12/6/96, effective 12/27/96.] Repealed by 01-01-059, filed 12/12/00,
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**Chapter 415-508  
ADMINISTRATION**

- 415-508-010 Administered by department. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-310.
- 415-508-020 Department to adopt rules and regulations. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-300.
- 415-508-030 Department and employee retirement benefits board actions. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-350.
- 415-508-040 Department to maintain records of accounts. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-330.
- 415-508-050 Deferred compensation accounts. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-340.

**Chapter 415-512  
PARTICIPATION IN THE PLAN**

- 415-512-010 Enrollment. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-410.
- 415-512-015 Plan to plan transfers. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-415.
- 415-512-020 Deferral limit. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-420.
- 415-512-030 Catch-up provision. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-430.
- 415-512-040 Department may disallow deferral. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-440.
- 415-512-050 Modification of deferral or investment option(s). [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.] Amended and decodified by 00-11-104, filed 5/18/00,

effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-450.

- 415-512-070 Suspension and reinstatement of deferrals. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-470.
- 415-512-075 Investment options. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-475.
- 415-512-080 Designation of 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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-480.
- 415-512-085 Distribution to participant after separation from service. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-485.
- 415-512-086 Distribution in the event of death of 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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-486.
- 415-512-087 Distribution in event of death of beneficiary. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-487.
- 415-512-090 Elections regarding distribution. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-490.
- 415-512-095 Domestic relations orders. [Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-095, filed 9/30/98, effective 10/31/98.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-495.
- 415-512-110 Distribution of deferrals. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-500.

**Chapter 415-524  
UNFORESEEABLE EMERGENCY**

Unforeseeable emergency. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory

Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-510.

**Chapter 415-528  
LEAVE OF ABSENCE**

415-528-010 Leave of absence. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-520.

**Chapter 415-532  
AMENDMENT OR TERMINATION OF PLAN**

415-532-010 Termination of plan. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-530.

415-532-020 Amendment of plan. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-540.

**Chapter 415-536  
RELATIONSHIP TO OTHER PLANS**

415-536-010 Retirement and Social Security not reduced. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-550.

**Chapter 415-540  
TRANSFER IN LIEU OF CASH**

415-540-010 Assets in lieu of cash. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-560.

**Chapter 415-544  
NONASSIGNABILITY CLAUSE**

415-544-010 Accumulated deferrals not assignable. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-570.

**Chapter 415-548  
ASSETS**

415-548-010 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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-580.

**Chapter 415-552  
PARTICIPATION BY DEPARTMENT OFFICERS AND  
EMPLOYEES AND MEMBERS OF THE EMPLOYEE  
RETIREMENT BENEFITS BOARD**

415-552-010 Participation by department officers and employees and members of the employee retirement benefits board. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Author-

ity: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-590.

**Chapter 415-556  
EMPLOYER PARTICIPATION**

415-556-010 Employer contributions. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-600.

**Chapter 415-560  
INVESTMENT RESPONSIBILITY**

415-560-010 Investment responsibility. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-610.

**Chapter 415-564  
DEPARTMENT POWERS**

415-564-010 Plan prevails. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-360.

415-564-020 Decision binding. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-370.

415-564-030 Department to interpret. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-305.

415-564-040 Tax status not guaranteed. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-320.

415-564-050 Department may require court order. [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.] Amended and decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-380.

415-564-060 Delegation of authority. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-390.

**Chapter 415-568  
APPLICABLE LAW**

415-568-010 Plan to conform to state law. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-710.

415-568-020 Plan to conform to federal law. [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.] Decodified by 00-11-104, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. Recodified as WAC 415-501-720.

## Chapter 415-600

## DEPENDENT CARE ASSISTANCE SALARY REDUCTION PROGRAM OVERVIEW

415-600-010	Dependent care assistance salary reduction program established. [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-010, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-290	When does my participation in DCAP terminate? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-290, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-020	What is DCAP? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-020, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-310	Do my expenses qualify for DCAP reimbursement? [Statutory Authority: RCW 41.50.050(5) and 41.04.600 - 41.04.635. 03-19-121, § 415-600-310, filed 9/17/03, effective 9/20/03. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-310, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-030	DCAP is a separate program. [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-030, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-410	How do I request reimbursement for DCAP expenses? [Statutory Authority: RCW 41.50.050(5) and 41.04.600 - 41.04.635. 03-19-121, § 415-600-410, filed 9/17/03, effective 9/20/03. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-410, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-040	Interpretation of DCAP. [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-040, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-420	How does DRS process DCAP reimbursement claims? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-420, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-110	Definitions used in DCAP. [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-110, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-430	How will I know how much money is available in my dependent care account? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-430, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-210	How do I enroll in DCAP? [Statutory Authority: RCW 41.50.050(5) and 41.04.600 - 41.04.635. 03-19-121, § 415-600-210, filed 9/17/03, effective 9/20/03. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-210, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-440	What happens to the balance of my DCAP account at the end of the plan year? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-440, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-220	What is a salary reduction agreement? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-220, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-450	What happens to the money in my dependent care account if I terminate employment? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-450, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-230	May I change the terms of my SRA during the plan year? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-230, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-510	DCAP administration. [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-510, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-240	What is a qualifying change in status? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-240, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-520	What are the limits on my rights under DCAP? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-520, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-250	How much may I set aside in my dependent care account each plan year? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-250, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-610	Can my rights be assigned or attached? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-610, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-260	What is "earned income" for purposes of DCAP? [Statutory Authority: RCW 41.50.050(5) and 41.04.600 - 41.04.635. 03-19-121, § 415-600-260, filed 9/17/03, effective 9/20/03. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-260, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-620	Who is responsible for determining my tax liability? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-620, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.
415-600-270	May DRS limit the maximum salary reduction for highly compensated employees? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-270, filed 10/22/01, effective 11/22/01.] Repealed by 09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.	415-600-630	What if I receive more reimbursement than I should? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C. 01-21-091, § 415-600-630, filed 10/22/01, effective 11/22/01.] Repealed by
415-600-280	How will DRS process my salary reduction? [Statutory Authority: RCW 41.50.050(5), 41.04.600 through		

09-01-021, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50.050(5) and 41.04.640.

#### Chapter 415-610

##### DEPENDENT CARE ASSISTANCE SALARY REDUCTION PLAN

- 415-610-010 Plan established. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-610-015 Separate plan. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-610-020 Interpretation. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-610-030 General description of plan. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-620

##### DEFINITIONS

- 415-620-010 Department. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-015 Dependent care account. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-020 Dependent care expenses. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-025 Eligible employee. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-030 Employer. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-035 Internal Revenue Code. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-040 Participant. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-045 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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-620-050 Plan year. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

- 415-620-055 Qualifying person(s). [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-630

##### PARTICIPATION

- 415-630-010 Participation in plan. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-630-020 Salary reduction agreement. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-630-025 May I change or revoke the terms of my salary reduction agreement (SRA) during the plan year? [Statutory Authority: RCW 41.50.050(5), 41.04.600-41.04.645, U.S.C. 125, 26 C.F.R. Part 1 (Tax Treatment of Cafeteria Plans). 01-11-053, § 415-630-025, filed 5/10/01, effective 5/15/01.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-630-030 What constitutes a qualifying change in status? [Statutory Authority: RCW 41.50.050(5), 41.04.600-41.04.645, U.S.C. 125, 26 C.F.R. Part 1 (Tax Treatment of Cafeteria Plans). 01-11-053, § 415-630-030, filed 5/10/01, effective 5/15/01. 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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-640

##### BENEFITS

- 415-640-010 Plan benefits. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-640-020 Maximum benefits. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-640-030 Reduction of benefits. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-650

##### REIMBURSEMENT OF DEPENDENT CARE EXPENSES

- 415-650-010 Submittal of claims. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-020 Payment of claims. [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.] Repealed by 01-21-091,

- filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-030 Report to participant. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-040 Deadline for submitting claims. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-650-050 Forfeiture of unexpended funds. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-660

##### SOURCE OF REIMBURSEMENT

- 415-660-010 Salary reduction 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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-660-020 Rights of participants. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-670

##### TERMINATION OF PARTICIPATION

- 415-670-010 Termination of participation. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-680

##### ADMINISTRATION

- 415-680-010 Administered by 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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-680-020 Delegation of authority. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-680-030 Proper proof. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-680-040 Genuineness of documents. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-680-050 Reliance on information. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory

Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

- 415-680-060 Condition of participation. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

- 415-680-070 Decision binding. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-690

##### TERMINATION OR AMENDMENT OF PLAN

- 415-690-010 Termination or amendment of plan. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-695

##### MISCELLANEOUS

- 415-695-010 Communication to 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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-695-020 Nonassignability of rights. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-695-030 No guarantee of tax consequences. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.
- 415-695-040 Indemnification of employer by participants. [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.] Repealed by 01-21-091, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 41.04.600 through 41.04.645 and 26 U.S.C.

**Reviser's note:** Later promulgation, see chapter 415-600 WAC.

#### Chapter 415-02 WAC

##### GENERAL PROVISIONS

##### WAC

##### GENERAL RULES AFFECTING MULTIPLE PLANS AND SYSTEMS

- 415-02-010 Identification.
- 415-02-020 Authority.
- 415-02-030 Definitions.
- 415-02-050 State Environmental Policy Act—Interface.
- 415-02-060 What happens if I do not cash a warrant or check?
- 415-02-080 Identification of members.
- 415-02-100 Can I have my insurance premiums deducted from my retirement allowance?
- 415-02-110 Determination of employee status.
- 415-02-120 Investigative subpoenas.
- 415-02-130 Will I receive retirement and account information?
- 415-02-140 What is excess compensation and how is the employer's excess compensation billing calculated?
- 415-02-175 May I establish service credit for the time I was on an unpaid authorized leave of absence?
- 415-02-177 May I purchase additional service credit?

- 415-02-180 Is it possible to receive more than one month of service credit in a single retirement plan for a calendar month?
- 415-02-200 Can I transfer former LEOFF Plan 1 service?

**ACTUARIAL TABLES, SCHEDULES, AND FACTORS**

- 415-02-300 How does the department use actuarial tables, schedules, and factors?
- 415-02-310 How does the department use my age in calculating benefits?
- 415-02-320 Early retirement factors.
- 415-02-340 Monthly benefit per \$1.00 of accumulation for defined benefit plans.
- 415-02-345 TRS Plan 1 Option 1 benefit factors.
- 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated?
- 415-02-360 What is the optional cost-of-living adjustment (COLA) for PERS Plan 1 and TRS Plan 1?
- 415-02-370 Factors for establishing or restoring service credit.
- 415-02-380 How will my retirement allowance be affected if I choose a benefit option with a survivor feature?

**PROPERTY DIVISION IN DISSOLUTION ORDERS**

- 415-02-500 Property division in dissolution orders.
- 415-02-510 How can a property division dissolution order give my ex-spouse an interest in my Plan 1 or 2 retirement account?
- 415-02-520 How can my Plan 1 or 2 retirement account be split by a property division dissolution order?
- 415-02-530 How can a property division dissolution order give my ex-spouse an interest in part of my Plan 3 retirement account?
- 415-02-540 How can my Plan 3 retirement account be split by a property division dissolution order?
- 415-02-550 What happens to my defined contributions if I transfer to Plan 3 after the department of retirement systems accepts my property division dissolution order?

**TAXES AND FEES**

- 415-02-700 Are fallen heroes' survivor benefits nontaxable?
- 415-02-710 What is the \$150,000 death benefit?
- 415-02-720 What does the department charge for processing split payments?

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

- 415-02-040 Definition of Plan II. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-040, filed 2/15/78.] Repealed by 00-10-016, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050.
- 415-02-070 Application of particular rules to Plan II members. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-070, filed 2/15/78.] Repealed by 00-10-016, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050.
- 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.

**GENERAL RULES AFFECTING MULTIPLE PLANS AND SYSTEMS**

**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.

(2009 Ed.)

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

(2) 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 P.O. Box 48380, 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.

(3) Members of the public who wish to inspect and/or copy public records maintained by the agency pursuant to chapter 42.56 RCW shall do so in accordance with the methods and procedures established in chapter 415-06 WAC.

[Statutory Authority: RCW 41.50.050(5). 08-20-068, § 415-02-010, filed 9/25/08, effective 10/26/08. Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-010, filed 4/21/00, effective 5/22/00; Order 4, § 415-02-010, filed 7/27/77.]

**WAC 415-02-020 Authority.** (1) The department has the authority, in accordance with RCW 41.50.030, as now or hereafter amended, to administer the:

- (a) Washington public employees' retirement system created by chapter 41.40 RCW;
  - (b) Washington public safety employees' retirement system created by chapter 41.37 RCW;
  - (c) Washington state teachers' retirement system created by chapter 41.32 RCW;
  - (d) Washington school employees' retirement system created by chapter 41.35 RCW;
  - (e) Washington law enforcement officers' and fire fighters' retirement system created by chapter 41.26 RCW;
  - (f) Washington state patrol retirement system created by chapter 43.43 RCW;
  - (g) Washington judicial retirement system created by chapter 2.10 RCW; and
  - (h) Judges retirement fund created by chapter 2.12 RCW.
- (2) The director is authorized to adopt rules pursuant to RCW 41.50.050.

[Statutory Authority: RCW 41.50.050(5). 06-18-009, § 415-02-020, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-020, filed 4/21/00, effective 5/22/00; Order 4, § 415-02-020, filed 7/27/77.]

**WAC 415-02-030 Definitions.** This section contains definitions of words and phrases commonly used in the department of retirement systems' rules. It also serves as a directory for finding definitions within the RCWs and WACs.

(1) **Accumulated contributions** means the sum of all contributions paid into a member's defined benefit account, including interest.

(2) **Appeal** means the proceeding through which a party obtains review of a department action in an adjudicative proceeding conducted under chapter 34.05 RCW (the Administrative Procedure Act) and chapter 415-08 WAC (the department's appeal rules).

(3) **Average final compensation** is defined in RCW 41.32.010(30) (TRS); RCW 41.35.010(14) (SERS); RCW 41.40.010(17) (PERS); and RCW 41.37.010(14) (PSERS).

(4) **Average final salary** for WSPRS is defined in RCW 43.43.120(15).

(5) **Cafeteria plan** means a "qualified" employee benefit program under IRC section 125, such as certain health and welfare plans.

(6) **Calendar month.**

(a) Refers to one of the twelve named months of the year, extending from the first day of the named month through the last day. For example: January 1st through January 31st is a calendar month. February 1st through February 29th is a calendar month in a leap year. March 13th through April 12th is *not* a calendar month.

(b) Exception: For the purpose of administering the break in employment required by RCW 41.32.570, 41.32.-802, 41.32.862, 41.35.060, 41.37.050 and 41.40.037 for retirees returning to work, one calendar month means thirty consecutive calendar days. For example: Kim's retirement date is August 1. August 31 would be the earliest Kim could return to work and meet the requirement for a one calendar month break in employment.

(7) **Compensation earnable or earnable compensation** definitions can be found in RCW 41.32.010(10) and 41.32.345 (TRS); RCW 41.35.010(6) (SERS); RCW 41.37.-010(6) (PSERS); and RCW 41.40.010(8) (PERS).

(8) **Contribution rate** is:

(a) For employees: The fraction (percent) of compensation a member contributes to a retirement system each month.

(b) For employers: The fraction (percent) of payroll a member's employer contributes to a retirement system each month. Contribution rates vary for the different systems and plans.

(9) **Deferred compensation** refers to the amount of the participant's compensation, which the participant voluntarily defers from earnings before taxes to a deferred compensation program.

(10) **Defined benefit plan** is a pension plan in which a lifetime retirement allowance is available, based on the member's service credit and compensation.

(11) **Defined contribution plan** is a plan in which part of members' or participants' earnings are deferred into an investment account in which tax is deferred until funds are withdrawn. The benefit is based on the contribution rate and the amount of return from the investment of the contributions. Members or participants receive the full market rate of return minus expenses. There is no guaranteed rate of return and the value of an account will increase or decrease based upon market fluctuations.

(12) **Department** means the department of retirement systems.

(13) **Director** means the director of the department of retirement systems.

(14) **Employee** 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.

(15) **Employer** is defined in RCW 41.26.030(2) (LEOFF), 41.32.010(11) (TRS), 41.34.020(5) (Plan 3),

41.35.010(4) (SERS), 41.37.010(4) (PSERS) and 41.40.010(4) (PERS).

(16) **Ex-spouse** refers to a person who is a party to a "dissolution order" as defined in RCW 41.50.500(3).

(17) **Final average salary for LEOFF** is defined in RCW 41.26.030(12).

(18) **Gainsharing** is the process through which members of certain plans share in the extraordinary investment gains on earnings on retirement assets under chapters 41.31 and 41.31A RCW.

(19) **Independent contractor** means a contract worker who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

(20) **IRC** means the Federal Internal Revenue Code of 1986, as subsequently amended.

(21) **JRF** means the judges' retirement fund created by chapter 2.12 RCW.

(22) **JRS** means the Washington judicial retirement system created by chapter 2.10 RCW.

(23) **LEOFF** means the Washington law enforcement officers' and fire fighters' retirement system created by chapter 41.26 RCW.

(24) **Member** means a person who is included in the membership of one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW.

(25) **Participant** means an eligible employee who participates in a deferred compensation or dependent care assistance plan.

(26) **Participation agreement** means an agreement that an eligible employee signs to become a participant in a deferred compensation or dependent care assistance plan.

(27) **Pension plan** is a plan that provides a lifelong post retirement payment of benefits to employees.

(28) **PERS** means the Washington public employee's retirement system created by chapter 41.40 RCW.

(29) **Petition** means the method by which a party requests a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415-04 WAC.

(30) **Plan 1** means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(31) **Plan 2** means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., chapter 341, Laws of 1998, and chapter 329, Laws of 2001.

(32) **Plan 3** means the retirement plans established by chapter 239, Laws of 1995, chapter 341, Laws of 1998, and chapter 247, Laws of 2000.

(33) **Portability** is the ability to use membership in more than one Washington state retirement system in order to qualify for retirement benefits. See chapters 41.54 RCW and 415-113 WAC.

(34) **PSERS** means the Washington public safety employees' retirement system created by chapter 41.37 RCW.

(35) **Public record** is defined in RCW 42.17.020(41).

(36) **Restoration** is the process of restoring a member's service credit for prior periods.

(37) **Retirement system employer - see "employer."**



(38) **Rollover** means a distribution that is paid to or from an eligible retirement plan within the statutory time limit allowed.

(39) **Separation date** is the date a member ends employment in a position eligible for retirement or disability benefit coverage.

(40) **SERS** means the Washington school employees' retirement system created by chapter 41.35 RCW.

(41) **Split account** is the account the department establishes for a member or retiree's ex-spouse.

(42) **Surviving spouse** refers to a person who was married to the member at the time of the member's death and who is receiving or is eligible to receive a survivor benefit.

(43) **Survivor beneficiary** means a person designated by the member to receive a monthly benefit allowance after the member dies.

(44) **Survivor benefit** is a feature of a retirement plan that provides continuing payments to a beneficiary after the death of a member or retiree.

(45) **TRS** means the Washington state teachers' retirement system created by chapter 41.32 RCW.

(46) **The Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA)** is the federal law that requires employers to reemploy and preserve job security, pension and welfare benefits for qualified employees who engage in military service.

(47) **WSPRS** means the Washington state patrol retirement system created by chapter 43.43 RCW.

[Statutory Authority: RCW 41.50.050(5) and 41.04.640. 09-01-021, § 415-02-030, filed 12/8/08, effective 1/8/09. Statutory Authority: RCW 41.50-050(5). 06-18-009, § 415-02-030, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.40.010(42), 41.40.037. 04-04-037, § 415-02-030, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50-050(5). 02-23-037, § 415-02-030, filed 11/13/02, effective 1/1/03; 02-01-120, § 415-02-030, filed 12/19/01, effective 1/19/02. Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-030, filed 4/21/00, effective 5/22/00; 94-09-039, § 415-02-030, filed 4/19/94, effective 5/20/94; Order 4, § 415-02-030, filed 7/27/77.]

**WAC 415-02-050 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 197-11-875.

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

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-050, filed 4/21/00, effective 5/22/00. 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 What happens if I do not cash a warrant or check?** (1) *Warrant for defined benefit retirement allowance.* A warrant for your monthly retirement allowance will be canceled if it is not cashed within the time frame set by RCW 43.08.062. If the warrant is canceled, the department will attempt to contact you for instructions. You will not earn interest on the warrant amount pending payment.

(2009 Ed.)

(2) *Warrant for defined benefit withdrawal.* When you request a withdrawal of some or all of your defined benefit accumulated contributions:

(a) Once the department issues the warrant you will stop receiving interest.

(b) Whether payable to you or to a qualified investment account, the warrant will be canceled if it is not cashed within the time frame set by RCW 43.08.062.

(c) After the department receives notice that the warrant has been canceled, the department will attempt to contact you and ask for further instructions.

(3) *Check for defined contribution distribution.* When you request a withdrawal of some or all of your defined contribution fund:

(a) The requested amount will be liquidated and the department's third-party recordkeeper will transfer the funds into a noninterest bearing account.

(b) You will not receive interest, earnings, or losses after the third-party recordkeeper processes your request.

(c) Whether you request that the refund check be sent directly to you or to a qualified investment account, the check will be canceled if it is not cashed within one hundred eighty days from the date on the check.

(d) If the check is canceled:

(i) The funds will continue to receive no interest, earnings, or losses while the recordkeeper waits to receive instructions from you; and

(ii) The department or the third-party recordkeeper will attempt to contact you and ask for further instructions.

[Statutory Authority: RCW 41.50.050(5), 43.08.062, 41.50.055(5), 41.50-260. 01-08-043, § 415-02-060, filed 3/30/01, effective 4/30/01. Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-060, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-02-060, filed 2/15/78.]

**WAC 415-02-080 Identification of members.** The department is authorized by the Internal Revenue Code to solicit Social Security numbers. The department uses Social Security numbers as the identifying number for the member file to ensure that any amounts paid from retirement accounts are properly reported to the Internal Revenue Service (IRS) as required by law. Each member of the retirement system is required to supply his or her Social Security number to the department. Failure to do so will not cause the member to lose benefits, but may result in misreporting to the IRS which can lead to adverse tax consequences for the member.

[Statutory Authority: RCW 41.50.050. 00-10-016, § 415-02-080, filed 4/21/00, effective 5/22/00. 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 Can I have my insurance premiums deducted from my retirement allowance?** (1) The department will only accept requests by retirees to deduct insurance premiums from retirement allowances if one of the following conditions is met:

(a) The retiree's insurance provider has at least twenty-five such retirees enrolled in a deduction program and has an established agreement with the department; or

(b) The retiree was an eligible public safety officer, as defined by Internal Revenue Code (IRC) 402(1), who has elected to participate in the federal tax savings program on

health benefits for public safety officers under IRC 402(l). The retiree's insurance provider must have an established agreement with the department.

(2) For insurance providers under subsection (1)(a) of this section, the department may suspend deductions if the provider has fewer than twenty-five participants and remains under twenty-five participants for ninety days.

(3) This rule applies to all retirement systems administered by the department.

[Statutory Authority: RCW 41.50.050(5), 07-22-026, § 415-02-100, filed 10/26/07, effective 11/26/07; 06-21-001, § 415-02-100, filed 10/4/06, effective 11/4/06. Statutory Authority: RCW 41.50.050, 00-10-016, § 415-02-100, filed 4/21/00, effective 5/22/00. 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. 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.]

**WAC 415-02-120 Investigative subpoenas.** (1) During the course of the administration of its duties, including, but not limited to, audit or investigation, the department may issue a subpoena under RCW 41.50.137. The department may direct the subpoena to any employer, member, person or entity (served party) who may possess information which is relevant and material to compel the party to:

(a) Appear and give testimony; and/or

(b) Produce any books, papers, correspondence, memoranda, or other documents, which the department deems relevant and material.

(2) The subpoena must:

(a) Identify "Washington state department of retirement systems" as the agency issuing the subpoena;

(b) Identify the name and address of the party subpoenaed;

(c) Specifically describe the information which is sought;

(d) State a reasonable time and place for the production of the information, but **no** later than twenty days after service; and

(e) Notify the served party that if the information is not produced, the department will apply to the superior court under RCW 34.05.588 for an appropriate order or other remedy.

(3) The subpoena may be served by:

(a) Delivering it personally; or

(b) Sending a copy by certified mail, return receipt requested.

[Statutory Authority: RCW 41.50.050, 00-10-016, § 415-02-120, filed 4/21/00, effective 5/22/00.]

**WAC 415-02-130 Will I receive retirement and account information?** (1) DRS provides statements to all members who are currently employed and are being reported, and to inactive members who provide a mailing address.

(2) If you are a member of Plan 1 or 2, you will receive annual statements. The statements include, but are not limited to, the following information:

- (a) Service credit;
- (b) Contributions;
- (c) Interest; and
- (d) Various retirement information.

(3) For a member of Plan 3, you will receive two types of statements.

(a) The defined benefit portion of your plan will provide an annual statement of your accumulated service credit and various retirement information.

(b) The defined contribution portion of your plan will provide annual and quarterly statements. The statements include, but are not limited to, contributions and account activity.

(4) Statements are based on information provided to the department by your employer and are subject to correction.

[Statutory Authority: RCW 41.50.050(5) and 41.50.065, 02-03-120, § 415-02-130, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.-050, 00-10-016, § 415-02-130, filed 4/21/00, effective 5/22/00.]

**WAC 415-02-140 What is excess compensation and how is the employer's excess compensation billing calculated?**

(1) **What is excess compensation?** Excess compensation refers to certain payments from an employer to an employee when the payment is used in the calculation of the employee's retirement allowance. The following payments are excess compensation when they are reportable compensation and used in the calculation of the employee's retirement allowance:

- (a) A cash out of unused annual leave in excess of two hundred forty hours;
- (b) A cash out of other forms of leave, including sick leave and holiday leave;
- (c) A payment for a personal expense, if the payment qualifies as reportable compensation in the employee's own retirement system;
- (d) That portion of any payment, such as an overtime or incentive payment, that exceeds twice the employee's regular rate of pay for the period of time that the overtime or incentive payment applies; and
- (e) A termination or severance payment.

(2) **How does the payment of excess compensation affect employers?** The department determines how much an employee's retirement benefit will increase as a result of the excess compensation, and bills the employer or employers for the present value of that increase.

(a) If an employee cashes out annual leave while working concurrently for two or more employers and the total cash-outs result in excess compensation, each employer's billing will be based on:

(i) The number of hours cashed out by that employer in relation to the total number of hours cashed out by all employers; and

(ii) The hourly rate paid by that employer.

**Example:** Brian, a PERS 1 member, separated from employment at Agency A and Agency B at the same time. He cashed out 75 hours of annual leave from Agency A and 225 hours from Agency B, resulting in a total of 300 hours that will be used in the calculation of his average final compensation (AFC). A cash-out of unused annual leave in excess of two hundred forty hours is excess compensation (see subsection (1)(a) of this section). Therefore, sixty hours of the cash-out is excess compensation. (300 hours - 240 hours = 60 hours of excess compensation.)

Employer	Total hours cashed out	Percentage of total hours cashed out	Excess compensation billing will be based on:
Agency A	75 hours	25% (75/300)	15 hours (60 hours of excess compensation hours x 25% = 15 hours) at the hourly rate paid by Agency A.
Agency B	225 hours	75% (225/300)	45 hours (60 hours of excess compensation hours x 75% = 45 hours) at the hourly rate paid by Agency B.

(b) If an employee cashes out annual leave from two or more **successive** employers during his/her AFC period and the total cash-outs result in excess compensation, the department will:

- (i) Determine the hours cashed out sequentially (employer by employer);
- (ii) Identify the employer at the time the cumulative total cashed out exceeded two hundred forty hours, resulting in excess compensation; and
- (iii) Bill the employer, identified in (b)(ii) of this subsection, and any subsequent employers during the AFC period, for the number of excess compensation hours each cashed out.

**Example:** Deborah is a TRS 1 member who changed employment three times during her AFC period.

1. When Deborah separated employment from School District A, she cashed out 156 hours of annual leave;
2. When she separated employment from School District B, she cashed out 96 hours of annual leave; and
3. When she separated from School District C, she cashed out an additional 48 hours of annual leave.

School District	Annual Leave Cash-out	Rationale and Determination
A 7/1/03 - 6/30/04	156	The department will not bill School District A because excess compensation did not result from the 156 hours of annual leave Deborah cashed out at School District A.

School District	Annual Leave Cash-out	Rationale and Determination
B 7/1/04 - 2/28/05	96	The cumulative total of the annual leave cashed out by School District A and School District B exceeds 240 hours, and results in 12 hours of excess compensation <sup>1</sup> . School District B's excess compensation billing will be based on 12 hours at the hourly rate paid by School District B.
C 3/1/05 - 6/30/05	48	Since the cumulative total exceeded 240 hours prior to Deborah's employment with School District C, all of the leave cashed out by Agency C is excess compensation. School District C's excess compensation billing will be based on 48 hours at the hourly rate paid by School District C.

<sup>1</sup> 156 hours (cashed out by School District A) plus 96 hours (cashed out by Agency B) = 252 hours. A cash-out of unused annual leave in excess of two hundred forty hours is excess compensation (subsection (1)(a) of this section). 252 hours - 240 hours = 12 hours of excess compensation.

(3) **How is the excess compensation billing calculated?** To determine the amount of each employer's excess compensation billing, the department:

(a) Determines the increased amount of the employee's monthly retirement allowance that will result from the increase in the AFC, based on a standard benefit allowance (benefit option one);

(b) Determines the actuarial factor, based on the employee's age and retirement plan, from WAC 415-02-340; and

(c) Divides the amount of the monthly benefit increase in (a) of this subsection by the actuarial factor in (b) of this subsection.

If two or more employers are responsible for an employee's excess compensation, the department will calculate the bill for each employer individually, based solely on the excess compensation attributed to that employer. See subsection (2)(a) and (b) of this section.

**(4) Examples:**

**(a) Example 1: Excess compensation arising from cash out of sick leave (PERS Plan 1):**

Denise is a 59 year-old PERS Plan 1 member working for a public utility district. She will retire with thirty years of service, and will cash out \$8,000 in sick leave. Denise earned her two highest years of pay during her last two years of employment; therefore, the department will use these years to compute her AFC.

**Year 1** - \$59,000 Salary  
**Year 2** - \$61,000 Salary + \$8,000 sick leave cash out

Q: Did Denise receive excess compensation?  
 A: Yes. Under subsection (1)(b) of this section, the \$8,000 sick leave cash out is excess compensation.

Q: Will the excess compensation increase Denise's retirement allowance?

A: Yes. Denise's retirement allowance will increase by \$200/month as shown:

**Without the excess compensation (cash out):**

AFC = \$59,000 + \$61,000 = \$120,000  
 $\frac{\$120,000}{24} = \$5,000/\text{month}$

Retirement allowance = 2% x 30 years x \$5,000 = \$3,000/month

**With the excess compensation (cash out):**

AFC = \$59,000 + \$61,000 + \$8,000 = \$128,000  
 $\frac{\$128,000}{24} = \$5,333.33/\text{month}$

Retirement allowance = 2% x 30 years x \$5,333.33 = \$3,200/month

**Difference in retirement allowances:**

\$3,200/month - \$3,000/month = \$200/month

Q: What is the employer's excess compensation billing?

A: The employer must pay \$24,565.50, as shown:

Using an annuity factor of 0.0081415<sup>1</sup>:

$$\frac{\$200/\text{month}}{0.0081415} = \$24,565.50$$

<sup>1</sup>Based on Denise's age of 59. The factor can be found in the table in WAC 415-02-340.

**(b) Example 2: Excess compensation arising from cash out of leave (TRS Plan 1):**

George is a TRS Plan 1 member who has 28 years of service and is retiring at age 55 from a school district. The collective bargaining agreement provides two days of personal holiday leave per year and allows for the cash out at retirement of any unused balance of personal holiday leave. Personal leave days are defined as "other forms of leave" under subsection (1)(b) of this section. The following example shows the computation of excess compensation:

**Year 1** - \$52,500 Salary  
**Year 2** - \$54,000 Salary + \$900 for four days of personal leave cash out

Q: Did George receive excess compensation?

A: Yes. Under subsection (1)(b) of this section, the \$900 leave cash out is excess compensation.

Q: Will the excess compensation increase George's retirement allowance?

A: Yes. George's retirement allowance will increase by \$21/month as shown:

**Without the excess compensation (cash out):**

AFC = \$52,500 + \$54,000 = \$106,500  
 $\frac{\$106,500}{24} = \$4,437.50/\text{month}$

Retirement allowance = 2% x 28 years x \$4,437.50 = \$2,485/month

**With the excess compensation (cash out):**

AFC = \$52,500 + \$54,000 + \$900 = \$107,400  
 $\frac{\$107,400}{24} = \$4,475/\text{month}$

Retirement allowance = 2% x 28 years x \$4,475 = \$2,506/month

**Difference in retirement allowances:**

\$2,506/month - \$2,485/month = \$21/month

Q: What is the employer's excess compensation billing?

A: The employer must pay \$2,802.28, as shown:

$$\begin{array}{r} \text{Using an annuity factor of 0.0074939:} \\ \frac{\$21/\text{month}}{0.0074939} = \$2,802.28 \end{array}$$

<sup>2</sup>Based on George's age of 55. The factor can be found in the table in WAC 415-02-340.

**(c) Example 3: Excess compensation from bonus.**

Susan is retiring at age 65 in PERS Plan 2. Susan's employer awarded her a \$15,083.33 bonus for work she did on a special project in February. The department will compute Susan's excess compensation as follows:

<b>Year 1</b>	- \$59,000 Salary
<b>Year 2</b>	- \$59,000 Salary
<b>Year 3</b>	- \$59,000 Salary
<b>Year 4</b>	- \$59,000 Salary
<b>Year 5</b>	- \$76,083.33 (includes a \$15,083.33 bonus for services provided in the month of February).

Q: Did Susan receive excess compensation?

A: Yes. Under subsection (1)(d) of this section, the portion of the bonus that exceeds twice the employee's regular rate of pay for that period (\$4,916.67) is excess compensation, as shown:

Regular monthly rate:	$\$61,000/12 = \$5,083.33/\text{month}$
Twice February's monthly rate:	$2 \times \$5,083.33 = \$10,166.66$
Excess compensation:	$\$15,083.33 - \$10,166.66 = \$4,916.67$

Q: Will the excess compensation increase Susan's retirement allowance?

A: Yes. It increases by \$49.16/month, as shown:

<b>Without excess compensation (portion of bonus):</b>	
AFC	$= \$59,000 + \$59,000 + \$59,000 + \$59,000 + \$76,083.33 - \$4,916.67 = \$307,166.66$ $\$307,166.66/60 = \$5,119.44/\text{month}$
Retirement allowance	$= 2\% \times 30 \text{ years} \times \$5,119.44 = \$3,071.67/\text{month}$
<b>With the excess compensation (portion of bonus):</b>	
AFC	$= \$59,000 + \$59,000 + \$59,000 + \$59,000 + \$76,083.33 = \$312,083.33$ $\$312,083.33/60 = \$5,201.39/\text{month}$
Retirement allowance	$= 2\% \times 30 \text{ years} \times \$5,201.39 = \$3,120.83/\text{month}$
<b>Difference in retirement allowances:</b> $\$3,120.83/\text{month} - \$3,071.67/\text{month} = \$49.16/\text{month}$	

Q: What is the employer's excess compensation billing?

A: The employer must pay \$6,784.62, as shown:

$$\begin{array}{r} \text{Using an annuity factor of 0.0072458:} \\ \frac{\$49.16/\text{month}}{0.0072458} = \$6,784.62 \end{array}$$

[Statutory Authority: RCW 41.50.050(5) and 41.50.150. 05-12-107, § 415-02-140, filed 5/27/05, effective 6/27/05; 03-06-043, § 415-02-140, filed 2/27/03, effective 4/1/03.]

**WAC 415-02-175 May I establish service credit for the time I was on an unpaid authorized leave of absence?**

**(1) Will I get service credit for the time I was on an unpaid authorized leave of absence?** You will receive service credit for the period of time you are on an unpaid authorized leave of absence, up to a maximum of twenty-four service credit months during your entire working career, provided all of the following apply:

(a) You are a member of LEOFF Plan 2, PERS Plan 2 or 3, PSERS, SERS Plan 2 or 3, or TRS Plan 2 or 3;

(b) Your leave of absence was authorized by your employer;

(c) You resumed employment according to the requirements in subsection (3) of this section; and

(d) You establish the service credit for the period of leave according to the provisions in this section.

**(2) How does an unpaid authorized leave of absence affect my retirement?** If you establish service credit for the period of time you were on an unpaid authorized leave of absence:

(a) It will be used as part of your total service credit to determine retirement eligibility and pension; but

(b)(i) Except as noted in (b)(ii) of this subsection, the period of time you were on leave will not be included in your average final compensation period.

Example:

Joseph has the following earnable compensation prior to retirement:

YR 1	\$30,000
YR 2	\$35,000
YR 3	\$40,000
YR 4	\$45,000
YR 5	\$50,000
YR 6	Unpaid leave of absence for entire year
YR 7	\$55,000

Joseph's AFC period will be YR 2, YR 3, YR 4, YR 5, and YR 7.

(ii) This provision does not apply to interruptive military service. If you establish service credit for a period of interruptive military service and that period falls in your AFC period, you are entitled to have the salary you would have earned during that time period used in the calculation of your AFC.

**(3) Do I qualify to establish this service credit?** As a requirement for establishing this service credit, you must resume employment within the same retirement system you left.

(a) After resuming employment, you may request, and pay for, service credit whether you are a contributing member or whether you become inactive.

(b) If you are a law enforcement officer in LEOFF Plan 2 and took a part-time unpaid leave of absence while you worked part-time, you may request service credit only after returning to full-time employment with the employer that authorized your leave of absence. In this case, you may only request part-time service credit for the portion of time you were on unpaid leave of absence.

(4) **How do I request this service credit?** If you wish to establish this service credit, you must contact the department. The department will obtain written verification from your employer confirming the months of your authorized leave of absence and your salary for the months preceding and following the leave.

(5) **How does the department determine the cost of establishing this service credit?**

(a) In order to establish service credit for the period of time you were on leave of absence, you must pay the employee and employer retirement contributions, plus applicable interest. LEOFF Plan 2 members must also pay the contributions normally paid by the state.

(b) The amount of the employee and employer contributions is calculated as follows:

(i) For TRS members, the salary upon which contributions are calculated is determined by averaging the salary earned for the school year, as defined in RCW 28A.150.040, prior to your unpaid leave of absence and the salary earned in the school year after you returned to work. If you were on leave of absence for less than the entire school year, that year's salary will be prorated according to the number of months you were on leave of absence.

(ii) For law enforcement officers in LEOFF Plan 2 who took a part-time unpaid leave of absence while working part-time, the salary upon which contributions are calculated is determined by:

(A) Averaging your basic salary during the last full month of employment before your part-time leave of absence, and your basic salary during the first full month after you return to full-time employment; and

(B) Multiplying the monthly salary determined according to (b)(ii)(A) of this subsection by the number of months you were on leave.

(iii) For members of other systems, the salary upon which contributions are calculated is determined by:

(A) Averaging the compensation earned during the last full month of employment before your leave of absence, and the compensation you earned during the first full month after you returned to work; and

(B) Multiplying the monthly salary determined according to (b)(iii)(A) of this subsection by the number of months you were on leave.

If you worked part-time prior to the leave of absence, partial month wages will be used to estimate your average salary. In this case, you may only establish part-time service credit for the period of time you were on leave of absence.

(6) **What is the payment process for establishing this service credit?**

(a) You may purchase this service credit in one payment, or make payments at any time until the deadline expires.

(b) Interest will accrue on the unpaid balance until payment is made in full.

(c) The department will accept funds that have been rolled over from a tax deferred retirement account for the purchase of the service credit. However, the amount you may roll over is limited to the purchase price of the service credit. If the rollover amount does not cover the entire purchase price, you must pay the additional amount within thirty days of the rollover. If the balance is not paid within thirty days,

the rollover funds will be returned to the original financial institution.

(d) If you took more than one authorized leave of absence, the department will bill you separately for each occurrence. Service credit will be granted for each occurrence only after the bill for that period is paid in full.

(7) **What is the deadline for establishing this service credit?** Except as provided in subsection (9) of this section:

(a) If you are a member of LEOFF Plan 2, PERS Plan 2, PSERS, or SERS Plan 2, payment in full must be received within five years from the initial date of your return to an eligible position, or prior to your retirement, whichever occurs first.

(b) If you are a member of PERS Plan 3 or SERS Plan 3, payment in full must be received prior to your retirement.

(c) If you are a member of TRS Plan 2 or 3, payment in full must be received by August 31st of the fifth school year, as defined in RCW 28A.150.040, after you return to employment or prior to your retirement, whichever comes first. The school year during which you return to work will be counted as year one.

(8) **What if I do not make payment in full by the deadline?**

(a) If you are a Plan 2 member or a PSERS member and do not make payment in full by the deadline, the amount you paid will be refunded to you.

(b) If you are a Plan 3 member and do not make payment by the deadline, the portion of your payments that were:

(i) Employer contributions will be refunded to you; and

(ii) Employee contributions will be deposited into your defined contribution account and available to you only upon separation from service.

(c) If you are a Plan 2 member or a PSERS member, the department will refund partial payments prior to the deadline upon your request.

(d) If you are a PERS Plan 2, SERS Plan 2, or TRS Plan 2 member and transfer to Plan 3 prior to making payment in full:

(i) The department will refund any partial payments; and

(ii) You must reapply under Plan 3 if you still wish to establish this service credit.

(9) **What is the exception to the deadline?** After your initial deadline has passed, you retain the right to establish this service credit until the date of your retirement. However, the purchase price will be equal to the full actuarial value of the increase in benefit that results from the purchased service credit. You may use the two-part formula in WAC 415-10-040 to determine actuarial value.

(10) **What state law applies to establishing service credit for an unpaid authorized leave of absence?**

(a) PERS Plan 2: RCW 41.40.710;

(b) PERS Plan 3: RCW 41.40.805;

(c) TRS Plan 2: RCW 41.32.810;

(d) TRS Plan 3: RCW 41.32.865;

(e) SERS Plan 2: RCW 41.35.470;

(f) SERS Plan 3: RCW 41.35.650;

(g) LEOFF Plan 2: RCW 41.26.520;

(h) PSERS: RCW 41.37.260;

(i) Deadline extension: RCW 41.50.165.

[Statutory Authority: RCW 41.50.050(5), 41.40.710, 41.40.805, 41.32.810, 41.32.865, 41.35.470, 41.35.650, 41.26.520, 41.37.260. 06-18-009, § 415-

02-175, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.-050(5), 41.40.710, 41.40.805, 41.32.810, 41.32.865, 41.35.470, 41.35.650, 41.26.520, 41.50.165, 04-20-005, § 415-02-175, filed 9/23/04, effective 10/24/04.]

**WAC 415-02-177 May I purchase additional service credit? (1) What is the option for purchasing additional service credit?** The following statutes provide an option for eligible members to purchase additional service credit that provides a guaranteed, lifetime increase to their monthly retirement allowance:

- (a) Section 5, chapter 214, Laws of 2006 for LEOFF Plan 1 members;
- (b) RCW 41.26.432 for LEOFF Plan 2 members;
- (c) Section 1, chapter 214, Laws of 2006 for PERS Plan 1, 2, and 3 members;
- (d) Section 4, chapter 214, Laws of 2006 for PSERS Plan 2 members;
- (e) Section 3, chapter 214, Laws of 2006 for SERS Plan 2 and 3 members;
- (f) Section 2, chapter 214, Laws of 2006 for TRS Plan 1, 2, and 3 members; and
- (g) Section 6, chapter 214, Laws of 2006 for WSPRS Plan 1 and 2 members.

**(2) Am I eligible to purchase additional service credit?**

- (a) You may purchase additional service credit if you are eligible to retire from one or more of the following plans and you take your benefit as a monthly allowance rather than a lump sum payment:
  - (i) LEOFF Plan 1 or 2 under RCW 41.26.090 or 41.26.-430;
  - (ii) PERS Plan 1, 2 or 3 under RCW 41.40.180, 41.40.-630, or 41.40.820;
  - (iii) PSERS Plan 2 under RCW 41.37.210;
  - (iv) SERS Plan 2 or 3 under RCW 41.35.420 or 41.35.-680;

$$\begin{aligned}
 \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{AFC} \times \text{early retirement factor} \\
 &= 2\% \times 5 \text{ years} \times \$4000 \times .7300000 \\
 &= \$292
 \end{aligned}$$

**TRS Plan 3 example 2:** Jane is a member of TRS Plan 3. She applies for retirement, effective the first month after her 62nd birthday. Her AFC is \$4000 per month. If she purchases sixty months of additional service credit, her monthly retirement allowance will increase by \$146 per month, calculated as follows:

Additional service credit:  $60 \text{ months} \div 12 = 5 \text{ years}$   
 Early retirement factor: .7300000

$$\begin{aligned}
 \text{Amount of increase} &= 1\% \times \text{additional service credit years} \times \text{AFC} \times \text{early retirement factor} \\
 &= 1\% \times 5 \text{ years} \times \$4000 \times .7300000 \\
 &= \$146
 \end{aligned}$$

**LEOFF Plan 2 example 3:** Jim is a member of LEOFF Plan 2. He applies for retirement, effective the first month after his 53rd birthday. His FAS is \$4000 per month. If he purchases sixty months of additional service credit, his monthly retirement allowance will increase by \$400 per month, calculated as follows:

Additional service credit:  $60 \text{ months} \div 12 = 5 \text{ years}$

$$\begin{aligned}
 \text{Amount of increase} &= 2\% \times \text{additional service credit years} \times \text{FAS} \\
 &= 2\% \times 5 \text{ years} \times \$4000 \\
 &= \$400
 \end{aligned}$$

(v) TRS Plan 1, 2, or 3 under RCW 41.32.480, 41.32.-765, or 41.32.875; or

(vi) WSPRS Plan 1 or 2 under RCW 43.43.250.

(b) If you retire as a result of a disability, you may purchase additional service credit if you meet the requirements in (a) of this section.

**(3) How much additional service credit may I purchase?** If you are eligible, you may purchase from one to sixty months of additional service credit in whole month increments.

**(4) May I use the additional purchased service credit to qualify for retirement, or to qualify for the three percent reduction instead of the actuarial reduction for early retirement?** No. You may not use the purchased service credit to qualify for retirement or to qualify for a three percent reduction factor instead of an actuarial reduction for early retirement.

**(5) When must I apply to purchase additional service credit?** You must submit your request to purchase additional service credit to the department at the same time you submit your application for retirement.

**(6) How much will my monthly retirement allowance increase if I purchase additional service credit?** The increase in your monthly retirement allowance will be calculated using the benefit formula for your system and plan, with a reduction for early retirement, if applicable. If your monthly allowance will be reduced for early retirement, the same early reduction factor will be used to calculate the increase due to the additional service credit.

**PERS Plan 2 example 1:** John is a member of PERS Plan 2. He applies for retirement, effective the first month after his 62nd birthday. His AFC is \$4000 per month. If he purchases sixty months of additional service credit, his monthly retirement allowance will increase by \$292 per month, calculated as follows:

Additional service credit:  $60 \text{ months} \div 12 = 5 \text{ years}$   
 Early retirement factor: .7300000



(7) **How is the cost of the additional purchased service credit calculated?** The cost to purchase additional service credit is calculated by dividing the amount of the increase in subsection (6) of this section by the age-based annuity factor in WAC 415-02-340.

**Example.** In subsection (6) of this section, Example 1, it was determined that John's retirement allowance would increase by \$292 per month. The cost to purchase the five years of additional service credit would be \$43,558.68, calculated as follows:

$$\begin{aligned} \text{Cost} &= \text{Amount of increase} \div \text{age-based annuity factor} \\ &= \$292 \div .0067036 \\ &= \$43,558.68 \end{aligned}$$

**(8) How and when do I pay for the additional service credit?**

(a) Payment may be made with an eligible rollover, a direct rollover or a trustee-to-trustee transfer. You may also use after-tax dollars, such as those from a personal savings account; however, IRS regulations limit the amount of after-tax dollars you can use for this type of purchase.

(b) Payment must be made in full ninety days after the bill issue date.

**(9) If I choose a benefit option with a survivor feature, will my survivor beneficiary's monthly allowance reflect the additional purchased service credit?** Yes. Depending upon the rules for your retirement system and plan and the benefit option you choose at retirement, your survivor beneficiary's monthly allowance will be a percentage of the gross monthly retirement allowance you were receiving at the time of your death. If you choose a benefit option with a survivor feature and your survivor beneficiary dies before you, your monthly retirement allowance will increase to the amount it would have been had you not selected a survivor option.

**(10) Will I receive a cost of living adjustment (COLA) on the portion of my allowance that is based on the additional purchased service credit?**

(a) For all systems and plans except PERS Plan 1 and TRS Plan 1, your COLA will be based on your gross monthly retirement allowance, including the increase due to the purchased service credit.

(b) If you retired from PERS Plan 1 or TRS Plan 1 and you did not elect the COLA option, you will not receive a COLA on the additional purchased service credit amount.

**(11) If I purchase additional service credit and then return to work, how will my retirement allowance be affected?** If you return to work and your retirement allowance is suspended, the portion of your retirement allowance attributable to service credit purchased under this section will also be suspended. When your retirement allowance resumes, the portion attributable to service credit purchased under this section will also resume.

**(12) If I retire and purchase less than sixty months of additional service credit, may I purchase more at a later time?** If you retire and purchase less than sixty months of additional service credit, you may not purchase additional months of service credit from the same plan unless you return to membership and rehire from the same system and plan. You must meet the eligibility requirements provided in subsection (2) of this section at the time you rehire. You may not purchase more than a total of sixty months of service credit regardless of how many times you rehire from the same system and plan.

**(13) May I purchase service credit from more than one retirement plan?**

(a) If you are a dual member under chapter 415-113 WAC, Portability of public employment benefits, and combine service credit to retire from two retirement plans, you may purchase up to sixty months of additional service credit from each plan.

(b) If you retire from more than one plan, but are not a dual member under chapter 415-113 WAC, you may purchase up to sixty months of additional service credit from each plan in which you meet the eligibility requirements in subsection (2) of this section.

**(14) Will the money I paid to purchase the additional service credit be distributed to my beneficiary or estate if I die?**

(a) If you have a survivor beneficiary at the time of your death, your survivor beneficiary will receive a monthly allowance according to subsection (9) of this section.

(b) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement (including the money you paid for additional service credit):

(i) **Plan 1 members:** The balance will be distributed according to RCW 41.26.160 and 41.26.161 (LEOFF), 41.40.188 (PERS), 41.32.530 (TRS), or WAC 415-103-215 (WSPRS).

(ii) **Plan 2 members and PSERS:** The balance will be distributed according to RCW 41.26.460 (LEOFF), 41.40.-660 (PERS), 41.35.220 (SERS), 41.37.170 (PSERS), 41.32.785 or 41.32.790 (TRS), or 43.43.271 (WSPRS).

(iii) **Plan 3 members:** The balance will be retained by the Plan 3 trust fund. Money paid for additional service credit is posted directly to the Plan 3 trust fund to cover the increased cost of defined benefits, and is not distributable.

[Statutory Authority: RCW 41.50.050(5), 2006 c 214, and RCW 41.26.432. 06-16-043, § 415-02-177, filed 7/26/06, effective 8/26/06.]

**WAC 415-02-180 Is it possible to receive more than one month of service credit in a single retirement plan for a calendar month?** You may not receive more than one month of service credit for a calendar month, or twelve months of service credit during a service credit year, in any one retirement plan.

This includes, but is not limited to, receiving more than one month of service credit during a calendar month for:

(1) Working in two or more positions covered by the same retirement system;

(2) Military service and service as an employee in the same month;

(3) Purchasing service credit for a period of paid or unpaid leave that occurred during the same month you earned service credit for service as an employee;

(4) Serving as an elected or appointed official during the same month you earned service credit for service as an employee; or

(5) Working more than the minimum number of hours required to earn one month of service credit.

**EXAMPLE:** Mary, a PERS 1 member, worked full time for the department of retirement systems continuously for five years from January 1, 1996, through December 31, 2000. During the same period, she worked evenings and Saturdays (full time) in a PERS eligible position for the department of licensing. Mary earned a total of five years of service credit, which is the maximum service credit a member may earn in a five-year period.

[Statutory Authority: RCW 41.50.050(5), 05-13-045, § 415-02-180, filed 6/9/05, effective 7/10/05.]

**WAC 415-02-200 Can I transfer former LEOFF Plan 1 service?** If you are a member of PERS, TRS, SERS, or WSPRS, and you have previously established service credit in LEOFF Plan 1, you may *irrevocably* choose to transfer your LEOFF Plan 1 service to your current retirement system and plan subject to the following conditions:

(1) The choice to transfer service must be filed in writing with the department no later than one year from the date you become employed by a PERS, TRS, SERS, or WSPRS employer in an eligible position.

(2) If you transfer your service credit under this section:

(a) You will forfeit (lose) all rights to benefits as a LEOFF Plan 1 member and will be permanently excluded from membership.

(b) Your transferred service will *not apply* to the eligibility requirements for military service credit as defined in RCW 41.40.170(3) for PERS Plan 1 or in RCW 43.43.260(3) for WSPRS Plan 1.

(3) When you transfer your service credit under this section to your current retirement system and plan, DRS will transfer:

(a) All of your accumulated LEOFF Plan 1 contributions;

(b) An amount sufficient to ensure that the employer contribution rate in your current system and plan will not increase because of the transfer; and

(c) All applicable months of LEOFF Plan 1 service credit, as defined in RCW 41.26.030 (14)(a).

(4) If you previously withdrew contributions from LEOFF Plan 1, you:

(a) May restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section;

(b) Must restore the contributions before the transfer can occur; and

(c) Must complete the restoration within the time limitations specified in subsection (1) of this section.

(5) If you do not meet the time limitations of subsection (1) of this section, you may restore any withdrawn contribu-

tions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

(6) **Terms used:**

LEOFF - Law enforcement officers' and fire fighters' retirement system.

PERS - Public employees' retirement system.

SERS - School employees' retirement system.

TRS - Teachers' retirement system.

WSPRS - Washington state patrol retirement system.

[Statutory Authority: RCW 41.50.050(5), 41.26.195, 04-04-038, § 415-02-200, filed 1/29/04, effective 3/1/04.]

## ACTUARIAL TABLES, SCHEDULES, AND FACTORS

**WAC 415-02-300 How does the department use actuarial tables, schedules, and factors?** (1) The department uses actuarial tables, schedules, and factors to calculate optional retirement allowances for members, retirees, and beneficiaries.

(2) The department adopted these tables, schedules, and factors upon the office of the state actuary's (OSA) recommendation, following OSA's investigation into the mortality, service, compensation, and other experience of retirement plan members, retirees, and beneficiaries.

(3) These tables, schedules, and factors may be amended from time to time, based upon subsequent actuarial investigation.

(4) The department uses the tables, schedules, and factors in effect at the time of the member's retirement to calculate the member's retirement allowance.

(5) The department will use these tables, schedules, and factors to process any payments when there is a death in service.

(6) The tables, schedules, and factors in this chapter apply to the calculation of retirement allowances for those who retire on or after September 1, 2002, (until subsequent amendment).

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 02-18-048, § 415-02-300, filed 8/28/02, effective 9/1/02.]

**WAC 415-02-310 How does the department use my age in calculating benefits?** This section provides an overview of the several different ways in which the department uses age in calculating benefits. The department may use your age to determine your retirement date, early retirement factors to apply, survivor factors, or cost of living adjustment factors.

(1) **Present value:** The department uses a rounding method to determine your age when calculating what your future lifetime monthly benefit is worth in present-day dollars. If the number of months in your age is under six months, the department will round down. If the number is six months or more, the department will round up. See WAC 415-02-340 for more information about the present value calculations.

### Example 1:

At the time that the department is calculating Sharon's age in making a present value calculation, Sharon is 55 years, 5 months and 26 days old. The department will round down and use 55 as Sharon's age.

**Example 2:**

At the time that the department is calculating Donna's age in making a present value calculation, Donna is 54 years and 7 months old. The department will round up and use 55 as Donna's age.

(2) **Early retirement:** The department uses the difference between your "fully eligible retirement date" and your actual retirement date in calculating any actuarial reductions to your benefits. See WAC 415-02-320 for more information about early retirement.

(a) **Step 1: Determine the fully eligible retirement date.**

(i) The department first calculates the date on which you would have been fully eligible to retire.

(ii) **All plans** (except for LEOFF Plan 1, TRS Plan 1, WSPRS Plans 1 and 2, JRF and JRS): You can retire the first day of the month following your meeting the age requirement for retirement if you are otherwise eligible.

Example: Jake was born on May 12, 1934. On May 12, 1999, Jake reaches age 65 and has met the age requirement for retirement. Provided that he is otherwise eligible, Jake's retirement date is June 1, 1999.

(iii) **LEOFF Plan 1, TRS Plan 1, WSPRS Plans 1 and 2, JRF, and JRS:** If a retirement date other than the first of the month is allowed, you can retire on the day you meet the age requirement, or the following day (depending on the plan).

Example: If Jake is a member of this type of plan, he could retire May 12th or 13th, 1999 (his birthday or the day after his birthday).

(b) **Step 2: Determine the difference.** The department next calculates the difference between your fully eligible retirement date and your actual retirement date by subtracting the actual retirement year and month from the fully eligible retirement year and month. (Days are not used in the calculation.)

(i) **Example:**

Fully eligible date:	06/01/99
Minus actual retirement date:	08/01/95
Difference:	3 years, 10 months

(ii) **Example:**

Fully eligible date:	05/25/99
Minus actual retirement date:	08/01/95
Difference:	3 years, 9 months

(c) **Step 3: Determine the early retirement factor.** The department uses the difference calculated in step 2 to determine the early retirement factor (ERF) used to calculate your benefit as described in WAC 415-02-320.

(3) **Optional COLA Factor for PERS Plan 1 and TRS Plan 1.** The department uses the rounding method described in the "present value" subsection in this section to calculate your age when determining the optional COLA factor. See WAC 415-02-360 for a description of the optional COLA factor calculation.

(4) **Calculating age to use in determining the survivor option factor.** At retirement, if you select a survivor option,

the department must calculate the difference between your age and your beneficiary's age. See WAC 415-02-380 for more information about survivor options.

(a) **Step 1:** The department calculates your age and your beneficiary's age at the time of your retirement.

(b) **Step 2:** The department rounds the ages, using the same method described in the "present value" subsection in this section.

(c) **Step 3:** The department subtracts your beneficiary's age from your age.

**Example:**

Member's age:	60
Minus beneficiary's age:	49
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	11

Result: The department will use the survivor option factor for a beneficiary who is 11 years younger than the member.

**Example:**

Member's age:	65
Minus beneficiary's age:	67
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	-2

Result: The department will use the survivor option factor for a beneficiary who is two years older than the member.

(5) **Terms used**

- (a) JRF - Judicial retirement fund.
- (b) JRS - Judicial retirement system.
- (c) LEOFF - Law enforcement officers' and fire fighters' retirement system.
- (d) PERS - Public employees' retirement system.
- (e) SERS - School employees' retirement system.
- (f) TRS - Teachers' retirement system.
- (g) WSPRS - Washington state patrol retirement system.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 08-20-068, § 415-02-310, filed 9/25/08, effective 10/26/08; 03-06-044, § 415-02-310, filed 2/27/03, effective 4/1/03.]

**WAC 415-02-320 Early retirement factors.** (1) **What are early retirement factors (ERF)?** The department uses an early retirement factor (ERF) to actuarially reduce a member's or beneficiary's monthly allowance if the monthly allowance begins before the member meets the age requirement for an unreduced retirement benefit. This reduction offsets the cost of paying the monthly allowance for a longer period of time.

(1) **In what situations will the department use an ERF?**

(a) The department will use an ERF to reduce a monthly allowance in any of the following situations, subject to the law governing your plan, and subject to the exceptions in (b) of this subsection:

- (i) You choose to retire early.
- (ii) You retire due to a disability before you are eligible to retire with an unreduced retirement allowance.
- (iii) You die before you are eligible to retire with an unreduced retirement allowance, and your beneficiary is eligible for a monthly allowance.

(b) An ERF is not used in the following circumstances, although another method may be used to reduce benefits as required by the laws governing each plan:

- (i) You meet your plan's requirements for "alternate early retirement";
- (ii) You meet PSERS requirements for "early retirement";
- (iii) You retire for service or due to a disability, from PERS Plan 1 or TRS Plan 1;
- (iv) You are a member of LEOFF Plan 1;

- (v) You retire due to a duty-related disability from LEOFF Plan 2;
  - (vi) You retire due to a disability or die before retirement from WSPRS Plan 1; or
  - (vii) You retire due to a disability from WSPRS Plan 2.
- (c) The following table shows the law governing plans that use an ERF:

	Early Retirement	Disability Retirement	Death Prior to Retirement
LEOFF Plan 1:	N/A	N/A	N/A
LEOFF Plan 2:	RCW 41.26.430	RCW 41.26.470	RCW 41.26.510
PERS Plan 1:	N/A	N/A	RCW 41.40.270
PERS Plan 2:	RCW 41.40.630	RCW 41.40.670	RCW 41.40.700
PERS Plan 3:	RCW 41.40.820	RCW 41.40.825	RCW 41.40.835 and 41.34.070
PSERS:	N/A	RCW 41.37.230	RCW 41.37.250
SERS Plan 2:	RCW 41.35.420	RCW 41.35.440	RCW 41.35.460
SERS Plan 3:	RCW 41.35.680	RCW 41.35.690	RCW 41.35.710
TRS Plan 1:	N/A	N/A	RCW 41.32.520
TRS Plan 2:	RCW 41.32.765	RCW 41.32.790	RCW 41.32.805
TRS Plan 3:	RCW 41.32.875	RCW 41.32.880	RCW 41.32.895 and 41.34.070
WSPRS Plan 1:	RCW 43.43.280	N/A	N/A
WSPRS Plan 2:	RCW 43.43.280	N/A	RCW 43.43.295

(2) **How does the department determine the number of years on which to base the ERF?** The calculation varies among plans:

(a) TRS Plan 1 only: The ERF used to calculate your beneficiary's monthly allowance if you die before retirement is based on the number of years between the age at which you die and the age at which you would have first become eligible to retire under RCW 41.32.480. See RCW 41.32.520.

(b) WSPRS Plan 2 only: The ERF used to calculate your beneficiary's monthly allowance if you die before retirement is based on the number of years between the age at which you die and age fifty-five or when you could have attained twenty-five years of service, whichever is less. See RCW 43.43.295.

(c) All other ERFs are based on number of years between the age at which you retire, or die, and the age at which you would have been eligible to retire with an unreduced retirement allowance.

(3) **Examples.**

(a) **Early retirement:**

Sandy, a PERS Plan 2 member, applies for retirement at age 56 years and one month with a total of 21.11 years of service. Her average final compensation (AFC) is \$3,500.00.

PERS Plan 2 provides for two percent (.02) of AFC per year of service. A PERS Plan 2 member must be age 65 to retire with an unreduced benefit, but is eligible for an actuarially reduced monthly retirement allowance at age 55 with 20 years of service credit.

The difference between Sandy's age now (56) and the age at which she would receive an unreduced monthly allow-

ance (65) is 8 years and 11 months. The corresponding ERF is .4025. Therefore, the department will multiply Sandy's AFC of \$3,500 x .02 x 21.11 (service credit years) x .4025 (ERF). Sandy's monthly retirement allowance will be \$594.77.

(b) **Death before retirement** (applies to TRS 1 only):

Robert, a 56-year-old TRS Plan 1 member, died April 1, 2006, with 23.17 years of service credit. His AFC is \$3,171.74.

TRS Plan 1 provides an unreduced retirement allowance at age 55 with 25 years of service credit.

Robert's wife, Karen, will receive an actuarially reduced allowance based on the date Robert would have first qualified for an unreduced retirement allowance. If Robert had continued in service, he would have met eligibility requirements in one year and 10 months, when he earned 25 years of service credit. The ERF for one year and 10 months is .8530.

Karen's monthly allowance will be further reduced by the Option 2 survivor factor, which is based on the age difference between her and Robert. Karen is age 58, two years older than Robert. The Option 2 survivor factor for a beneficiary two years older is .913 (see WAC 415-02-380(11)).

The department will multiply 23.17 (Robert's service credit years) x .02 x \$3,171.74 (AFC) x .8530 (ERF) x .913 (the Option 2 factor). Karen's monthly allowance will be \$1,144.65.

(4) **Table - Early retirement factors (ERF) for LEOFF Plan 2, WSP Plan 2, PERS Plan 1, TRS Plan 1, and WSP Plan 1 and 2 vested/terminated members:**

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.000	.9933	.9866	.9799	.9732	.9665	.9598	.9531	.9464	.9397	.9330	.9263
1	.9200	.9133	.9066	.8999	.8932	.8865	.8798	.8731	.8664	.8597	.8530	.8463
2	.8400	.8333	.8266	.8199	.8132	.8065	.7998	.7931	.7864	.7797	.7730	.7663
3	.7600	.7558	.7516	.7474	.7432	.7390	.7348	.7306	.7264	.7222	.7180	.7138
4	.7100	.7058	.7016	.6974	.6932	.6890	.6848	.6806	.6764	.6722	.6680	.6638
5	.6600	.6558	.6516	.6474	.6432	.6390	.6348	.6306	.6264	.6222	.6180	.6138
6	.6100	.6058	.6016	.5974	.5932	.5890	.5848	.5806	.5764	.5722	.5680	.5638
7	.5600	.5558	.5516	.5474	.5432	.5390	.5348	.5306	.5264	.5222	.5180	.5138

General Provisions

415-02-320

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
8	.5100	.5067	.5034	.5001	.4968	.4935	.4902	.4869	.4836	.4803	.4770	.4737
9	.4700	.4667	.4634	.4601	.4568	.4535	.4502	.4469	.4436	.4403	.4370	.4337
10	.4300	.4267	.4234	.4201	.4168	.4135	.4102	.4069	.4036	.4003	.3970	.3937
11	.3900	.3867	.3834	.3801	.3768	.3735	.3702	.3669	.3636	.3603	.3570	.3537
12	.3500	.3467	.3434	.3401	.3368	.3335	.3302	.3269	.3236	.3203	.3170	.3137
13	.3100	.3083	.3066	.3049	.3032	.3015	.2998	.2981	.2964	.2947	.2930	.2913
14	.2900	.2883	.2866	.2849	.2832	.2815	.2798	.2781	.2764	.2747	.2730	.2713
15	.2700	.2683	.2666	.2649	.2632	.2615	.2598	.2581	.2564	.2547	.2530	.2513
16	.2500	.2483	.2466	.2449	.2432	.2415	.2398	.2381	.2364	.2347	.2330	.2313
17	.2300	.2283	.2266	.2249	.2232	.2215	.2198	.2181	.2164	.2147	.2130	.2113
18	.2100	.2092	.2084	.2076	.2068	.2060	.2052	.2044	.2036	.2028	.2020	.2012
19	.2000	.1992	.1984	.1976	.1968	.1960	.1952	.1944	.1936	.1928	.1920	.1912
20	.1900	.1892	.1884	.1876	.1868	.1860	.1852	.1844	.1836	.1828	.1820	.1812
21	.1800	.1792	.1784	.1776	.1768	.1760	.1752	.1744	.1736	.1728	.1720	.1712
22	.1700	.1692	.1684	.1676	.1668	.1660	.1652	.1644	.1636	.1628	.1620	.1612
23	.1600	.1592	.1584	.1576	.1568	.1560	.1552	.1544	.1536	.1528	.1520	.1512
24	.1500	.1492	.1484	.1476	.1468	.1460	.1452	.1444	.1436	.1428	.1420	.1412
25	.1400	.1392	.1384	.1376	.1368	.1360	.1352	.1344	.1336	.1328	.1320	.1312
26	.1300	.1292	.1284	.1276	.1268	.1260	.1252	.1244	.1236	.1228	.1220	.1212
27	.1200	.1192	.1184	.1176	.1168	.1160	.1152	.1144	.1136	.1128	.1120	.1112
28	.1100	.1092	.1084	.1076	.1068	.1060	.1052	.1044	.1036	.1028	.1020	.1012
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
31	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
32	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
33	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
34	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
35	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
36	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
37	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
38	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
39	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
40	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

(5) Table - Early retirement factors (ERF) for PERS Plans 2 and 3, PSERS, SERS Plans 2 and 3, TRS Plans 2 and 3, and PERS Plan 1 vested/terminated members:

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.000	.9925	.9850	.9775	.9700	.9625	.9550	.9475	.9400	.9325	.9250	.9175
1	.9100	.9025	.8950	.8875	.8800	.8725	.8650	.8575	.8500	.8425	.8350	.8275
2	.8200	.8125	.8050	.7975	.7900	.7825	.7750	.7675	.7600	.7525	.7450	.7375
3	.7300	.7250	.7200	.7150	.7100	.7050	.7000	.6950	.6900	.6850	.6800	.6750
4	.6700	.6650	.6600	.6550	.6500	.6450	.6400	.6350	.6300	.6250	.6200	.6150
5	.6100	.6050	.6000	.5950	.5900	.5850	.5800	.5750	.5700	.5650	.5600	.5550
6	.5500	.5450	.5400	.5350	.5300	.5250	.5200	.5150	.5100	.5050	.5000	.4950
7	.4900	.4850	.4800	.4750	.4700	.4650	.4600	.4550	.4500	.4450	.4400	.4350
8	.4300	.4275	.4250	.4225	.4200	.4175	.4150	.4125	.4100	.4075	.4050	.4025
9	.4000	.3975	.3950	.3925	.3900	.3875	.3850	.3825	.3800	.3775	.3750	.3725
10	.3700	.3675	.3650	.3625	.3600	.3575	.3550	.3525	.3500	.3475	.3450	.3425
11	.3400	.3375	.3350	.3325	.3300	.3275	.3250	.3225	.3200	.3175	.3150	.3125
12	.3100	.3075	.3050	.3025	.3000	.2975	.2950	.2925	.2900	.2875	.2850	.2825
13	.2800	.2783	.2766	.2749	.2732	.2715	.2698	.2681	.2664	.2647	.2630	.2613
14	.2600	.2583	.2566	.2549	.2532	.2515	.2498	.2481	.2464	.2447	.2430	.2413
15	.2400	.2383	.2366	.2349	.2332	.2315	.2298	.2281	.2264	.2247	.2230	.2213
16	.2200	.2183	.2166	.2149	.2132	.2115	.2098	.2081	.2064	.2047	.2030	.2013
17	.2000	.1983	.1966	.1949	.1932	.1915	.1898	.1881	.1864	.1847	.1830	.1813
18	.1800	.1792	.1784	.1776	.1768	.1760	.1752	.1744	.1736	.1728	.1720	.1712
19	.1700	.1692	.1684	.1676	.1668	.1660	.1652	.1644	.1636	.1628	.1620	.1612
20	.1600	.1592	.1584	.1576	.1568	.1560	.1552	.1544	.1536	.1528	.1520	.1512
21	.1500	.1492	.1484	.1476	.1468	.1460	.1452	.1444	.1436	.1428	.1420	.1412
22	.1400	.1392	.1384	.1376	.1368	.1360	.1352	.1344	.1336	.1328	.1320	.1312
23	.1300	.1292	.1284	.1276	.1268	.1260	.1252	.1244	.1236	.1228	.1220	.1212
24	.1200	.1192	.1184	.1176	.1168	.1160	.1152	.1144	.1136	.1128	.1120	.1112
25	.1100	.1092	.1084	.1076	.1068	.1060	.1052	.1044	.1036	.1028	.1020	.1012
26	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
27	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
28	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
31	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
32	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
33	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
34	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
35	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
36	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
37	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
38	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
39	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
40	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
41	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
42	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
43	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
44	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
45	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

[Statutory Authority: RCW 41.50.050(5), chapter 41.45 RCW. 06-18-009, § 415-02-320, filed 8/24/06, effective 9/24/06; 02-18-048, § 415-02-320, filed 8/28/02, effective 9/1/02.]

**WAC 415-02-340 Monthly benefit per \$1.00 of accumulation for defined benefit plans.** (1) **How does the department use the information in the table called "monthly benefit per \$1.00 of accumulation for defined benefit plans"?** The department uses this information to:

- (a) Determine what a future lifetime monthly benefit is worth in present-day dollars;
- (b) Determine the equivalent value of a lump sum when compared with monthly payments; and
- (c) For TRS Plan 1 only: Reduce the monthly retirement allowance if some or all of the funds in a member's account are taken in a lump sum payment.

(2) **What type of information is in this table?** The information in this table reflects the expected duration of lifetime payments for recipients over a range of ages. These values differ by system and plan, and all reflect an assumed rate of return of 8.0%.<sup>3</sup>

<sup>3</sup>The younger a person is, the longer the anticipated lifetime of payments would be, and the greater the sum required to provide for these payments. The amount of monthly lifetime benefit that a present-day dollar buys increases as the remaining life expectancy of the recipient decreases.

**(3)(a) Example:**

Celina is a 65-year-old PERS Plan 2 member who is eligible to receive \$45.00 per month. She wants to know how much money she would receive if she accepted a lump sum payment instead. Celina looks at the row in the table for age 65 in the PERS Plan 2 column and learns that \$0.0072458 per month for life is equivalent to one dollar in cash for this system, plan, and age class. Celina divides \$45.00 by 0.0072458 and learns that her lump sum payment would be \$6,210.49.

**(b) Example:**

Fred is a 58-year-old TRS Plan 1 member. The balance in Fred's account is \$124,934.00. Upon retirement, Fred chooses to withdraw the \$124,934.00 (as only members of TRS Plan 1 can do and still receive a monthly allowance). From the row in the table for age 58 in the TRS Plan 1 column, Fred learns that \$0.0077573 per month for life is the equivalent to one dollar in cash for this system, plan, and age class. Fred multiplies \$124,934.00 by 0.0077573, and learns that his monthly retirement allowance will be reduced by \$969.15 per month if he withdraws his account balance.

(4) **Table<sup>1</sup> - Monthly benefit per \$1.00 of accumulation for defined benefit plans:**

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
20	0.0039835	0.0043310	0.0065444	0.0043102	0.0043248	0.0042786	0.0065267	0.0042774	0.0043319
21	0.0039997	0.0043459	0.0065518	0.0043243	0.0043395	0.0042911	0.0065329	0.0042897	0.0043469
22	0.0040168	0.0043615	0.0065598	0.0043390	0.0043549	0.0043042	0.0065396	0.0043027	0.0043626
23	0.0040347	0.0043780	0.0065684	0.0043546	0.0043711	0.0043181	0.0065468	0.0043165	0.0043791
24	0.0040535	0.0043955	0.0065778	0.0043710	0.0043882	0.0043327	0.0065546	0.0043309	0.0043966
25	0.0040734	0.0044139	0.0065878	0.0043884	0.0044063	0.0043481	0.0065630	0.0043462	0.0044150
26	0.0040943	0.0044333	0.0065987	0.0044067	0.0044255	0.0043644	0.0065720	0.0043622	0.0044346
27	0.0041163	0.0044539	0.0066105	0.0044261	0.0044457	0.0043816	0.0065818	0.0043792	0.0044552
28	0.0041396	0.0044757	0.0066232	0.0044466	0.0044671	0.0043997	0.0065924	0.0043971	0.0044771
29	0.0041641	0.0044988	0.0066370	0.0044682	0.0044897	0.0044189	0.0066038	0.0044161	0.0045002
30	0.0041899	0.0045231	0.0066517	0.0044911	0.0045136	0.0044391	0.0066162	0.0044361	0.0045246
31	0.0042171	0.0045488	0.0066676	0.0045152	0.0045388	0.0044605	0.0066295	0.0044572	0.0045503
32	0.0042456	0.0045758	0.0066845	0.0045405	0.0045653	0.0044830	0.0066438	0.0044795	0.0045774
33	0.0042755	0.0046042	0.0067025	0.0045672	0.0045932	0.0045067	0.0066592	0.0045031	0.0046059
34	0.0043069	0.0046340	0.0067217	0.0045952	0.0046225	0.0045316	0.0066756	0.0045278	0.0046358
35	0.0043398	0.0046654	0.0067421	0.0046247	0.0046533	0.0045578	0.0066930	0.0045539	0.0046672
36	0.0043745	0.0046984	0.0067639	0.0046558	0.0046857	0.0045854	0.0067116	0.0045812	0.0047004
37	0.0044109	0.0047333	0.0067873	0.0046886	0.0047200	0.0046145	0.0067315	0.0046101	0.0047353
38	0.0044494	0.0047701	0.0068123	0.0047233	0.0047562	0.0046452	0.0067527	0.0046404	0.0047723
39	0.0044900	0.0048091	0.0068393	0.0047600	0.0047945	0.0046777	0.0067754	0.0046725	0.0048114
40	0.0045330	0.0048505	0.0068682	0.0047988	0.0048351	0.0047120	0.0067998	0.0047065	0.0048529
41	0.0045784	0.0048944	0.0068994	0.0048400	0.0048782	0.0047483	0.0068261	0.0047423	0.0048969
42	0.0046266	0.0049409	0.0069329	0.0048837	0.0049239	0.0047868	0.0068543	0.0047803	0.0049436
43	0.0046777	0.0049904	0.0069690	0.0049300	0.0049724	0.0048275	0.0068846	0.0048206	0.0049932
44	0.0047319	0.0050430	0.0070078	0.0049791	0.0050240	0.0048706	0.0069172	0.0048632	0.0050460
45	0.0047894	0.0050989	0.0070495	0.0050312	0.0050787	0.0049163	0.0069523	0.0049084	0.0051021
46	0.0048504	0.0051584	0.0070945	0.0050866	0.0051370	0.0049647	0.0069900	0.0049562	0.0051617
47	0.0049153	0.0052218	0.0071429	0.0051455	0.0051990	0.0050161	0.0070305	0.0050070	0.0052253
48	0.0049844	0.0052894	0.0071953	0.0052082	0.0052652	0.0050707	0.0070740	0.0050609	0.0052932
49	0.0050581	0.0053617	0.0072519	0.0052752	0.0053358	0.0051287	0.0071210	0.0051183	0.0053657
50	0.0051368	0.0054390	0.0073132	0.0053466	0.0054114	0.0051905	0.0071717	0.0051793	0.0054432

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
51	0.0052210	0.0055218	0.0073796	0.0054231	0.0054923	0.0052564	0.0072265	0.0052444	0.0055264
52	0.0053104	0.0056098	0.0074510	0.0055044	0.0055783	0.0053265	0.0072858	0.0053139	0.0056147
53	0.0054060	0.0057042	0.0075283	0.0055914	0.0056704	0.0054014	0.0073500	0.0053881	0.0057094
54	0.0055084	0.0058054	0.0076121	0.0056846	0.0057692	0.0054813	0.0074191	0.0054671	0.0058110
55	0.0056182	0.0059141	0.0077029	0.0057845	0.0058752	0.0055668	0.0074939	0.0055515	0.0059201
56	0.0057354	0.0060302	0.0078008	0.0058912	0.0059885	0.0056581	0.0075749	0.0056420	0.0060367
57	0.0058601	0.0061539	0.0079058	0.0060049	0.0061091	0.0057557	0.0076627	0.0057388	0.0061608
58	0.0059937	0.0062865	0.0080192	0.0061265	0.0062384	0.0058600	0.0077573	0.0058422	0.0062940
59	0.0061368	0.0064287	0.0081415	0.0062566	0.0063769	0.0059712	0.0078589	0.0059524	0.0064368
60	0.0062900	0.0065812	0.0082732	0.0063959	0.0065253	0.0060901	0.0079685	0.0060703	0.0065898
61	0.0064540	0.0067444	0.0084149	0.0065448	0.0066842	0.0062172	0.0080866	0.0061963	0.0067538
62	0.0066294	0.0069191	0.0085668	0.0067036	0.0068540	0.0063529	0.0082138	0.0063311	0.0069292
63	0.0068167	0.0071058	0.0087294	0.0068729	0.0070354	0.0064976	0.0083506	0.0064751	0.0071168
64	0.0070165	0.0073050	0.0089030	0.0070531	0.0072287	0.0066517	0.0084970	0.0066285	0.0073169
65	0.0072307	0.0075186	0.0090893	0.0072458	0.0074359	0.0068158	0.0086537	0.0067919	0.0075315
66	0.0074600	0.0077474	0.0092891	0.0074517	0.0076576	0.0069903	0.0088208	0.0069657	0.0077614
67	0.0077052	0.0079921	0.0095028	0.0076715	0.0078946	0.0071765	0.0090000	0.0071514	0.0080073
68	0.0079692	0.0082556	0.0097332	0.0079076	0.0081496	0.0073755	0.0091921	0.0073497	0.0082721
69	0.0082539	0.0085400	0.0099823	0.0081620	0.0084247	0.0075879	0.0093974	0.0075612	0.0085580
70	0.0085622	0.0088479	0.0102523	0.0084366	0.0087223	0.0078162	0.0096186	0.0077883	0.0088676
71	0.0088938	0.0091793	0.0105419	0.0087308	0.0090421	0.0080615	0.0098577	0.0080327	0.0092008
72	0.0092539	0.0095393	0.0108558	0.0090487	0.0093889	0.0083261	0.0101166	0.0082964	0.0095628
73	0.0096446	0.0099300	0.0111955	0.0093919	0.0097647	0.0086093	0.0103939	0.0085784	0.0099559
74	0.0100684	0.0103538	0.0115628	0.0097624	0.0101717	0.0089142	0.0106939	0.0088826	0.0103824
75	0.0105280	0.0108135	0.0119604	0.0101627	0.0106127	0.0092422	0.0110180	0.0092104	0.0108451
76	0.0110267	0.0113124	0.0123914	0.0105960	0.0110908	0.0095951	0.0113678	0.0095637	0.0113472
77	0.0115688	0.0118547	0.0128599	0.0110662	0.0116103	0.0099757	0.0117460	0.0099450	0.0118933
78	0.0121597	0.0124460	0.0133705	0.0115778	0.0121762	0.0103875	0.0121558	0.0103575	0.0124885
79	0.0128051	0.0130919	0.0139278	0.0121352	0.0127939	0.0108344	0.0126012	0.0108049	0.0131389
80	0.0135111	0.0137984	0.0145368	0.0127433	0.0134689	0.0113202	0.0130863	0.0112914	0.0138505
81	0.0142843	0.0145725	0.0152030	0.0134074	0.0142077	0.0118492	0.0136157	0.0118211	0.0146303
82	0.0151240	0.0154130	0.0159279	0.0141293	0.0150101	0.0124242	0.0141938	0.0123986	0.0154769
83	0.0160353	0.0163252	0.0167162	0.0149136	0.0158811	0.0130497	0.0148256	0.0130286	0.0163958
84	0.0170241	0.0173149	0.0175726	0.0157650	0.0168262	0.0137302	0.0155137	0.0137139	0.0173927
85	0.0180966	0.0183884	0.0185016	0.0166876	0.0178509	0.0144701	0.0162628	0.0144589	0.0184740
86	0.0192583	0.0195513	0.0195059	0.0176841	0.0189598	0.0152736	0.0170771	0.0152680	0.0196456
87	0.0205119	0.0208062	0.0205851	0.0187541	0.0201546	0.0161432	0.0179605	0.0161446	0.0209102
88	0.0218550	0.0221507	0.0217347	0.0198932	0.0214321	0.0170791	0.0189147	0.0170905	0.0222656
89	0.0232781	0.0235752	0.0229444	0.0210916	0.0227826	0.0180779	0.0199388	0.0181048	0.0237021
90	0.0247625	0.0250609	0.0241977	0.0223336	0.0241882	0.0191323	0.0210275	0.0191823	0.0252008
91	0.0262789	0.0265782	0.0254717	0.0235975	0.0256220	0.0202301	0.0221705	0.0203134	0.0267317
92	0.0278427	0.0281429	0.0267640	0.0248804	0.0270932	0.0213620	0.0233525	0.0214834	0.0283116
93	0.0294384	0.0297392	0.0280581	0.0261661	0.0285859	0.0225126	0.0245532	0.0226729	0.0299249
94	0.0310505	0.0313517	0.0293389	0.0274402	0.0300847	0.0236656	0.0257646	0.0238739	0.0315562
95	0.0326651	0.0329665	0.0305940	0.0286908	0.0315762	0.0248057	0.0269704	0.0250708	0.0331914
96	0.0342704	0.0345719	0.0318149	0.0299099	0.0330499	0.0259197	0.0281559	0.0262493	0.0348186
97	0.0358572	0.0361585	0.0329987	0.0310951	0.0344988	0.0269980	0.0293096	0.0273986	0.0364281
98	0.0374173	0.0377185	0.0341503	0.0322517	0.0359196	0.0280348	0.0304239	0.0285118	0.0380114
99	0.0389423	0.0392433	0.0352857	0.0333956	0.0373129	0.0290309	0.0314979	0.0295884	0.0395582

<sup>1</sup>This table is based on the 1995-2000 actuarial experience study monthly benefit per \$1.00 of accumulation defined benefit (DB) single life pension.

[Statutory Authority: RCW 41.50.050(5), chapter 41.45 RCW. 06-18-009, § 415-02-340, filed 8/24/06, effective 9/24/06; 02-18-048, § 415-02-340, filed 8/28/02, effective 9/1/02.]

**WAC 415-02-345 TRS Plan 1 Option 1 benefit factors. (1) What is a TRS Plan 1 Option 1 benefit factor?** At the time of retirement, a TRS Plan 1 member may choose to receive an Option 1, standard allowance, which is a slightly reduced lifetime monthly benefit. This option allows the final unpaid monthly benefit and any remaining balance of contributions to be paid in a lump sum to the retiree's estate or named beneficiary at the time of the retiree's death. The reduction to the monthly benefit is based on an Option 1 factor and is applied against the annuity portion of the monthly benefit. The factor that is used is determined by the age of the member at the time of retirement. For more information about the Option 1, standard allowance, see RCW 41.32.530 (1)(a).

**(2) Option 1 benefit factor table.**

Age	Factor	Reduction	Age	Factor	Reduction
20	99.8876%	0.1%	50	99.1060%	0.9%
21	99.8851%	0.1%	51	99.0237%	1.0%
22	99.8825%	0.1%	52	98.9288%	1.1%
23	99.8794%	0.1%	53	98.8184%	1.2%
24	99.8757%	0.1%	54	98.6970%	1.3%
25	99.8710%	0.1%	55	98.5566%	1.4%

Age	Factor	Reduction	Age	Factor	Reduction
26	99.8650%	0.1%	56	98.3876%	1.6%
27	99.8575%	0.1%	57	98.1977%	1.8%
28	99.8480%	0.2%	58	97.9853%	2.0%
29	99.8362%	0.2%	59	97.7388%	2.3%
30	99.8220%	0.2%	60	97.4759%	2.5%
31	99.8053%	0.2%	61	97.1849%	2.8%
32	99.7858%	0.2%	62	96.8657%	3.1%
33	99.7638%	0.2%	63	96.5199%	3.5%
34	99.7413%	0.3%	64	96.1340%	3.9%
35	99.7184%	0.3%	65	95.7405%	4.3%
36	99.6951%	0.3%	66	95.3342%	4.7%
37	99.6712%	0.3%	67	94.8664%	5.1%
38	99.6461%	0.4%	68	94.4041%	5.6%
39	99.6195%	0.4%	69	93.9285%	6.1%
40	99.5908%	0.4%	70	93.3893%	6.6%
41	99.5597%	0.4%	71	92.8393%	7.2%
42	99.5255%	0.5%	72	92.2534%	7.7%
43	99.4881%	0.5%	73	91.5922%	8.4%
44	99.4474%	0.6%	74	90.9422%	9.1%
45	99.4018%	0.6%	75	90.2102%	9.8%
46	99.3542%	0.6%	76	89.4917%	10.5%
47	99.2994%	0.7%	77	88.7582%	11.2%
48	99.2421%	0.8%	78	85.9377%	14.1%
49	99.1781%	0.8%	79	85.8097%	14.2%
			80	86.1255%	13.9%

[Statutory Authority: RCW 41.50.050(5), 03-24-051, § 415-02-345, filed 11/26/03, effective 1/1/04.]

**WAC 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated? (1) What is a cost-of-living adjustment (COLA)?** The value of a retiree's, beneficiary's, or ex-spouse's monthly allowance may change in the years after retirement because of inflation or other factors. A COLA automatically adjusts benefits based on the cost of living changes.

(2) **What retirement plans include COLAs?** With one exception, all retirement plans administered by the department provide one or more of the types of COLAs listed in subsection (3) of this section. The judges retirement fund (chapter 2.12 RCW) does not provide a COLA.

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
JUDICIAL		Base	RCW 2.10.170
LEOFF	Plan 1	Base	RCW 41.26.240
LEOFF	Plan 2	Base	RCW 41.26.440
PSERS		Base	RCW 41.37.160
PERS	Plan 1	Uniform	RCW 41.40.197
PERS	Plan 1	Optional Auto	RCW 41.40.188
			(1)(c)
PERS	Plan 2	Base	RCW 41.40.640
PERS	Plan 3	Base	RCW 41.40.840
SERS	Plans 2 and 3	Base	RCW 41.35.210
TRS	Plan 1	Uniform	RCW 41.32.489
TRS	Plan 1	Optional Auto	RCW 41.32.530
			(1)(d)
TRS	Plan 2	Base	RCW 41.32.770
TRS	Plan 3	Base	RCW 41.32.845
WSPRS	Plans 1 and 2	Base	RCW 43.43.260

**(3) What are the types of COLAs?**

**(a) Auto COLA**

The auto COLA, if offered under your plan, is an option you may select at retirement. If you choose this option, your monthly retirement allowance will be actuarially reduced at

retirement, and you will receive an automatic adjustment in your monthly retirement allowance each year for the rest of your life. The auto COLA has no age requirement and is limited to a maximum of three percent of your monthly allowance.

**(b) Base COLA**

The base COLA is applied in July (April for LEOFF Plan 1) of each year and adjusts the benefit based on the change in the Consumer Price Index for the Seattle-Tacoma-Bremerton, Washington area. Base COLAs are limited to a maximum of three percent of the monthly allowance for all affected plans except LEOFF Plan 1. During a calendar year, the base COLA is payable to:

(i) Retirees who have been retired for at least one year by July 1st of each year (April 1st for LEOFF Plan 1); and

(ii) Beneficiaries or eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year (April 1st for LEOFF Plan 1).

**(c) Uniform COLA**

The uniform COLA is an annual adjustment to the benefit, based on years of service. The annual adjustment for the uniform COLA is independent from any other COLA. During a calendar year, it is payable to:

(i) Retirees who, by July 1st, have received a retirement benefit for at least one year and who, by December 31st, will have reached age sixty-six or older;

(ii) Beneficiaries and eligible ex-spouses who receive benefit payments from an account that, by July 1st, has paid a monthly benefit for at least one year and who, by December 31st, will have reached age sixty-six or older; and



(iii) Retirees, beneficiaries, or eligible ex-spouses of any age whose retirement benefit is calculated under the minimum formula.

(4) **Who is responsible for determining the amount of the COLA?** The office of the state actuary (OSA) bases the percentages of the COLAs on the Consumer Price Index. The Index is based on wages earned by urban wage earners and clerical workers in the Seattle-Tacoma-Bremerton, Washington area. OSA provides this information to the department annually.

[Statutory Authority: RCW 41.50.050(5), 08-20-068, § 415-02-350, filed 9/25/08, effective 10/26/08; 08-01-079, § 415-02-350, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 41.50.050(5), 2.10.170, 41.26.240, 41.26.440, 41.37.160, 41.40.197, 41.40.188 (1)(c), 41.40.640, 41.40.840, 41.35.210, 41.32.489, 41.32.530 (1)(d), 41.32.770, 41.32.845, 43.43.260. 06-18-009, § 415-02-350, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 03-06-044, § 415-02-350, filed 2/27/03, effective 4/1/03.]

**WAC 415-02-360 What is the optional cost-of-living adjustment (COLA) for PERS Plan 1 and TRS Plan 1?** (1) At the time of retirement, if you are a PERS Plan 1 or TRS Plan 1 member, you can choose initially reduced retirement payment benefits that will provide you with annual cost of living adjustments in the future.

For more information, see:

PERS Plan 1: RCW 41.40.188 (1)(e); WAC 415-108-326

TRS Plan 1: RCW 41.32.530 (1)(d); WAC 415-112-504

(2) By opting to receive a lower dollar amount at the beginning of your retirement, you will receive a progressively higher amount as the payments continue.

(3) **Examples**

(a) **Example (a):**

Ernie, a TRS Plan 1 member, retires at age 55 with 30 years of service and chooses the COLA option. TRS Plan 1 provides two percent (.02) of average final compensation (AFC) per year of service. At the time he retires, Ernie's AFC is \$4,295.33. As shown in the "Plan 1 Optional COLA" table below, Ernie would receive 0.7408 of his normal retirement benefit as the starting amount of the COLA-protected benefit. TRS would calculate the benefit as follows: 30.00 (years of service credit) x .02 x \$4,295.33 (AFC) = \$2,577.20 (monthly benefit without the COLA option). TRS would then multiply \$2,577.20 x .7408 = \$1,909.19 (the COLA-protected starting benefit Ernie would receive).

(b) **Example (b):**

Tina is a PERS Plan 1 member with 30 years of service credit at age 52 and eight months. Because she has reached 30 years of service, there is no reduction for an early retirement. However, Tina chooses the optional COLA. Tina would receive .7388 of her normal retirement benefit as the starting amount of the COLA-protected benefit. Her normal retirement benefit is \$2,295.00; her COLA-reduced benefit will be \$1,695.55.

(4) **Table - The optional cost-of-living adjustment (COLA) table is based on the 1995-2000 actuarial experience study.**

Use these factors to convert from standard option monthly benefit payments without a COLA to the same option with a COLA.

**Plan 1 Optional COLA**

Age	PERS 1 Factor	TRS 1 Factor	Age	PERS 1 Factor	TRS 1 Factor
20	0.6586	0.6554	61	0.7778	0.7662
21	0.6600	0.6566	62	0.7825	0.7708
22	0.6615	0.6580	63	0.7873	0.7754
23	0.6630	0.6593	64	0.7922	0.7801
24	0.6645	0.6607	65	0.7972	0.7849
25	0.6661	0.6622	66	0.8022	0.7897
26	0.6678	0.6638	67	0.8073	0.7946
27	0.6696	0.6654	68	0.8124	0.7996
28	0.6714	0.6670	69	0.8176	0.8046
29	0.6732	0.6687	70	0.8229	0.8097
30	0.6752	0.6705	71	0.8282	0.8149
31	0.6772	0.6723	72	0.8335	0.8201
32	0.6793	0.6742	73	0.8389	0.8253
33	0.6814	0.6762	74	0.8443	0.8306
34	0.6836	0.6783	75	0.8497	0.8359
35	0.6859	0.6804	76	0.8551	0.8413
36	0.6883	0.6826	77	0.8605	0.8467
37	0.6908	0.6849	78	0.8659	0.8521
38	0.6933	0.6872	79	0.8713	0.8575
39	0.6960	0.6896	80	0.8766	0.8628
40	0.6987	0.6921	81	0.8819	0.8682
41	0.7015	0.6947	82	0.8871	0.8735
42	0.7044	0.6974	83	0.8922	0.8788
43	0.7074	0.7002	84	0.8971	0.8840
44	0.7105	0.7031	85	0.9020	0.8891
45	0.7137	0.7060	86	0.9066	0.8941
46	0.7170	0.7091	87	0.9111	0.8989

Plan 1 Optional COLA

Age	PERS 1 Factor	TRS 1 Factor		Age	PERS 1 Factor	TRS 1 Factor
47	0.7204	0.7122		88	0.9153	0.9036
48	0.7238	0.7154		89	0.9192	0.9080
49	0.7274	0.7188		90	0.9230	0.9123
50	0.7311	0.7222		91	0.9264	0.9162
51	0.7349	0.7256		92	0.9296	0.9200
52	0.7388	0.7293		93	0.9326	0.9234
53	0.7427	0.7331		94	0.9353	0.9266
54	0.7468	0.7369		95	0.9378	0.9296
55	0.7510	0.7408		96	0.9401	0.9323
56	0.7552	0.7448		97	0.9423	0.9348
57	0.7595	0.7489		98	0.9444	0.9372
58	0.7640	0.7531		99	0.9464	0.9394
59	0.7685	0.7574				
60	0.7731	0.7618				

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 08-20-068, § 415-02-360, filed 9/25/08, effective 10/26/08; 02-18-048, § 415-02-360, filed 8/28/02, effective 9/1/02.]

**WAC 415-02-370 Factors for establishing or restoring service credit.** RCW 41.50.165(2) and chapter 415-10 WAC allow you to establish or restore service credit by paying the actuarial value of the resulting increase in your monthly retirement allowance. This section provides the actuarial factor tables that the department uses to calculate the lump sum costs. For more information on the factors and their use, see chapter 415-10 WAC.

(1) **What are the factors for calculating the lump sum costs of establishing or restoring service credit?** There are three factors that may be used to calculate the cost of establishing or restoring service credit:

(a) **Factor 1** represents the pension accrual rate, the annuity price (value of future benefit payments), increases in average final compensation, future salary increases and interest discount between the age at which you establish or restore the service credit and the age at which you would be eligible to retire with an unreduced retirement allowance.

(b) **Factor 2** represents the cost of lowering the normal retirement age by one year.

(c) **Factor 3** represents future salary increases and interest discount between the age at which you establish or restore

the service credit and the age at which you would be eligible to retire with an unreduced retirement allowance.

(2) **At which age do I qualify for an unreduced retirement allowance (URA)?** Age requirements differ among plans. For specific information see the RCW pertaining to your plan:

LEOFF Plan 1:	RCW 41.26.090(1)
LEOFF Plan 2:	RCW 41.26.430(1)
PERS Plan 1:	RCW 41.40.180
PERS Plan 2:	RCW 41.40.630(1)
PERS Plan 3:	RCW 41.40.820(1)
PSERS:	RCW 41.37.210
SERS Plan 2:	RCW 41.35.420(1)
SERS Plan 3:	RCW 41.35.680(1)
TRS Plan 1:	RCW 41.32.480
TRS Plan 2:	RCW 41.32.765(1)
TRS Plan 3:	RCW 41.32.875(1)
WSPRS Plan 1:	RCW 43.43.250(2)
WSPRS Plan 2:	RCW 43.43.250(2)

(3) **Table - Factor 1.** Factor 1 is used in the calculation of the cost to establish or restore service credit for a member in any PERS, PSERS, TRS, SERS, LEOFF, or WSPRS plan.

FACTOR 1

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
0	0.3245	0.2922	0.2115	0.2300	0.2300	0.2445	0.2112	0.2454	0.3026	0.2815
1	0.3236	0.2914	0.2109	0.2294	0.2294	0.2438	0.2106	0.2447	0.3018	0.2807
2	0.3227	0.2906	0.2104	0.2288	0.2288	0.2432	0.2101	0.2441	0.3010	0.2800
3	0.3219	0.2898	0.2098	0.2281	0.2281	0.2425	0.2095	0.2434	0.3001	0.2792
4	0.3210	0.2890	0.2092	0.2275	0.2275	0.2419	0.2089	0.2427	0.2993	0.2785
5	0.3201	0.2882	0.2087	0.2269	0.2269	0.2412	0.2084	0.2421	0.2985	0.2777
6	0.3192	0.2874	0.2081	0.2263	0.2263	0.2406	0.2078	0.2414	0.2977	0.2770
7	0.3183	0.2867	0.2075	0.2257	0.2257	0.2399	0.2072	0.2407	0.2969	0.2762
8	0.3174	0.2859	0.2070	0.2251	0.2251	0.2392	0.2067	0.2401	0.2961	0.2754
9	0.3166	0.2851	0.2064	0.2244	0.2244	0.2386	0.2061	0.2394	0.2952	0.2747
10	0.3157	0.2843	0.2058	0.2238	0.2238	0.2379	0.2055	0.2387	0.2944	0.2739
11	0.3148	0.2835	0.2053	0.2232	0.2232	0.2373	0.2050	0.2381	0.2936	0.2732
12	0.3139	0.2827	0.2047	0.2226	0.2226	0.2366	0.2044	0.2374	0.2928	0.2724
13	0.3131	0.2819	0.2041	0.2220	0.2220	0.2360	0.2038	0.2368	0.2920	0.2717
14	0.3122	0.2812	0.2036	0.2214	0.2214	0.2353	0.2033	0.2361	0.2912	0.2709
15	0.3114	0.2804	0.2030	0.2208	0.2208	0.2347	0.2027	0.2355	0.2904	0.2702
16	0.3105	0.2797	0.2025	0.2202	0.2202	0.2340	0.2022	0.2348	0.2896	0.2695
17	0.3097	0.2789	0.2019	0.2196	0.2196	0.2334	0.2016	0.2342	0.2888	0.2687

General Provisions

415-02-370

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
18	0.3088	0.2782	0.2014	0.2190	0.2190	0.2327	0.2011	0.2335	0.2880	0.2680
19	0.3080	0.2774	0.2008	0.2184	0.2184	0.2321	0.2005	0.2329	0.2873	0.2673
20	0.3072	0.2766	0.2002	0.2178	0.2178	0.2315	0.2000	0.2323	0.2865	0.2665
21	0.3063	0.2759	0.1997	0.2172	0.2172	0.2308	0.1994	0.2316	0.2857	0.2658
22	0.3055	0.2751	0.1991	0.2166	0.2166	0.2302	0.1989	0.2310	0.2849	0.2651
23	0.3046	0.2744	0.1986	0.2160	0.2160	0.2295	0.1983	0.2303	0.2841	0.2643
24	0.3038	0.2736	0.1980	0.2154	0.2154	0.2289	0.1978	0.2297	0.2833	0.2636
25	0.3030	0.2729	0.1975	0.2148	0.2148	0.2283	0.1973	0.2291	0.2825	0.2629
26	0.3021	0.2721	0.1969	0.2142	0.2142	0.2277	0.1967	0.2285	0.2818	0.2622
27	0.3013	0.2714	0.1964	0.2137	0.2137	0.2270	0.1962	0.2278	0.2810	0.2614
28	0.3005	0.2706	0.1959	0.2131	0.2131	0.2264	0.1957	0.2272	0.2803	0.2607
29	0.2997	0.2699	0.1953	0.2125	0.2125	0.2258	0.1951	0.2266	0.2795	0.2600
30	0.2988	0.2691	0.1948	0.2119	0.2119	0.2252	0.1946	0.2260	0.2788	0.2593
31	0.2980	0.2684	0.1943	0.2113	0.2113	0.2246	0.1941	0.2254	0.2780	0.2586
32	0.2972	0.2677	0.1937	0.2107	0.2107	0.2240	0.1935	0.2248	0.2772	0.2579
33	0.2964	0.2669	0.1932	0.2102	0.2102	0.2233	0.1930	0.2241	0.2765	0.2571
34	0.2955	0.2662	0.1927	0.2096	0.2096	0.2227	0.1925	0.2235	0.2757	0.2564
35	0.2947	0.2654	0.1921	0.2090	0.2090	0.2221	0.1919	0.2229	0.2750	0.2557
36	0.2939	0.2647	0.1916	0.2084	0.2084	0.2215	0.1914	0.2223	0.2742	0.2550
37	0.2931	0.2640	0.1911	0.2078	0.2078	0.2209	0.1909	0.2217	0.2735	0.2543
38	0.2923	0.2633	0.1906	0.2073	0.2073	0.2203	0.1904	0.2211	0.2727	0.2536
39	0.2915	0.2625	0.1900	0.2067	0.2067	0.2197	0.1898	0.2205	0.2720	0.2530
40	0.2907	0.2618	0.1895	0.2061	0.2061	0.2191	0.1893	0.2199	0.2712	0.2523
41	0.2899	0.2611	0.1890	0.2056	0.2056	0.2185	0.1888	0.2193	0.2705	0.2516
42	0.2891	0.2604	0.1885	0.2050	0.2050	0.2179	0.1883	0.2187	0.2697	0.2509
43	0.2884	0.2597	0.1880	0.2044	0.2044	0.2173	0.1878	0.2181	0.2690	0.2502
44	0.2876	0.2590	0.1875	0.2039	0.2039	0.2167	0.1873	0.2175	0.2683	0.2495
45	0.2868	0.2582	0.1869	0.2033	0.2033	0.2161	0.1867	0.2169	0.2675	0.2489
46	0.2860	0.2575	0.1864	0.2027	0.2027	0.2155	0.1862	0.2163	0.2668	0.2482
47	0.2852	0.2568	0.1859	0.2022	0.2022	0.2149	0.1857	0.2157	0.2660	0.2475
48	0.2844	0.2561	0.1854	0.2016	0.2016	0.2143	0.1852	0.2151	0.2653	0.2468
49	0.2836	0.2554	0.1849	0.2011	0.2011	0.2137	0.1847	0.2145	0.2646	0.2461
50	0.2829	0.2547	0.1844	0.2005	0.2005	0.2131	0.1842	0.2139	0.2639	0.2455
51	0.2821	0.2540	0.1839	0.2000	0.2000	0.2126	0.1837	0.2134	0.2631	0.2448
52	0.2813	0.2533	0.1834	0.1994	0.1994	0.2120	0.1832	0.2128	0.2624	0.2441
53	0.2806	0.2526	0.1829	0.1989	0.1989	0.2114	0.1827	0.2122	0.2617	0.2435
54	0.2798	0.2519	0.1824	0.1983	0.1983	0.2108	0.1822	0.2116	0.2610	0.2428
55	0.2790	0.2513	0.1819	0.1978	0.1978	0.2103	0.1817	0.2110	0.2603	0.2421
56	0.2783	0.2506	0.1814	0.1973	0.1973	0.2097	0.1812	0.2104	0.2596	0.2415
57	0.2775	0.2499	0.1809	0.1967	0.1967	0.2091	0.1807	0.2099	0.2588	0.2408
58	0.2767	0.2492	0.1804	0.1962	0.1962	0.2085	0.1802	0.2093	0.2581	0.2401
59	0.2760	0.2485	0.1799	0.1956	0.1956	0.2080	0.1797	0.2087	0.2574	0.2395
60	0.2752	0.2478	0.1794	0.1951	0.1951	0.2074	0.1792	0.2081	0.2567	0.2388
61	0.2745	0.2471	0.1789	0.1946	0.1946	0.2068	0.1787	0.2075	0.2560	0.2381
62	0.2737	0.2465	0.1784	0.1940	0.1940	0.2063	0.1782	0.2070	0.2553	0.2375
63	0.2730	0.2458	0.1780	0.1935	0.1935	0.2057	0.1778	0.2064	0.2546	0.2368
64	0.2722	0.2451	0.1775	0.1930	0.1930	0.2052	0.1773	0.2059	0.2539	0.2362
65	0.2715	0.2445	0.1770	0.1925	0.1925	0.2046	0.1768	0.2053	0.2532	0.2355
66	0.2707	0.2438	0.1765	0.1919	0.1919	0.2041	0.1763	0.2048	0.2525	0.2349
67	0.2700	0.2431	0.1760	0.1914	0.1914	0.2035	0.1758	0.2042	0.2519	0.2342
68	0.2693	0.2425	0.1755	0.1909	0.1909	0.2029	0.1753	0.2036	0.2512	0.2336
69	0.2685	0.2418	0.1751	0.1904	0.1904	0.2024	0.1749	0.2031	0.2505	0.2329
70	0.2678	0.2411	0.1746	0.1898	0.1898	0.2018	0.1744	0.2025	0.2498	0.2323
71	0.2670	0.2405	0.1741	0.1893	0.1893	0.2013	0.1739	0.2020	0.2491	0.2316
72	0.2663	0.2398	0.1736	0.1888	0.1888	0.2007	0.1734	0.2014	0.2484	0.2310
73	0.2656	0.2391	0.1731	0.1883	0.1883	0.2002	0.1729	0.2009	0.2477	0.2304
74	0.2648	0.2385	0.1727	0.1878	0.1878	0.1996	0.1724	0.2003	0.2470	0.2297
75	0.2641	0.2378	0.1722	0.1872	0.1872	0.1991	0.1720	0.1998	0.2464	0.2291
76	0.2634	0.2372	0.1717	0.1867	0.1867	0.1985	0.1715	0.1992	0.2457	0.2285
77	0.2627	0.2365	0.1713	0.1862	0.1862	0.1980	0.1710	0.1987	0.2450	0.2279
78	0.2619	0.2359	0.1708	0.1857	0.1857	0.1974	0.1705	0.1981	0.2443	0.2272
79	0.2612	0.2352	0.1703	0.1852	0.1852	0.1969	0.1701	0.1976	0.2437	0.2266
80	0.2605	0.2346	0.1699	0.1847	0.1847	0.1964	0.1696	0.1971	0.2430	0.2260
81	0.2598	0.2339	0.1694	0.1841	0.1841	0.1958	0.1691	0.1965	0.2423	0.2254
82	0.2590	0.2333	0.1689	0.1836	0.1836	0.1953	0.1686	0.1960	0.2416	0.2247
83	0.2583	0.2326	0.1685	0.1831	0.1831	0.1947	0.1682	0.1954	0.2410	0.2241
84	0.2576	0.2320	0.1680	0.1826	0.1826	0.1942	0.1677	0.1949	0.2403	0.2235
85	0.2569	0.2314	0.1675	0.1821	0.1821	0.1937	0.1672	0.1944	0.2396	0.2229
86	0.2562	0.2307	0.1671	0.1816	0.1816	0.1931	0.1668	0.1938	0.2390	0.2223
87	0.2555	0.2301	0.1666	0.1811	0.1811	0.1926	0.1663	0.1933	0.2383	0.2217
88	0.2548	0.2295	0.1662	0.1806	0.1806	0.1921	0.1659	0.1928	0.2377	0.2211
89	0.2541	0.2289	0.1657	0.1801	0.1801	0.1916	0.1654	0.1922	0.2370	0.2205
90	0.2534	0.2282	0.1653	0.1796	0.1796	0.1910	0.1650	0.1917	0.2364	0.2199
91	0.2528	0.2276	0.1648	0.1792	0.1792	0.1905	0.1645	0.1912	0.2357	0.2193

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
92	0.2521	0.2270	0.1643	0.1787	0.1787	0.1900	0.1641	0.1906	0.2351	0.2187
93	0.2514	0.2264	0.1639	0.1782	0.1782	0.1895	0.1636	0.1901	0.2344	0.2181
94	0.2507	0.2257	0.1634	0.1777	0.1777	0.1889	0.1632	0.1896	0.2338	0.2175
95	0.2500	0.2251	0.1630	0.1772	0.1772	0.1884	0.1627	0.1890	0.2331	0.2169
96	0.2493	0.2245	0.1625	0.1767	0.1767	0.1879	0.1623	0.1885	0.2325	0.2163
97	0.2486	0.2239	0.1621	0.1762	0.1762	0.1874	0.1619	0.1880	0.2319	0.2157
98	0.2479	0.2233	0.1616	0.1757	0.1757	0.1869	0.1614	0.1875	0.2312	0.2151
99	0.2473	0.2227	0.1612	0.1753	0.1753	0.1864	0.1610	0.1870	0.2306	0.2146
100	0.2466	0.2221	0.1608	0.1748	0.1748	0.1859	0.1605	0.1865	0.2300	0.2140
101	0.2459	0.2215	0.1603	0.1743	0.1743	0.1854	0.1601	0.1860	0.2294	0.2134
102	0.2452	0.2209	0.1599	0.1738	0.1738	0.1849	0.1596	0.1855	0.2287	0.2128
103	0.2446	0.2202	0.1595	0.1734	0.1734	0.1843	0.1592	0.1849	0.2281	0.2122
104	0.2439	0.2196	0.1590	0.1729	0.1729	0.1838	0.1588	0.1844	0.2275	0.2116
105	0.2432	0.2190	0.1586	0.1724	0.1724	0.1833	0.1583	0.1839	0.2269	0.2111
106	0.2425	0.2184	0.1582	0.1719	0.1719	0.1828	0.1579	0.1834	0.2262	0.2105
107	0.2419	0.2178	0.1577	0.1715	0.1715	0.1823	0.1574	0.1829	0.2256	0.2099
108	0.2412	0.2172	0.1573	0.1710	0.1710	0.1818	0.1570	0.1824	0.2250	0.2093
109	0.2405	0.2166	0.1569	0.1705	0.1705	0.1813	0.1566	0.1819	0.2244	0.2087
110	0.2399	0.2160	0.1564	0.1701	0.1701	0.1808	0.1562	0.1814	0.2238	0.2082
111	0.2392	0.2155	0.1560	0.1696	0.1696	0.1803	0.1557	0.1809	0.2232	0.2076
112	0.2386	0.2149	0.1556	0.1692	0.1692	0.1798	0.1553	0.1804	0.2226	0.2070
113	0.2379	0.2143	0.1552	0.1687	0.1687	0.1793	0.1549	0.1799	0.2220	0.2065
114	0.2373	0.2137	0.1547	0.1683	0.1683	0.1788	0.1545	0.1794	0.2214	0.2059
115	0.2366	0.2131	0.1543	0.1678	0.1678	0.1784	0.1541	0.1790	0.2207	0.2053
116	0.2360	0.2125	0.1539	0.1673	0.1673	0.1779	0.1537	0.1785	0.2201	0.2048
117	0.2353	0.2120	0.1535	0.1669	0.1669	0.1774	0.1532	0.1780	0.2195	0.2042
118	0.2347	0.2114	0.1530	0.1664	0.1664	0.1769	0.1528	0.1775	0.2189	0.2036
119	0.2340	0.2108	0.1526	0.1660	0.1660	0.1764	0.1524	0.1770	0.2183	0.2031
120	0.2334	0.2102	0.1522	0.1655	0.1655	0.1759	0.1520	0.1765	0.2177	0.2025
121	0.2328	0.2096	0.1518	0.1650	0.1650	0.1754	0.1516	0.1760	0.2171	0.2019
122	0.2321	0.2091	0.1514	0.1646	0.1646	0.1749	0.1512	0.1755	0.2165	0.2014
123	0.2315	0.2085	0.1509	0.1641	0.1641	0.1745	0.1507	0.1751	0.2159	0.2008
124	0.2309	0.2079	0.1505	0.1637	0.1637	0.1740	0.1503	0.1746	0.2153	0.2003
125	0.2302	0.2074	0.1501	0.1632	0.1632	0.1735	0.1499	0.1741	0.2147	0.1997
126	0.2296	0.2068	0.1497	0.1628	0.1628	0.1730	0.1495	0.1736	0.2141	0.1992
127	0.2290	0.2062	0.1493	0.1623	0.1623	0.1726	0.1491	0.1732	0.2136	0.1986
128	0.2283	0.2057	0.1489	0.1619	0.1619	0.1721	0.1487	0.1727	0.2130	0.1981
129	0.2277	0.2051	0.1484	0.1614	0.1614	0.1716	0.1482	0.1722	0.2124	0.1975
130	0.2271	0.2045	0.1480	0.1610	0.1610	0.1711	0.1478	0.1717	0.2118	0.1970
131	0.2264	0.2040	0.1476	0.1605	0.1605	0.1707	0.1474	0.1713	0.2112	0.1964
132	0.2258	0.2034	0.1472	0.1601	0.1601	0.1702	0.1470	0.1708	0.2106	0.1959
133	0.2252	0.2028	0.1468	0.1597	0.1597	0.1697	0.1466	0.1703	0.2100	0.1954
134	0.2246	0.2023	0.1464	0.1592	0.1592	0.1693	0.1462	0.1699	0.2095	0.1948
135	0.2240	0.2017	0.1460	0.1588	0.1588	0.1688	0.1458	0.1694	0.2089	0.1943
136	0.2234	0.2012	0.1456	0.1584	0.1584	0.1684	0.1454	0.1690	0.2083	0.1938
137	0.2228	0.2006	0.1452	0.1579	0.1579	0.1679	0.1450	0.1685	0.2078	0.1933
138	0.2222	0.2001	0.1448	0.1575	0.1575	0.1675	0.1446	0.1681	0.2072	0.1927
139	0.2215	0.1995	0.1445	0.1571	0.1571	0.1670	0.1443	0.1676	0.2066	0.1922
140	0.2209	0.1990	0.1441	0.1566	0.1566	0.1665	0.1439	0.1671	0.2061	0.1917
141	0.2203	0.1984	0.1437	0.1562	0.1562	0.1661	0.1435	0.1667	0.2055	0.1912
142	0.2197	0.1979	0.1433	0.1558	0.1558	0.1656	0.1431	0.1662	0.2049	0.1906
143	0.2191	0.1973	0.1429	0.1553	0.1553	0.1652	0.1427	0.1658	0.2044	0.1901
144	0.2185	0.1968	0.1425	0.1549	0.1549	0.1647	0.1423	0.1653	0.2038	0.1896
145	0.2179	0.1963	0.1421	0.1545	0.1545	0.1642	0.1419	0.1648	0.2032	0.1891
146	0.2173	0.1957	0.1417	0.1541	0.1541	0.1638	0.1415	0.1644	0.2027	0.1886
147	0.2167	0.1952	0.1413	0.1536	0.1536	0.1633	0.1412	0.1639	0.2021	0.1881
148	0.2161	0.1947	0.1409	0.1532	0.1532	0.1629	0.1408	0.1635	0.2016	0.1876
149	0.2155	0.1941	0.1405	0.1528	0.1528	0.1624	0.1404	0.1630	0.2010	0.1871
150	0.2149	0.1936	0.1401	0.1524	0.1524	0.1620	0.1400	0.1626	0.2005	0.1866
151	0.2144	0.1931	0.1398	0.1520	0.1520	0.1615	0.1396	0.1621	0.1999	0.1860
152	0.2138	0.1925	0.1394	0.1516	0.1516	0.1611	0.1392	0.1617	0.1994	0.1855
153	0.2132	0.1920	0.1390	0.1511	0.1511	0.1606	0.1389	0.1612	0.1988	0.1850
154	0.2126	0.1915	0.1386	0.1507	0.1507	0.1602	0.1385	0.1608	0.1983	0.1845
155	0.2120	0.1909	0.1382	0.1503	0.1503	0.1597	0.1381	0.1603	0.1977	0.1840
156	0.2114	0.1904	0.1378	0.1499	0.1499	0.1593	0.1377	0.1599	0.1972	0.1835
157	0.2108	0.1899	0.1374	0.1495	0.1495	0.1589	0.1373	0.1595	0.1967	0.1830
158	0.2103	0.1894	0.1371	0.1491	0.1491	0.1584	0.1369	0.1590	0.1961	0.1825
159	0.2097	0.1888	0.1367	0.1487	0.1487	0.1580	0.1366	0.1586	0.1956	0.1820
160	0.2091	0.1883	0.1363	0.1483	0.1483	0.1576	0.1362	0.1582	0.1951	0.1815
161	0.2086	0.1878	0.1360	0.1479	0.1479	0.1572	0.1358	0.1577	0.1945	0.1810
162	0.2080	0.1873	0.1356	0.1475	0.1475	0.1567	0.1354	0.1573	0.1940	0.1805
163	0.2074	0.1868	0.1352	0.1470	0.1470	0.1563	0.1351	0.1569	0.1935	0.1800
164	0.2069	0.1863	0.1349	0.1466	0.1466	0.1559	0.1347	0.1564	0.1929	0.1795
165	0.2063	0.1857	0.1345	0.1462	0.1462	0.1555	0.1343	0.1560	0.1924	0.1790

General Provisions

415-02-370

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
166	0.2057	0.1852	0.1341	0.1458	0.1458	0.1550	0.1339	0.1556	0.1919	0.1785
167	0.2052	0.1847	0.1338	0.1454	0.1454	0.1546	0.1336	0.1551	0.1913	0.1780
168	0.2046	0.1842	0.1334	0.1450	0.1450	0.1542	0.1332	0.1547	0.1908	0.1775
169	0.2040	0.1837	0.1330	0.1446	0.1446	0.1538	0.1328	0.1543	0.1903	0.1770
170	0.2035	0.1832	0.1327	0.1442	0.1442	0.1534	0.1325	0.1539	0.1898	0.1765
171	0.2029	0.1827	0.1323	0.1438	0.1438	0.1529	0.1321	0.1534	0.1892	0.1761
172	0.2024	0.1822	0.1319	0.1434	0.1434	0.1525	0.1318	0.1530	0.1887	0.1756
173	0.2018	0.1817	0.1316	0.1430	0.1430	0.1521	0.1314	0.1526	0.1882	0.1751
174	0.2013	0.1812	0.1312	0.1426	0.1426	0.1517	0.1311	0.1522	0.1877	0.1746
175	0.2007	0.1808	0.1308	0.1423	0.1423	0.1513	0.1307	0.1518	0.1872	0.1742
176	0.2001	0.1803	0.1305	0.1419	0.1419	0.1509	0.1303	0.1514	0.1867	0.1737
177	0.1996	0.1798	0.1301	0.1415	0.1415	0.1504	0.1300	0.1509	0.1861	0.1732
178	0.1990	0.1793	0.1297	0.1411	0.1411	0.1500	0.1296	0.1505	0.1856	0.1727
179	0.1985	0.1788	0.1294	0.1407	0.1407	0.1496	0.1293	0.1501	0.1851	0.1723
180	0.1979	0.1783	0.1290	0.1403	0.1403	0.1492	0.1289	0.1497	0.1846	0.1718
181	0.1974	0.1778	0.1287	0.1399	0.1399	0.1488	0.1285	0.1493	0.1841	0.1713
182	0.1968	0.1773	0.1283	0.1395	0.1395	0.1484	0.1282	0.1489	0.1836	0.1709
183	0.1963	0.1769	0.1280	0.1392	0.1392	0.1480	0.1278	0.1485	0.1831	0.1704
184	0.1958	0.1764	0.1276	0.1388	0.1388	0.1476	0.1275	0.1481	0.1826	0.1699
185	0.1952	0.1759	0.1273	0.1384	0.1384	0.1472	0.1271	0.1477	0.1821	0.1695
186	0.1947	0.1754	0.1269	0.1380	0.1380	0.1468	0.1268	0.1473	0.1816	0.1690
187	0.1942	0.1749	0.1266	0.1377	0.1377	0.1463	0.1264	0.1469	0.1812	0.1685
188	0.1936	0.1744	0.1263	0.1373	0.1373	0.1459	0.1261	0.1465	0.1807	0.1681
189	0.1931	0.1740	0.1259	0.1369	0.1369	0.1455	0.1257	0.1461	0.1802	0.1676
190	0.1926	0.1735	0.1256	0.1365	0.1365	0.1451	0.1254	0.1457	0.1797	0.1671
191	0.1920	0.1730	0.1252	0.1362	0.1362	0.1447	0.1250	0.1453	0.1792	0.1667
192	0.1915	0.1725	0.1249	0.1358	0.1358	0.1443	0.1247	0.1449	0.1787	0.1662
193	0.1910	0.1720	0.1246	0.1354	0.1354	0.1439	0.1244	0.1445	0.1782	0.1657
194	0.1905	0.1716	0.1242	0.1351	0.1351	0.1435	0.1240	0.1441	0.1777	0.1653
195	0.1899	0.1711	0.1239	0.1347	0.1347	0.1432	0.1237	0.1437	0.1773	0.1648
196	0.1894	0.1706	0.1235	0.1343	0.1343	0.1428	0.1234	0.1433	0.1768	0.1644
197	0.1889	0.1702	0.1232	0.1340	0.1340	0.1424	0.1230	0.1429	0.1763	0.1639
198	0.1884	0.1697	0.1228	0.1336	0.1336	0.1420	0.1227	0.1425	0.1758	0.1635
199	0.1879	0.1692	0.1225	0.1332	0.1332	0.1416	0.1224	0.1422	0.1753	0.1630
200	0.1874	0.1688	0.1222	0.1329	0.1329	0.1412	0.1220	0.1418	0.1748	0.1626
201	0.1868	0.1683	0.1218	0.1325	0.1325	0.1409	0.1217	0.1414	0.1744	0.1621
202	0.1863	0.1678	0.1215	0.1321	0.1321	0.1405	0.1214	0.1410	0.1739	0.1617
203	0.1858	0.1674	0.1211	0.1318	0.1318	0.1401	0.1210	0.1406	0.1734	0.1612
204	0.1853	0.1669	0.1208	0.1314	0.1314	0.1397	0.1207	0.1402	0.1729	0.1608
205	0.1848	0.1664	0.1205	0.1310	0.1310	0.1393	0.1204	0.1398	0.1724	0.1604
206	0.1843	0.1660	0.1201	0.1307	0.1307	0.1389	0.1200	0.1394	0.1720	0.1599
207	0.1838	0.1655	0.1198	0.1303	0.1303	0.1386	0.1197	0.1391	0.1715	0.1595
208	0.1833	0.1651	0.1195	0.1300	0.1300	0.1382	0.1194	0.1387	0.1710	0.1591
209	0.1828	0.1646	0.1192	0.1296	0.1296	0.1378	0.1191	0.1383	0.1706	0.1586
210	0.1823	0.1642	0.1188	0.1293	0.1293	0.1374	0.1187	0.1379	0.1701	0.1582
211	0.1818	0.1637	0.1185	0.1289	0.1289	0.1370	0.1184	0.1375	0.1696	0.1578
212	0.1813	0.1633	0.1182	0.1285	0.1285	0.1366	0.1181	0.1371	0.1692	0.1573
213	0.1808	0.1628	0.1179	0.1282	0.1282	0.1363	0.1178	0.1368	0.1687	0.1569
214	0.1803	0.1624	0.1175	0.1278	0.1278	0.1359	0.1174	0.1364	0.1682	0.1565
215	0.1798	0.1619	0.1172	0.1275	0.1275	0.1355	0.1171	0.1360	0.1678	0.1560
216	0.1793	0.1615	0.1169	0.1271	0.1271	0.1351	0.1168	0.1356	0.1673	0.1556
217	0.1788	0.1611	0.1166	0.1268	0.1268	0.1347	0.1165	0.1352	0.1668	0.1552
218	0.1783	0.1606	0.1163	0.1264	0.1264	0.1344	0.1162	0.1349	0.1664	0.1547
219	0.1779	0.1602	0.1159	0.1261	0.1261	0.1340	0.1158	0.1345	0.1659	0.1543
220	0.1774	0.1597	0.1156	0.1257	0.1257	0.1337	0.1155	0.1341	0.1655	0.1539
221	0.1769	0.1593	0.1153	0.1254	0.1254	0.1333	0.1152	0.1338	0.1650	0.1535
222	0.1764	0.1588	0.1150	0.1250	0.1250	0.1330	0.1149	0.1334	0.1646	0.1530
223	0.1759	0.1584	0.1147	0.1247	0.1247	0.1326	0.1146	0.1330	0.1641	0.1526
224	0.1754	0.1580	0.1144	0.1244	0.1244	0.1322	0.1143	0.1327	0.1636	0.1522
225	0.1750	0.1575	0.1140	0.1240	0.1240	0.1319	0.1139	0.1323	0.1632	0.1518
226	0.1745	0.1571	0.1137	0.1237	0.1237	0.1315	0.1136	0.1319	0.1627	0.1513
227	0.1740	0.1566	0.1134	0.1233	0.1233	0.1312	0.1133	0.1316	0.1623	0.1509
228	0.1735	0.1562	0.1131	0.1230	0.1230	0.1308	0.1130	0.1312	0.1618	0.1505
229	0.1730	0.1558	0.1128	0.1227	0.1227	0.1304	0.1127	0.1308	0.1614	0.1501
230	0.1726	0.1554	0.1125	0.1223	0.1223	0.1301	0.1124	0.1305	0.1609	0.1497
231	0.1721	0.1549	0.1122	0.1220	0.1220	0.1297	0.1121	0.1301	0.1605	0.1493
232	0.1716	0.1545	0.1119	0.1217	0.1217	0.1294	0.1118	0.1298	0.1601	0.1489
233	0.1712	0.1541	0.1116	0.1213	0.1213	0.1290	0.1115	0.1294	0.1596	0.1485
234	0.1707	0.1537	0.1113	0.1210	0.1210	0.1287	0.1112	0.1291	0.1592	0.1481
235	0.1702	0.1533	0.1109	0.1207	0.1207	0.1283	0.1108	0.1287	0.1588	0.1477
236	0.1698	0.1529	0.1106	0.1203	0.1203	0.1279	0.1105	0.1284	0.1583	0.1473
237	0.1693	0.1524	0.1103	0.1200	0.1200	0.1276	0.1102	0.1280	0.1579	0.1469
238	0.1688	0.1520	0.1100	0.1197	0.1197	0.1272	0.1099	0.1277	0.1575	0.1465
239	0.1684	0.1516	0.1097	0.1193	0.1193	0.1269	0.1096	0.1273	0.1570	0.1461

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
240	0.1679	0.1512	0.1094	0.1190	0.1190	0.1265	0.1093	0.1270	0.1566	0.1457
241	0.1674	0.1508	0.1091	0.1187	0.1187	0.1262	0.1090	0.1267	0.1562	0.1453
242	0.1670	0.1504	0.1088	0.1184	0.1184	0.1258	0.1087	0.1263	0.1557	0.1449
243	0.1665	0.1500	0.1085	0.1180	0.1180	0.1255	0.1084	0.1260	0.1553	0.1445
244	0.1661	0.1496	0.1082	0.1177	0.1177	0.1251	0.1081	0.1256	0.1549	0.1441
245	0.1656	0.1492	0.1079	0.1174	0.1174	0.1248	0.1078	0.1253	0.1545	0.1437
246	0.1652	0.1488	0.1076	0.1171	0.1171	0.1244	0.1075	0.1249	0.1540	0.1433
247	0.1647	0.1483	0.1074	0.1168	0.1168	0.1241	0.1073	0.1246	0.1536	0.1429
248	0.1642	0.1479	0.1071	0.1165	0.1165	0.1238	0.1070	0.1243	0.1532	0.1425
249	0.1638	0.1475	0.1068	0.1161	0.1161	0.1234	0.1067	0.1239	0.1528	0.1421
250	0.1633	0.1471	0.1065	0.1158	0.1158	0.1231	0.1064	0.1236	0.1523	0.1417
251	0.1629	0.1467	0.1062	0.1155	0.1155	0.1227	0.1061	0.1232	0.1519	0.1413
252	0.1624	0.1463	0.1059	0.1152	0.1152	0.1224	0.1058	0.1229	0.1515	0.1409
253	0.1620	0.1459	0.1056	0.1149	0.1149	0.1221	0.1055	0.1226	0.1511	0.1405
254	0.1615	0.1455	0.1053	0.1146	0.1146	0.1217	0.1052	0.1222	0.1507	0.1401
255	0.1611	0.1451	0.1051	0.1142	0.1142	0.1214	0.1049	0.1219	0.1503	0.1398
256	0.1607	0.1447	0.1048	0.1139	0.1139	0.1211	0.1046	0.1216	0.1499	0.1394
257	0.1602	0.1443	0.1045	0.1136	0.1136	0.1208	0.1043	0.1212	0.1495	0.1390
258	0.1598	0.1439	0.1042	0.1133	0.1133	0.1204	0.1040	0.1209	0.1491	0.1386
259	0.1594	0.1435	0.1039	0.1130	0.1130	0.1201	0.1038	0.1206	0.1486	0.1383
260	0.1589	0.1431	0.1036	0.1127	0.1127	0.1198	0.1035	0.1202	0.1482	0.1379
261	0.1585	0.1427	0.1034	0.1123	0.1123	0.1195	0.1032	0.1199	0.1478	0.1375
262	0.1581	0.1423	0.1031	0.1120	0.1120	0.1191	0.1029	0.1196	0.1474	0.1371
263	0.1576	0.1419	0.1028	0.1117	0.1117	0.1188	0.1026	0.1192	0.1470	0.1368
264	0.1572	0.1415	0.1025	0.1114	0.1114	0.1185	0.1023	0.1189	0.1466	0.1364
265	0.1568	0.1411	0.1022	0.1111	0.1111	0.1182	0.1020	0.1186	0.1462	0.1360
266	0.1563	0.1407	0.1019	0.1108	0.1108	0.1178	0.1017	0.1182	0.1458	0.1357
267	0.1559	0.1404	0.1017	0.1105	0.1105	0.1175	0.1015	0.1179	0.1454	0.1353
268	0.1555	0.1400	0.1014	0.1102	0.1102	0.1172	0.1012	0.1176	0.1450	0.1349
269	0.1551	0.1396	0.1011	0.1099	0.1099	0.1169	0.1009	0.1173	0.1446	0.1346
270	0.1546	0.1392	0.1008	0.1096	0.1096	0.1165	0.1006	0.1169	0.1442	0.1342
271	0.1542	0.1389	0.1006	0.1093	0.1093	0.1162	0.1004	0.1166	0.1439	0.1338
272	0.1538	0.1385	0.1003	0.1090	0.1090	0.1159	0.1001	0.1163	0.1435	0.1335
273	0.1534	0.1381	0.1000	0.1087	0.1087	0.1156	0.0998	0.1160	0.1431	0.1331
274	0.1529	0.1377	0.0997	0.1084	0.1084	0.1152	0.0995	0.1156	0.1427	0.1327
275	0.1525	0.1374	0.0995	0.1081	0.1081	0.1149	0.0993	0.1153	0.1423	0.1324
276	0.1521	0.1370	0.0992	0.1078	0.1078	0.1146	0.0990	0.1150	0.1419	0.1320
277	0.1517	0.1366	0.0989	0.1075	0.1075	0.1143	0.0987	0.1147	0.1415	0.1316
278	0.1513	0.1362	0.0986	0.1072	0.1072	0.1140	0.0985	0.1144	0.1411	0.1313
279	0.1509	0.1359	0.0984	0.1069	0.1069	0.1137	0.0982	0.1141	0.1408	0.1309
280	0.1505	0.1355	0.0981	0.1066	0.1066	0.1134	0.0979	0.1138	0.1404	0.1306
281	0.1501	0.1351	0.0978	0.1063	0.1063	0.1131	0.0977	0.1135	0.1400	0.1302
282	0.1497	0.1347	0.0975	0.1060	0.1060	0.1128	0.0974	0.1132	0.1396	0.1299
283	0.1492	0.1344	0.0973	0.1058	0.1058	0.1124	0.0971	0.1128	0.1392	0.1295
284	0.1488	0.1340	0.0970	0.1055	0.1055	0.1121	0.0969	0.1125	0.1388	0.1291
285	0.1484	0.1336	0.0967	0.1052	0.1052	0.1118	0.0966	0.1122	0.1385	0.1288
286	0.1480	0.1332	0.0964	0.1049	0.1049	0.1115	0.0963	0.1119	0.1381	0.1284
287	0.1476	0.1329	0.0962	0.1046	0.1046	0.1112	0.0961	0.1116	0.1377	0.1281
288	0.1472	0.1325	0.0959	0.1043	0.1043	0.1109	0.0958	0.1113	0.1373	0.1277
289	0.1468	0.1321	0.0956	0.1040	0.1040	0.1106	0.0955	0.1110	0.1369	0.1273
290	0.1464	0.1318	0.0954	0.1037	0.1037	0.1103	0.0953	0.1107	0.1365	0.1270
291	0.1460	0.1314	0.0951	0.1035	0.1035	0.1100	0.0950	0.1104	0.1362	0.1266
292	0.1456	0.1311	0.0949	0.1032	0.1032	0.1097	0.0948	0.1101	0.1358	0.1263
293	0.1452	0.1307	0.0946	0.1029	0.1029	0.1094	0.0945	0.1098	0.1354	0.1259
294	0.1448	0.1304	0.0944	0.1026	0.1026	0.1091	0.0943	0.1095	0.1350	0.1256
295	0.1444	0.1300	0.0941	0.1023	0.1023	0.1088	0.0940	0.1092	0.1347	0.1252
296	0.1440	0.1296	0.0938	0.1020	0.1020	0.1085	0.0937	0.1089	0.1343	0.1249
297	0.1436	0.1293	0.0936	0.1018	0.1018	0.1082	0.0935	0.1086	0.1339	0.1245
298	0.1432	0.1289	0.0933	0.1015	0.1015	0.1079	0.0932	0.1083	0.1335	0.1242
299	0.1428	0.1286	0.0931	0.1012	0.1012	0.1076	0.0930	0.1080	0.1332	0.1238
300	0.1424	0.1282	0.0928	0.1009	0.1009	0.1073	0.0927	0.1077	0.1328	0.1235
301	0.1420	0.1279	0.0925	0.1006	0.1006	0.1070	0.0924	0.1074	0.1324	0.1232
302	0.1416	0.1275	0.0923	0.1004	0.1004	0.1067	0.0922	0.1071	0.1321	0.1228
303	0.1413	0.1272	0.0920	0.1001	0.1001	0.1064	0.0919	0.1068	0.1317	0.1225
304	0.1409	0.1268	0.0918	0.0998	0.0998	0.1061	0.0917	0.1065	0.1314	0.1222
305	0.1405	0.1265	0.0915	0.0996	0.0996	0.1058	0.0914	0.1062	0.1310	0.1218
306	0.1401	0.1261	0.0913	0.0993	0.0993	0.1055	0.0912	0.1059	0.1307	0.1215
307	0.1397	0.1258	0.0910	0.0990	0.0990	0.1053	0.0909	0.1057	0.1303	0.1212
308	0.1393	0.1255	0.0908	0.0988	0.0988	0.1050	0.0907	0.1054	0.1299	0.1208
309	0.1390	0.1251	0.0905	0.0985	0.0985	0.1047	0.0904	0.1051	0.1296	0.1205
310	0.1386	0.1248	0.0903	0.0982	0.0982	0.1044	0.0902	0.1048	0.1292	0.1202
311	0.1382	0.1244	0.0900	0.0980	0.0980	0.1041	0.0899	0.1045	0.1289	0.1198
312	0.1378	0.1241	0.0898	0.0977	0.0977	0.1038	0.0897	0.1042	0.1285	0.1195
313	0.1374	0.1238	0.0896	0.0974	0.0974	0.1035	0.0895	0.1039	0.1281	0.1192

General Provisions

415-02-370

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
314	0.1370	0.1234	0.0893	0.0972	0.0972	0.1032	0.0892	0.1036	0.1278	0.1189
315	0.1367	0.1231	0.0891	0.0969	0.0969	0.1030	0.0890	0.1034	0.1274	0.1185
316	0.1363	0.1227	0.0888	0.0966	0.0966	0.1027	0.0887	0.1031	0.1271	0.1182
317	0.1359	0.1224	0.0886	0.0964	0.0964	0.1024	0.0885	0.1028	0.1267	0.1179
318	0.1355	0.1220	0.0883	0.0961	0.0961	0.1021	0.0882	0.1025	0.1264	0.1176
319	0.1352	0.1217	0.0881	0.0958	0.0958	0.1019	0.0880	0.1022	0.1260	0.1173
320	0.1348	0.1214	0.0879	0.0956	0.0956	0.1016	0.0878	0.1019	0.1257	0.1170
321	0.1344	0.1210	0.0876	0.0953	0.0953	0.1013	0.0875	0.1017	0.1253	0.1166
322	0.1340	0.1207	0.0874	0.0950	0.0950	0.1010	0.0873	0.1014	0.1250	0.1163
323	0.1337	0.1203	0.0871	0.0948	0.0948	0.1008	0.0870	0.1011	0.1246	0.1160
324	0.1333	0.1200	0.0869	0.0945	0.0945	0.1005	0.0868	0.1008	0.1243	0.1157
325	0.1329	0.1197	0.0867	0.0942	0.0942	0.1002	0.0866	0.1005	0.1240	0.1154
326	0.1326	0.1194	0.0864	0.0940	0.0940	0.0999	0.0863	0.1003	0.1236	0.1151
327	0.1322	0.1190	0.0862	0.0937	0.0937	0.0997	0.0861	0.1000	0.1233	0.1147
328	0.1319	0.1187	0.0860	0.0935	0.0935	0.0994	0.0859	0.0997	0.1230	0.1144
329	0.1315	0.1184	0.0857	0.0932	0.0932	0.0991	0.0856	0.0995	0.1226	0.1141
330	0.1312	0.1181	0.0855	0.0930	0.0930	0.0988	0.0854	0.0992	0.1223	0.1138
331	0.1308	0.1178	0.0853	0.0927	0.0927	0.0986	0.0852	0.0989	0.1220	0.1135
332	0.1304	0.1175	0.0850	0.0924	0.0924	0.0983	0.0849	0.0987	0.1216	0.1132
333	0.1301	0.1171	0.0848	0.0922	0.0922	0.0980	0.0847	0.0984	0.1213	0.1128
334	0.1297	0.1168	0.0846	0.0919	0.0919	0.0977	0.0845	0.0981	0.1210	0.1125
335	0.1294	0.1165	0.0843	0.0917	0.0917	0.0975	0.0842	0.0979	0.1206	0.1122
336	0.1290	0.1162	0.0841	0.0914	0.0914	0.0972	0.0840	0.0976	0.1203	0.1119
337	0.1286	0.1159	0.0839	0.0912	0.0912	0.0969	0.0838	0.0973	0.1200	0.1116
338	0.1283	0.1156	0.0836	0.0909	0.0909	0.0967	0.0835	0.0971	0.1196	0.1113
339	0.1279	0.1152	0.0834	0.0907	0.0907	0.0964	0.0833	0.0968	0.1193	0.1110
340	0.1276	0.1149	0.0832	0.0904	0.0904	0.0962	0.0831	0.0965	0.1190	0.1107
341	0.1272	0.1146	0.0830	0.0902	0.0902	0.0959	0.0829	0.0963	0.1187	0.1104
342	0.1269	0.1143	0.0827	0.0899	0.0899	0.0957	0.0826	0.0960	0.1183	0.1101
343	0.1265	0.1140	0.0825	0.0897	0.0897	0.0954	0.0824	0.0957	0.1180	0.1098
344	0.1262	0.1137	0.0823	0.0895	0.0895	0.0951	0.0822	0.0955	0.1177	0.1095
345	0.1258	0.1133	0.0821	0.0892	0.0892	0.0949	0.0820	0.0952	0.1174	0.1092
346	0.1255	0.1130	0.0818	0.0890	0.0890	0.0946	0.0817	0.0949	0.1170	0.1089
347	0.1251	0.1127	0.0816	0.0887	0.0887	0.0944	0.0815	0.0947	0.1167	0.1086
348	0.1248	0.1124	0.0814	0.0885	0.0885	0.0941	0.0813	0.0944	0.1164	0.1083
349	0.1245	0.1121	0.0812	0.0883	0.0883	0.0938	0.0811	0.0941	0.1161	0.1080
350	0.1241	0.1118	0.0809	0.0880	0.0880	0.0936	0.0808	0.0939	0.1158	0.1077
351	0.1238	0.1115	0.0807	0.0878	0.0878	0.0933	0.0806	0.0936	0.1154	0.1074
352	0.1235	0.1112	0.0805	0.0875	0.0875	0.0931	0.0804	0.0934	0.1151	0.1071
353	0.1231	0.1109	0.0803	0.0873	0.0873	0.0928	0.0802	0.0931	0.1148	0.1068
354	0.1228	0.1106	0.0800	0.0870	0.0870	0.0926	0.0799	0.0929	0.1145	0.1065
355	0.1225	0.1103	0.0798	0.0868	0.0868	0.0923	0.0797	0.0926	0.1142	0.1063
356	0.1221	0.1100	0.0796	0.0866	0.0866	0.0920	0.0795	0.0923	0.1139	0.1060
357	0.1218	0.1097	0.0794	0.0863	0.0863	0.0918	0.0793	0.0921	0.1135	0.1057
358	0.1215	0.1094	0.0791	0.0861	0.0861	0.0915	0.0790	0.0918	0.1132	0.1054
359	0.1211	0.1091	0.0789	0.0858	0.0858	0.0913	0.0788	0.0916	0.1129	0.1051
360	0.1208	0.1088	0.0787	0.0856	0.0856	0.0910	0.0786	0.0913	0.1126	0.1048
361	0.1205	0.1085	0.0785	0.0854	0.0854	0.0908	0.0784	0.0911	0.1123	0.1045
362	0.1201	0.1082	0.0783	0.0851	0.0851	0.0905	0.0782	0.0908	0.1120	0.1042
363	0.1198	0.1079	0.0781	0.0849	0.0849	0.0903	0.0780	0.0906	0.1117	0.1040
364	0.1195	0.1076	0.0779	0.0847	0.0847	0.0900	0.0778	0.0903	0.1114	0.1037
365	0.1191	0.1073	0.0777	0.0844	0.0844	0.0898	0.0776	0.0901	0.1111	0.1034
366	0.1188	0.1070	0.0775	0.0842	0.0842	0.0895	0.0774	0.0898	0.1108	0.1031
367	0.1185	0.1067	0.0772	0.0840	0.0840	0.0893	0.0771	0.0896	0.1105	0.1028
368	0.1181	0.1064	0.0770	0.0837	0.0837	0.0891	0.0769	0.0894	0.1102	0.1025
369	0.1178	0.1061	0.0768	0.0835	0.0835	0.0888	0.0767	0.0891	0.1099	0.1023
370	0.1175	0.1058	0.0766	0.0833	0.0833	0.0886	0.0765	0.0889	0.1096	0.1020
371	0.1171	0.1055	0.0764	0.0830	0.0830	0.0883	0.0763	0.0886	0.1093	0.1017
372	0.1168	0.1052	0.0762	0.0828	0.0828	0.0881	0.0761	0.0884	0.1090	0.1014
373	0.1165	0.1049	0.0760	0.0826	0.0826	0.0879	0.0759	0.0882	0.1087	0.1011
374	0.1162	0.1046	0.0758	0.0824	0.0824	0.0876	0.0757	0.0879	0.1084	0.1008
375	0.1159	0.1044	0.0756	0.0821	0.0821	0.0874	0.0755	0.0877	0.1081	0.1006
376	0.1156	0.1041	0.0754	0.0819	0.0819	0.0871	0.0753	0.0874	0.1078	0.1003
377	0.1153	0.1038	0.0752	0.0817	0.0817	0.0869	0.0751	0.0872	0.1075	0.1000
378	0.1150	0.1035	0.0750	0.0815	0.0815	0.0866	0.0749	0.0869	0.1072	0.0997
379	0.1146	0.1032	0.0747	0.0813	0.0813	0.0864	0.0746	0.0867	0.1070	0.0995
380	0.1143	0.1029	0.0745	0.0811	0.0811	0.0862	0.0744	0.0865	0.1067	0.0992
381	0.1140	0.1027	0.0743	0.0808	0.0808	0.0859	0.0742	0.0862	0.1064	0.0989
382	0.1137	0.1024	0.0741	0.0806	0.0806	0.0857	0.0740	0.0860	0.1061	0.0986
383	0.1134	0.1021	0.0739	0.0804	0.0804	0.0854	0.0738	0.0857	0.1058	0.0984
384	0.1131	0.1018	0.0737	0.0802	0.0802	0.0852	0.0736	0.0855	0.1055	0.0981
385	0.1128	0.1015	0.0735	0.0800	0.0800	0.0850	0.0734	0.0853	0.1052	0.0978
386	0.1125	0.1012	0.0733	0.0798	0.0798	0.0847	0.0732	0.0850	0.1049	0.0976
387	0.1122	0.1010	0.0731	0.0795	0.0795	0.0845	0.0730	0.0848	0.1046	0.0973

Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
388	0.1119	0.1007	0.0729	0.0793	0.0793	0.0843	0.0728	0.0846	0.1043	0.0970
389	0.1116	0.1004	0.0727	0.0791	0.0791	0.0840	0.0726	0.0843	0.1040	0.0968
390	0.1113	0.1001	0.0725	0.0789	0.0789	0.0838	0.0724	0.0841	0.1037	0.0965
391	0.1109	0.0999	0.0723	0.0787	0.0787	0.0836	0.0722	0.0839	0.1035	0.0962
392	0.1106	0.0996	0.0721	0.0785	0.0785	0.0833	0.0720	0.0836	0.1032	0.0960
393	0.1103	0.0993	0.0719	0.0782	0.0782	0.0831	0.0718	0.0834	0.1029	0.0957
394	0.1100	0.0990	0.0717	0.0780	0.0780	0.0829	0.0716	0.0832	0.1026	0.0954
395	0.1097	0.0988	0.0715	0.0778	0.0778	0.0826	0.0714	0.0829	0.1023	0.0952
396	0.1094	0.0985	0.0713	0.0776	0.0776	0.0824	0.0712	0.0827	0.1020	0.0949
397	0.1091	0.0982	0.0711	0.0774	0.0774	0.0822	0.0710	0.0825	0.1017	0.0946
398	0.1088	0.0980	0.0709	0.0772	0.0772	0.0820	0.0708	0.0823	0.1014	0.0944
399	0.1085	0.0977	0.0707	0.0769	0.0769	0.0817	0.0706	0.0820	0.1012	0.0941
400	0.1082	0.0974	0.0705	0.0767	0.0767	0.0815	0.0704	0.0818	0.1009	0.0939
401	0.1079	0.0972	0.0703	0.0765	0.0765	0.0813	0.0702	0.0816	0.1006	0.0936
402	0.1076	0.0969	0.0701	0.0763	0.0763	0.0811	0.0700	0.0814	0.1003	0.0934
403	0.1074	0.0966	0.0700	0.0761	0.0761	0.0809	0.0699	0.0812	0.1001	0.0931
404	0.1071	0.0964	0.0698	0.0759	0.0759	0.0807	0.0697	0.0810	0.0998	0.0928
405	0.1068	0.0961	0.0696	0.0756	0.0756	0.0804	0.0695	0.0807	0.0995	0.0926
406	0.1065	0.0958	0.0694	0.0754	0.0754	0.0802	0.0693	0.0805	0.0992	0.0923
407	0.1062	0.0956	0.0692	0.0752	0.0752	0.0800	0.0691	0.0803	0.0990	0.0921
408	0.1059	0.0953	0.0690	0.0750	0.0750	0.0798	0.0689	0.0801	0.0987	0.0918
409	0.1056	0.0950	0.0688	0.0748	0.0748	0.0796	0.0687	0.0799	0.0984	0.0916
410	0.1053	0.0948	0.0686	0.0746	0.0746	0.0794	0.0685	0.0797	0.0982	0.0913
411	0.1050	0.0945	0.0685	0.0744	0.0744	0.0791	0.0684	0.0794	0.0979	0.0911
412	0.1047	0.0943	0.0683	0.0742	0.0742	0.0789	0.0682	0.0792	0.0976	0.0908
413	0.1044	0.0940	0.0681	0.0740	0.0740	0.0787	0.0680	0.0790	0.0974	0.0906
414	0.1041	0.0938	0.0679	0.0738	0.0738	0.0785	0.0678	0.0788	0.0971	0.0903
415	0.1039	0.0935	0.0677	0.0736	0.0736	0.0783	0.0676	0.0786	0.0968	0.0901
416	0.1036	0.0932	0.0675	0.0734	0.0734	0.0781	0.0674	0.0784	0.0966	0.0899
417	0.1033	0.0930	0.0674	0.0732	0.0732	0.0778	0.0673	0.0781	0.0963	0.0896
418	0.1030	0.0927	0.0672	0.0730	0.0730	0.0776	0.0671	0.0779	0.0960	0.0894
419	0.1027	0.0925	0.0670	0.0728	0.0728	0.0774	0.0669	0.0777	0.0958	0.0891
420	0.1024	0.0922	0.0668	0.0726	0.0726	0.0772	0.0667	0.0775	0.0955	0.0889
421	0.1021	0.0919	0.0666	0.0724	0.0724	0.0770	0.0665	0.0773	0.0952	0.0887
422	0.1018	0.0917	0.0664	0.0722	0.0722	0.0768	0.0663	0.0771	0.0950	0.0884
423	0.1016	0.0914	0.0663	0.0720	0.0720	0.0766	0.0662	0.0769	0.0947	0.0882
424	0.1013	0.0912	0.0661	0.0718	0.0718	0.0764	0.0660	0.0767	0.0945	0.0879
425	0.1010	0.0909	0.0659	0.0716	0.0716	0.0762	0.0658	0.0765	0.0942	0.0877
426	0.1007	0.0907	0.0657	0.0714	0.0714	0.0760	0.0656	0.0763	0.0940	0.0874
427	0.1005	0.0904	0.0655	0.0713	0.0713	0.0757	0.0654	0.0760	0.0937	0.0872
428	0.1002	0.0902	0.0653	0.0711	0.0711	0.0755	0.0652	0.0758	0.0934	0.0870
429	0.0999	0.0899	0.0652	0.0709	0.0709	0.0753	0.0651	0.0756	0.0932	0.0867
430	0.0996	0.0897	0.0650	0.0707	0.0707	0.0751	0.0649	0.0754	0.0929	0.0865
431	0.0994	0.0894	0.0648	0.0705	0.0705	0.0749	0.0647	0.0752	0.0927	0.0862
432	0.0991	0.0892	0.0646	0.0703	0.0703	0.0747	0.0645	0.0750	0.0924	0.0860
433	0.0988	0.0890	0.0644	0.0701	0.0701	0.0745	0.0643	0.0748	0.0921	0.0858
434	0.0986	0.0887	0.0642	0.0699	0.0699	0.0743	0.0641	0.0746	0.0919	0.0855
435	0.0983	0.0885	0.0641	0.0697	0.0697	0.0741	0.0640	0.0744	0.0916	0.0853
436	0.0980	0.0883	0.0639	0.0695	0.0695	0.0739	0.0638	0.0742	0.0914	0.0851
437	0.0978	0.0880	0.0637	0.0693	0.0693	0.0737	0.0636	0.0740	0.0911	0.0848
438	0.0975	0.0878	0.0635	0.0691	0.0691	0.0735	0.0634	0.0738	0.0909	0.0846
439	0.0972	0.0876	0.0634	0.0690	0.0690	0.0733	0.0633	0.0735	0.0906	0.0844
440	0.0970	0.0873	0.0632	0.0688	0.0688	0.0731	0.0631	0.0733	0.0904	0.0841
441	0.0967	0.0871	0.0630	0.0686	0.0686	0.0729	0.0629	0.0731	0.0901	0.0839
442	0.0964	0.0869	0.0628	0.0684	0.0684	0.0727	0.0627	0.0729	0.0899	0.0837
443	0.0962	0.0866	0.0627	0.0682	0.0682	0.0725	0.0626	0.0727	0.0896	0.0834
444	0.0959	0.0864	0.0625	0.0680	0.0680	0.0723	0.0624	0.0725	0.0894	0.0832
445	0.0956	0.0862	0.0623	0.0678	0.0678	0.0721	0.0622	0.0723	0.0892	0.0830
446	0.0954	0.0859	0.0622	0.0676	0.0676	0.0719	0.0621	0.0721	0.0889	0.0827
447	0.0951	0.0857	0.0620	0.0675	0.0675	0.0717	0.0619	0.0719	0.0887	0.0825
448	0.0949	0.0855	0.0618	0.0673	0.0673	0.0715	0.0617	0.0717	0.0884	0.0823
449	0.0946	0.0852	0.0617	0.0671	0.0671	0.0713	0.0616	0.0715	0.0882	0.0821
450	0.0944	0.0850	0.0615	0.0669	0.0669	0.0711	0.0614	0.0713	0.0879	0.0818
451	0.0941	0.0848	0.0613	0.0667	0.0667	0.0709	0.0612	0.0712	0.0877	0.0816
452	0.0938	0.0845	0.0612	0.0665	0.0665	0.0707	0.0611	0.0710	0.0875	0.0814
453	0.0936	0.0843	0.0610	0.0664	0.0664	0.0705	0.0609	0.0708	0.0872	0.0812
454	0.0933	0.0841	0.0608	0.0662	0.0662	0.0703	0.0607	0.0706	0.0870	0.0809
455	0.0931	0.0838	0.0607	0.0660	0.0660	0.0701	0.0606	0.0704	0.0867	0.0807
456	0.0928	0.0836	0.0605	0.0658	0.0658	0.0699	0.0604	0.0702	0.0865	0.0805
457	0.0925	0.0834	0.0603	0.0656	0.0656	0.0697	0.0602	0.0700	0.0863	0.0803
458	0.0923	0.0831	0.0602	0.0654	0.0654	0.0695	0.0601	0.0698	0.0860	0.0801
459	0.0920	0.0829	0.0600	0.0653	0.0653	0.0694	0.0599	0.0696	0.0858	0.0798
460	0.0918	0.0827	0.0598	0.0651	0.0651	0.0692	0.0598	0.0694	0.0856	0.0796
461	0.0915	0.0824	0.0597	0.0649	0.0649	0.0690	0.0596	0.0692	0.0853	0.0794



Months to URA <sup>2</sup>	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
462	0.0913	0.0822	0.0595	0.0647	0.0647	0.0688	0.0595	0.0690	0.0851	0.0792
463	0.0910	0.0820	0.0593	0.0645	0.0645	0.0686	0.0593	0.0689	0.0849	0.0790
464	0.0908	0.0817	0.0592	0.0643	0.0643	0.0684	0.0591	0.0687	0.0846	0.0788
465	0.0905	0.0815	0.0590	0.0642	0.0642	0.0683	0.0590	0.0685	0.0844	0.0785
466	0.0903	0.0813	0.0588	0.0640	0.0640	0.0681	0.0588	0.0683	0.0842	0.0783
467	0.0900	0.0810	0.0587	0.0638	0.0638	0.0679	0.0587	0.0681	0.0839	0.0781
468	0.0898	0.0808	0.0585	0.0636	0.0636	0.0677	0.0585	0.0679	0.0837	0.0779
469	0.0896	0.0806	0.0583	0.0634	0.0634	0.0675	0.0583	0.0677	0.0835	0.0777
470	0.0893	0.0804	0.0582	0.0633	0.0633	0.0673	0.0582	0.0675	0.0832	0.0775
471	0.0891	0.0801	0.0580	0.0631	0.0631	0.0672	0.0580	0.0674	0.0830	0.0773
472	0.0888	0.0799	0.0579	0.0629	0.0629	0.0670	0.0579	0.0672	0.0828	0.0771
473	0.0886	0.0797	0.0577	0.0628	0.0628	0.0668	0.0577	0.0670	0.0826	0.0769
474	0.0883	0.0795	0.0576	0.0626	0.0626	0.0666	0.0576	0.0668	0.0823	0.0767
475	0.0881	0.0793	0.0574	0.0624	0.0624	0.0664	0.0574	0.0666	0.0821	0.0764
476	0.0879	0.0791	0.0572	0.0623	0.0623	0.0662	0.0572	0.0664	0.0819	0.0762
477	0.0876	0.0788	0.0571	0.0621	0.0621	0.0661	0.0571	0.0663	0.0817	0.0760
478	0.0874	0.0786	0.0569	0.0619	0.0619	0.0659	0.0569	0.0661	0.0814	0.0758
479	0.0871	0.0784	0.0568	0.0618	0.0618	0.0657	0.0568	0.0659	0.0812	0.0756
480	0.0869	0.0782	0.0566	0.0616	0.0616	0.0655	0.0566	0.0657	0.0810	0.0754

<sup>2</sup> Months to URA means the number of months between the age at which you establish or restore the service credit and the age at which you would be eligible to retire with an unreduced retirement allowance (URA).

(4) **Tables - Factor 2 and Factor 3.** Factors 2 and 3 will be used in the calculation of the cost to establish or restore service credit only for a member in PERS Plan 1, TRS Plan 1, WSPRS Plan 1 or 2, and only if the service credit would allow the member to retire earlier.

**FACTOR 2**

Plan	Factor 2
PERS 1	0.00434
TRS 1	0.00383
WSPRS 1	0.00489
WSPRS 2	0.00460

**FACTOR 3**

Months to URA	Factor 3
0	1.0000
1	0.9973
2	0.9946
3	0.9919
4	0.9892
5	0.9865
6	0.9838
7	0.9811
8	0.9784
9	0.9757
10	0.9730
11	0.9703
12	0.9676
13	0.9650
14	0.9624
15	0.9597
16	0.9571
17	0.9545
18	0.9519
19	0.9493
20	0.9467
21	0.9440
22	0.9414
23	0.9388
24	0.9362
25	0.9337

Months to URA	Factor 3
26	0.9311
27	0.9286
28	0.9261
29	0.9236
30	0.9210
31	0.9185
32	0.9160
33	0.9135
34	0.9109
35	0.9084
36	0.9059
37	0.9034
38	0.9010
39	0.8985
40	0.8961
41	0.8936
42	0.8912
43	0.8887
44	0.8863
45	0.8838
46	0.8814
47	0.8789
48	0.8765
49	0.8741
50	0.8718
51	0.8694
52	0.8670
53	0.8647
54	0.8623
55	0.8599
56	0.8576
57	0.8552
58	0.8528
59	0.8505
60	0.8481
61	0.8458
62	0.8435
63	0.8412
64	0.8389

Months to URA	Factor 3
65	0.8366
66	0.8343
67	0.8321
68	0.8298
69	0.8275
70	0.8252
71	0.8229
72	0.8206
73	0.8184
74	0.8162
75	0.8139
76	0.8117
77	0.8095
78	0.8073
79	0.8051
80	0.8029
81	0.8006
82	0.7984
83	0.7962
84	0.7940
85	0.7919
86	0.7897
87	0.7876
88	0.7854
89	0.7833
90	0.7811
91	0.7790
92	0.7769
93	0.7747
94	0.7726
95	0.7704
96	0.7683
97	0.7662
98	0.7641
99	0.7621
100	0.7600
101	0.7579
102	0.7558
103	0.7538
104	0.7517
105	0.7496
106	0.7475
107	0.7455
108	0.7434
109	0.7414
110	0.7394
111	0.7374
112	0.7354
113	0.7334
114	0.7314
115	0.7293
116	0.7273
117	0.7253
118	0.7233
119	0.7213
120	0.7193
121	0.7174
122	0.7154
123	0.7135
124	0.7115

Months to URA	Factor 3
125	0.7096
126	0.7076
127	0.7057
128	0.7038
129	0.7018
130	0.6999
131	0.6979
132	0.6960
133	0.6941
134	0.6922
135	0.6904
136	0.6885
137	0.6866
138	0.6847
139	0.6829
140	0.6810
141	0.6791
142	0.6772
143	0.6754
144	0.6735
145	0.6717
146	0.6698
147	0.6680
148	0.6662
149	0.6644
150	0.6625
151	0.6607
152	0.6589
153	0.6571
154	0.6552
155	0.6534
156	0.6516
157	0.6498
158	0.6481
159	0.6463
160	0.6446
161	0.6428
162	0.6411
163	0.6393
164	0.6375
165	0.6358
166	0.6340
167	0.6323
168	0.6305
169	0.6288
170	0.6271
171	0.6254
172	0.6237
173	0.6220
174	0.6203
175	0.6186
176	0.6169
177	0.6152
178	0.6135
179	0.6118
180	0.6101
181	0.6084
182	0.6068
183	0.6051
184	0.6035

Months to URA	Factor 3
185	0.6018
186	0.6002
187	0.5985
188	0.5969
189	0.5952
190	0.5936
191	0.5919
192	0.5903
193	0.5887
194	0.5871
195	0.5855
196	0.5839
197	0.5823
198	0.5807
199	0.5792
200	0.5776
201	0.5760
202	0.5744
203	0.5728
204	0.5712
205	0.5697
206	0.5681
207	0.5666
208	0.5650
209	0.5635
210	0.5619
211	0.5604
212	0.5589
213	0.5573
214	0.5558
215	0.5542
216	0.5527
217	0.5512
218	0.5497
219	0.5482
220	0.5467
221	0.5452
222	0.5437
223	0.5423
224	0.5408
225	0.5393
226	0.5378
227	0.5363
228	0.5348
229	0.5333
230	0.5319
231	0.5304
232	0.5290
233	0.5275
234	0.5261
235	0.5246
236	0.5232
237	0.5217
238	0.5203
239	0.5188
240	0.5174
241	0.5160
242	0.5146
243	0.5132
244	0.5118

Months to URA	Factor 3
245	0.5104
246	0.5090
247	0.5077
248	0.5063
249	0.5049
250	0.5035
251	0.5021
252	0.5007
253	0.4993
254	0.4980
255	0.4966
256	0.4953
257	0.4939
258	0.4926
259	0.4912
260	0.4898
261	0.4885
262	0.4871
263	0.4858
264	0.4844
265	0.4831
266	0.4818
267	0.4805
268	0.4792
269	0.4779
270	0.4766
271	0.4752
272	0.4739
273	0.4726
274	0.4713
275	0.4700
276	0.4687
277	0.4674
278	0.4662
279	0.4649
280	0.4636
281	0.4624
282	0.4611
283	0.4598
284	0.4586
285	0.4573
286	0.4560
287	0.4548
288	0.4535
289	0.4523
290	0.4510
291	0.4498
292	0.4486
293	0.4474
294	0.4461
295	0.4449
296	0.4437
297	0.4425
298	0.4412
299	0.4400
300	0.4388
301	0.4376
302	0.4364
303	0.4353
304	0.4341

Months to URA	Factor 3
305	0.4329
306	0.4317
307	0.4305
308	0.4293
309	0.4282
310	0.4270
311	0.4258
312	0.4246
313	0.4235
314	0.4223
315	0.4212
316	0.4200
317	0.4189
318	0.4177
319	0.4166
320	0.4155
321	0.4143
322	0.4132
323	0.4120
324	0.4109
325	0.4098
326	0.4087
327	0.4075
328	0.4064
329	0.4053
330	0.4042
331	0.4031
332	0.4020
333	0.4008
334	0.3997
335	0.3986
336	0.3975
337	0.3964
338	0.3954
339	0.3943
340	0.3932
341	0.3922
342	0.3911
343	0.3900
344	0.3890
345	0.3879
346	0.3868
347	0.3858
348	0.3847
349	0.3837
350	0.3826
351	0.3816
352	0.3805
353	0.3795
354	0.3784
355	0.3774
356	0.3764
357	0.3753
358	0.3743
359	0.3732
360	0.3722
361	0.3712
362	0.3702
363	0.3692
364	0.3682

Months to URA	Factor 3
365	0.3672
366	0.3662
367	0.3651
368	0.3641
369	0.3631
370	0.3621
371	0.3611
372	0.3601
373	0.3591
374	0.3582
375	0.3572
376	0.3562
377	0.3553
378	0.3543
379	0.3533
380	0.3524
381	0.3514
382	0.3504
383	0.3495
384	0.3485
385	0.3476
386	0.3466
387	0.3457
388	0.3447
389	0.3438
390	0.3428
391	0.3419
392	0.3410
393	0.3400
394	0.3391
395	0.3381
396	0.3372
397	0.3363
398	0.3354
399	0.3344
400	0.3335
401	0.3326
402	0.3317
403	0.3308
404	0.3299
405	0.3289
406	0.3280
407	0.3271
408	0.3262
409	0.3253
410	0.3244
411	0.3236
412	0.3227
413	0.3218
414	0.3209
415	0.3201
416	0.3192
417	0.3183
418	0.3174
419	0.3166
420	0.3157
421	0.3148
422	0.3140
423	0.3131
424	0.3123

Months to URA	Factor 3
425	0.3114
426	0.3106
427	0.3097
428	0.3088
429	0.3080
430	0.3071
431	0.3063
432	0.3054
433	0.3046
434	0.3037
435	0.3029
436	0.3021
437	0.3013
438	0.3004
439	0.2996
440	0.2988
441	0.2980
442	0.2971
443	0.2963
444	0.2955
445	0.2947
446	0.2939
447	0.2931
448	0.2923
449	0.2915
450	0.2907
451	0.2900
452	0.2892
453	0.2884
454	0.2876
455	0.2868
456	0.2860
457	0.2852
458	0.2844
459	0.2837
460	0.2829
461	0.2821
462	0.2813
463	0.2806
464	0.2798
465	0.2790
466	0.2782
467	0.2775
468	0.2767
469	0.2759
470	0.2752
471	0.2744
472	0.2737
473	0.2729
474	0.2722
475	0.2714
476	0.2707
477	0.2699
478	0.2692
479	0.2684
480	0.2677

[Statutory Authority: RCW 41.50.050(5), 41.50.165, 06-18-009, § 415-02-370, filed 8/24/06, effective 9/24/06; 03-15-006, § 415-02-370, filed 7/3/03, effective 8/3/03.]

**WAC 415-02-380 How will my retirement allowance be affected if I choose a benefit option with a survivor feature?** This section applies to LEOFF Plan 1 and 2; PERS Plan 1, 2, and 3; PSERS; SERS Plan 2 and 3; TRS Plan 1, 2, and 3; and WSPRS Plan 2. For information about WSPRS Plan 1, see RCW 43.43.278 and WAC 415-103-215.

(1) **What is a survivor feature?** Some benefit options include a survivor feature, which provides a lifetime monthly allowance for your survivor beneficiary after your death.

(2) **What is a "survivor beneficiary"?** The person you name at the time of retirement to receive a lifetime monthly allowance after your death is referred to as your "survivor beneficiary."

(3) **What benefit options include a survivor feature?** Benefit options are described in detail for each system and plan in the following state law and regulations:

LEOFF Plan 1:	RCW 41.26.164	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460	WAC 415-104-215
PERS Plan 1:	RCW 41.40.188	WAC 415-108-326
PERS Plan 2:	RCW 41.40.660	WAC 415-108-326
PERS Plan 3:	RCW 41.40.845	WAC 415-108-326
PSERS:	RCW 41.37.170	WAC 415-106-600
SERS Plans 2 and 3:	RCW 41.35.220	WAC 415-110-610
TRS Plan 1:	RCW 41.32.530	WAC 415-112-504
TRS Plan 2:	RCW 41.32.785	WAC 415-112-505
TRS Plan 3:	RCW 41.32.851	WAC 415-112-505
WSPRS Plan 2:	RCW 43.43.271	WAC 415-103-225

(4) **Will selecting a benefit option with a survivor feature affect my monthly retirement allowance?** Yes. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature.

(5) **Does my survivor beneficiary's age affect how much my monthly retirement allowance will be reduced?** Yes. Your survivor beneficiary's age is used in determining the amount of your monthly retirement allowance and the allowance of your survivor beneficiary. The younger the survivor beneficiary, the longer he or she is expected to receive an allowance. Your monthly allowance will be reduced accordingly.

(a) **Example:**

Kendra, a PERS Plan 2 member, chooses Option 3 (joint and 50 percent survivorship) at retirement. She names her nephew, Steve, as her survivor beneficiary. This means, if Kendra dies before Steve, Steve will receive a monthly allowance equal to half the amount Kendra was receiving. Steve is 30 years younger than Kendra. The department will calculate the adjustment to Kendra's monthly retirement allowance by using the survivor option factor table ("member older") in subsection (6) of this section. With a 30-year age difference (member's age minus beneficiary's age), the value corresponding to PERS Plan 2 and Option 3 is 0.753. This value, 0.753, is multiplied against the amount Kendra would have received under Option 1 (no survivor feature). Kendra's monthly retirement allowance will be reduced to about 75% of her Option 1 level.

(b) **Example:**

Mark, a LEOFF Plan 2 member, chooses Option 2 (joint and 100 percent survivorship) at retirement. He names his wife, Susan, as his survivor beneficiary. This means, if Mark dies before Susan, Susan will receive a monthly allowance equal to the amount Mark was receiving. Mark is five years younger than Susan. The department will calculate the adjust-

ment to Mark's monthly retirement allowance by using the survivor option factor table ("member younger") in subsection (9) of this section. With a 5-year age difference (member's age minus beneficiary's age), the value corresponding to LEOFF Plan 2 and Option 2 is 0.894. This value, 0.894, will be multiplied against the amount Mark would have received

under Option 1 (no survivor feature). Mark's monthly retirement allowance will be reduced to about 89 percent of his Option 1 level.

(6) Table - Member older (PERS and SERS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
0	.870	.930	.909	.791	.883	.850	.799	.888	.857
1	.862	.926	.904	.778	.875	.840	.773	.872	.836
2	.857	.923	.900	.767	.868	.832	.760	.864	.826
3	.844	.915	.890	.758	.863	.825	.748	.856	.816
4	.840	.913	.887	.751	.858	.819	.741	.851	.811
5	.836	.910	.884	.743	.853	.813	.734	.846	.805
6	.831	.908	.881	.736	.848	.807	.726	.841	.799
7	.818	.900	.871	.728	.843	.801	.719	.836	.793
8	.814	.897	.867	.721	.838	.795	.712	.832	.787
9	.809	.895	.864	.713	.833	.789	.705	.827	.782
10	.805	.892	.861	.706	.828	.783	.698	.822	.776
11	.802	.890	.858	.699	.823	.777	.692	.818	.771
12	.787	.881	.847	.693	.818	.772	.685	.813	.766
13	.784	.879	.845	.686	.814	.766	.679	.809	.760
14	.780	.876	.842	.680	.809	.761	.673	.805	.755
15	.777	.874	.839	.673	.805	.756	.667	.800	.750
16	.773	.872	.836	.667	.801	.751	.662	.796	.746
17	.770	.870	.834	.662	.796	.746	.656	.792	.741
18	.767	.868	.832	.656	.792	.741	.651	.789	.737
19	.764	.866	.829	.651	.788	.736	.646	.785	.732
20	.762	.865	.827	.645	.785	.732	.641	.781	.728
21	.759	.863	.825	.640	.781	.728	.637	.778	.724
22	.756	.861	.823	.636	.777	.724	.632	.775	.720
23	.754	.860	.821	.631	.774	.720	.628	.771	.717
24	.752	.858	.820	.627	.771	.716	.624	.768	.713
25	.750	.857	.818	.622	.767	.712	.620	.765	.710
26	.748	.856	.817	.618	.764	.709	.616	.762	.707
27	.746	.855	.815	.615	.761	.705	.613	.760	.703
28	.744	.853	.814	.611	.758	.702	.609	.757	.700
29	.743	.852	.812	.607	.756	.699	.606	.755	.697
30	.741	.851	.811	.604	.753	.696	.603	.752	.695
31	.740	.850	.810	.601	.751	.693	.600	.750	.692
32	.738	.849	.809	.598	.748	.690	.597	.748	.690
33	.737	.849	.808	.595	.746	.688	.594	.745	.687
34	.736	.848	.807	.592	.744	.685	.592	.743	.685
35	.735	.847	.806	.589	.742	.683	.589	.741	.683
36	.734	.846	.805	.587	.740	.680	.587	.740	.680
37	.733	.846	.804	.584	.738	.678	.585	.738	.678
38	.732	.845	.804	.582	.736	.676	.582	.736	.677
39	.731	.844	.803	.580	.734	.674	.580	.734	.675
40	.730	.844	.802	.578	.732	.672	.578	.733	.673

(7) Table - Member younger (PERS and SERS)

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-20	.958	.978	.971	.939	.969	.959	.949	.974	.965
-19	.955	.977	.970	.935	.967	.956	.946	.972	.963
-18	.952	.976	.968	.931	.964	.953	.942	.970	.961
-17	.949	.974	.966	.927	.962	.950	.938	.968	.958
-16	.947	.973	.964	.922	.959	.947	.934	.966	.955
-15	.944	.971	.962	.917	.957	.943	.930	.964	.952
-14	.940	.969	.959	.912	.954	.940	.926	.961	.949
-13	.937	.968	.957	.907	.951	.936	.921	.959	.946
-12	.934	.966	.955	.902	.948	.932	.917	.956	.943
-11	.930	.964	.953	.896	.945	.928	.912	.954	.939
-10	.927	.962	.950	.890	.942	.924	.907	.951	.936
-9	.923	.960	.948	.884	.938	.919	.901	.948	.932
-8	.920	.958	.945	.878	.935	.915	.896	.945	.928
-7	.916	.956	.942	.871	.931	.910	.890	.942	.924
-6	.912	.954	.940	.865	.927	.905	.885	.939	.920

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-5	.908	.952	.937	.858	.924	.901	.879	.935	.916
-4	.901	.948	.931	.848	.918	.893	.873	.932	.911
-3	.896	.945	.928	.840	.913	.887	.863	.927	.905
-2	.889	.941	.923	.826	.905	.877	.853	.920	.897
-1	.879	.935	.916	.805	.892	.861	.834	.909	.883
0	.870	.930	.909	.791	.883	.850	.799	.888	.857

**(8) Table - Member older (PSERS)**

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
0	0.832	0.908	0.881
1	0.825	0.904	0.876
2	0.819	0.9	0.872
3	0.812	0.897	0.867
4	0.806	0.893	0.862
5	0.8	0.889	0.857
6	0.793	0.885	0.852
7	0.787	0.881	0.847
8	0.787	0.877	0.842
9	0.775	0.873	0.838
10	0.769	0.869	0.833
11	0.763	0.865	0.828
12	0.757	0.862	0.824
13	0.751	0.858	0.819
14	0.746	0.855	0.815
15	0.741	0.851	0.811
16	0.736	0.848	0.807
17	0.731	0.844	0.803
18	0.726	0.841	0.799
19	0.721	0.838	0.795
20	0.717	0.835	0.791
21	0.712	0.832	0.788
22	0.708	0.829	0.784
23	0.704	0.826	0.781
24	0.7	0.824	0.778
25	0.696	0.821	0.775
26	0.693	0.819	0.772
27	0.689	0.816	0.769
28	0.686	0.814	0.766
29	0.683	0.812	0.764
30	0.68	0.81	0.761
31	0.677	0.807	0.759
32	0.674	0.806	0.756
33	0.672	0.804	0.754
34	0.669	0.802	0.752

Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
0	0.870	0.930	0.909	0.870	0.930	0.909
1	0.865	0.927	0.905	0.865	0.927	0.905
2	0.860	0.924	0.902	0.860	0.924	0.902
3	0.855	0.922	0.898	0.855	0.922	0.898
4	0.850	0.919	0.894	0.850	0.919	0.894
5	0.845	0.916	0.891	0.845	0.916	0.891
6	0.840	0.913	0.887	0.840	0.913	0.887
7	0.835	0.910	0.883	0.835	0.910	0.883

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
35	0.667	0.8	0.75
36	0.664	0.798	0.748
37	0.662	0.797	0.746
38	0.66	0.795	0.745
39	0.658	0.794	0.743
40	0.656	0.792	0.741

**(9) Table - Member younger (PSERS)**

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
-20	0.94	0.969	0.959
-19	0.936	0.967	0.956
-18	0.932	0.965	0.954
-17	0.928	0.962	0.951
-16	0.923	0.96	0.947
-15	0.919	0.958	0.944
-14	0.914	0.955	0.941
-13	0.909	0.952	0.937
-12	0.904	0.949	0.934
-11	0.899	0.947	0.93
-10	0.893	0.944	0.926
-9	0.887	0.94	0.922
-8	0.882	0.937	0.918
-7	0.876	0.934	0.914
-6	0.87	0.93	0.909
-5	0.864	0.927	0.905
-4	0.858	0.923	0.9
-3	0.851	0.92	0.896
-2	0.845	0.916	0.891
-1	0.838	0.912	0.886

**(10) Table - Member older (LEOFF Plan 2 and WSPRS Plan 2)**

Survivor option factor table: Member older than beneficiary

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
8	0.830	0.907	0.880	0.830	0.907	0.880
9	0.825	0.904	0.876	0.825	0.904	0.876
10	0.821	0.902	0.873	0.821	0.902	0.873
11	0.816	0.899	0.870	0.816	0.899	0.870
12	0.812	0.896	0.866	0.812	0.896	0.866
13	0.808	0.894	0.863	0.808	0.894	0.863
14	0.803	0.891	0.860	0.803	0.891	0.860
15	0.799	0.888	0.857	0.799	0.888	0.857
16	0.795	0.886	0.854	0.795	0.886	0.854
17	0.792	0.884	0.851	0.792	0.884	0.851
18	0.788	0.881	0.848	0.788	0.881	0.848
19	0.784	0.879	0.845	0.784	0.879	0.845
20	0.781	0.877	0.842	0.781	0.877	0.842
21	0.777	0.875	0.840	0.777	0.875	0.840
22	0.774	0.873	0.837	0.774	0.873	0.837
23	0.771	0.871	0.835	0.771	0.871	0.835
24	0.768	0.869	0.832	0.768	0.869	0.832
25	0.765	0.867	0.830	0.765	0.867	0.830
26	0.763	0.865	0.828	0.763	0.865	0.828
27	0.760	0.864	0.826	0.760	0.864	0.826
28	0.757	0.862	0.824	0.757	0.862	0.824
29	0.755	0.860	0.822	0.755	0.860	0.822
30	0.753	0.859	0.820	0.753	0.859	0.820
31	0.750	0.857	0.818	0.750	0.857	0.818
32	0.748	0.856	0.817	0.748	0.856	0.817
33	0.746	0.855	0.815	0.746	0.855	0.815
34	0.744	0.853	0.814	0.744	0.853	0.814
35	0.742	0.852	0.812	0.742	0.852	0.812
36	0.741	0.851	0.811	0.741	0.851	0.811
37	0.739	0.850	0.809	0.739	0.850	0.809
38	0.737	0.849	0.808	0.737	0.849	0.808
39	0.736	0.848	0.807	0.736	0.848	0.807
40	0.734	0.847	0.806	0.734	0.847	0.806

(11) Table - Member younger (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
-20	0.953	0.976	0.968	0.953	0.976	0.968
-19	0.950	0.974	0.966	0.950	0.974	0.966
-18	0.947	0.973	0.964	0.947	0.973	0.964
-17	0.944	0.971	0.962	0.944	0.971	0.962
-16	0.940	0.969	0.959	0.940	0.969	0.959
-15	0.937	0.967	0.957	0.937	0.967	0.957
-14	0.933	0.965	0.954	0.933	0.965	0.954
-13	0.929	0.963	0.952	0.929	0.963	0.952
-12	0.925	0.961	0.949	0.925	0.961	0.949
-11	0.921	0.959	0.946	0.921	0.959	0.946
-10	0.917	0.957	0.943	0.917	0.957	0.943
-9	0.913	0.954	0.940	0.913	0.954	0.940
-8	0.908	0.952	0.937	0.908	0.952	0.937
-7	0.904	0.949	0.934	0.904	0.949	0.934
-6	0.899	0.947	0.930	0.899	0.947	0.930
-5	0.894	0.944	0.927	0.894	0.944	0.927
-4	0.890	0.942	0.924	0.890	0.942	0.924
-3	0.885	0.939	0.920	0.885	0.939	0.920
-2	0.880	0.936	0.916	0.880	0.936	0.916
-1	0.875	0.933	0.913	0.875	0.933	0.913
0	0.870	0.930	0.909	0.870	0.930	0.909

(12) Table - Member younger (TRS)

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-20	0.968	0.984	0.979	0.952	0.975	0.967
-19	0.966	0.983	0.977	0.949	0.974	0.965
-18	0.964	0.982	0.976	0.945	0.972	0.963
-17	0.962	0.981	0.974	0.942	0.970	0.960
-16	0.960	0.979	0.973	0.938	0.968	0.958



Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-15	0.957	0.978	0.971	0.934	0.966	0.955
-14	0.955	0.977	0.969	0.929	0.963	0.952
-13	0.952	0.976	0.968	0.925	0.961	0.949
-12	0.950	0.974	0.966	0.921	0.959	0.946
-11	0.947	0.973	0.964	0.916	0.956	0.942
-10	0.944	0.971	0.962	0.911	0.953	0.939
-9	0.942	0.970	0.960	0.906	0.951	0.935
-8	0.939	0.968	0.958	0.900	0.948	0.931
-7	0.936	0.967	0.956	0.895	0.945	0.927
-6	0.933	0.965	0.954	0.889	0.941	0.923
-5	0.927	0.962	0.950	0.884	0.938	0.919
-4	0.923	0.960	0.947	0.877	0.934	0.914
-3	0.918	0.957	0.944	0.865	0.928	0.906
-2	0.913	0.955	0.941	0.855	0.922	0.899
-1	0.907	0.951	0.936	0.839	0.912	0.887
0	0.898	0.946	0.930	0.815	0.898	0.869

(13) Table - Member older (TRS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
0	0.898	0.946	0.930	0.815	0.898	0.869
1	0.892	0.943	0.925	0.801	0.889	0.858
2	0.888	0.941	0.922	0.790	0.883	0.849
3	0.877	0.935	0.915	0.781	0.877	0.842
4	0.873	0.932	0.912	0.772	0.871	0.835
5	0.869	0.930	0.909	0.765	0.867	0.830
6	0.858	0.924	0.901	0.758	0.862	0.824
7	0.855	0.922	0.898	0.751	0.858	0.819
8	0.851	0.920	0.896	0.744	0.853	0.813
9	0.848	0.918	0.893	0.737	0.849	0.808
10	0.845	0.916	0.891	0.730	0.844	0.802
11	0.842	0.914	0.889	0.724	0.840	0.797
12	0.839	0.912	0.887	0.717	0.835	0.792
13	0.836	0.911	0.884	0.711	0.831	0.787
14	0.824	0.904	0.875	0.705	0.827	0.782
15	0.821	0.902	0.873	0.699	0.823	0.777
16	0.819	0.900	0.871	0.694	0.819	0.773
17	0.816	0.899	0.869	0.688	0.815	0.768
18	0.814	0.897	0.868	0.683	0.812	0.764
19	0.812	0.896	0.866	0.678	0.808	0.760
20	0.809	0.895	0.864	0.673	0.805	0.755
21	0.807	0.893	0.863	0.668	0.801	0.751
22	0.805	0.892	0.861	0.664	0.798	0.748
23	0.803	0.891	0.860	0.660	0.795	0.744
24	0.802	0.890	0.858	0.655	0.792	0.740
25	0.800	0.889	0.857	0.651	0.789	0.737
26	0.798	0.888	0.856	0.648	0.786	0.734
27	0.797	0.887	0.855	0.644	0.783	0.731
28	0.796	0.886	0.854	0.640	0.781	0.728
29	0.794	0.885	0.853	0.637	0.778	0.725
30	0.793	0.885	0.852	0.634	0.776	0.722
31	0.792	0.884	0.851	0.631	0.774	0.719
32	0.791	0.883	0.850	0.628	0.771	0.717
33	0.790	0.882	0.849	0.625	0.769	0.714
34	0.789	0.882	0.848	0.622	0.767	0.712
35	0.788	0.881	0.848	0.620	0.765	0.710
36	0.787	0.881	0.847	0.617	0.763	0.708
37	0.786	0.880	0.846	0.615	0.762	0.706
38	0.785	0.880	0.846	0.613	0.760	0.704
39	0.785	0.879	0.845	0.611	0.758	0.702
40	0.784	0.879	0.845	0.609	0.757	0.700

(14) Table - Member younger (LEOFF Plan 1)

Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
-20	0.958	0.978	0.971
-19	0.955	0.977	0.969
-18	0.952	0.975	0.967
-17	0.949	0.974	0.965

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
-16	0.946	0.972	0.963
-15	0.942	0.970	0.961
-14	0.939	0.969	0.959
-13	0.935	0.967	0.956
-12	0.932	0.965	0.953
-11	0.928	0.963	0.951
-10	0.924	0.960	0.948
-9	0.920	0.958	0.945
-8	0.916	0.956	0.942
-7	0.911	0.954	0.939
-6	0.907	0.951	0.936
-5	0.902	0.949	0.933
-4	0.898	0.946	0.929
-3	0.893	0.943	0.926
-2	0.888	0.941	0.922
-1	0.883	0.938	0.919

(15) Table - Member older (LEOFF Plan 1)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
0	0.878	0.935	0.915
1	0.873	0.932	0.912
2	0.868	0.930	0.908
3	0.864	0.927	0.905
4	0.859	0.924	0.901
5	0.854	0.921	0.898
6	0.849	0.918	0.894
7	0.844	0.915	0.890
8	0.839	0.913	0.887
9	0.835	0.910	0.883
10	0.830	0.907	0.880
11	0.826	0.905	0.877
12	0.821	0.902	0.873
13	0.817	0.899	0.870
14	0.813	0.897	0.867
15	0.809	0.894	0.864
16	0.805	0.892	0.861
17	0.801	0.889	0.858
18	0.797	0.887	0.855
19	0.793	0.885	0.852
20	0.790	0.882	0.849
21	0.786	0.880	0.847
22	0.783	0.878	0.844
23	0.780	0.876	0.841
24	0.777	0.874	0.839
25	0.774	0.872	0.837
26	0.771	0.871	0.834
27	0.768	0.869	0.832
28	0.765	0.867	0.830
29	0.763	0.865	0.828
30	0.760	0.864	0.826
31	0.758	0.862	0.824
32	0.756	0.861	0.823
33	0.753	0.859	0.821
34	0.751	0.858	0.819

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
35	0.749	0.857	0.818
36	0.747	0.855	0.816
37	0.745	0.854	0.815
38	0.744	0.853	0.813
39	0.742	0.852	0.812
40	0.740	0.851	0.810

[Statutory Authority: RCW 41.50.050(5), 41.26.164, 41.26.460, 41.40.188, 41.40.660, 41.40.845, 41.37.170, 41.35.220, 41.32.530, 41.32.785, 41.32.851, 43.43.271. 06-18-009, § 415-02-380, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5). 05-23-062, § 415-02-380, filed 11/14/05, effective 12/15/05. Statutory Authority: RCW 41.50.050(5), 41.26.162, 41.26.164, chapter 41.45 RCW. 03-12-014, § 415-02-380, filed 5/27/03, effective 7/1/03. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 03-02-087, § 415-02-380, filed 12/31/02, effective 2/1/03; 02-18-048, § 415-02-380, filed 8/28/02, effective 9/1/02.]

**PROPERTY DIVISION IN DISSOLUTION ORDERS**

**WAC 415-02-500 Property division in dissolution orders<sup>1</sup>.** This section applies to all retirement plans that the department administers. This section also directs you to additional sections as needed for your particular situation.

(1) **What can a court do?** A court can enter a dissolution order dividing your retirement account in either of the following ways:

(a) Awarding an interest<sup>2</sup> in your account to your ex-spouse by using WAC 415-02-510 or 415-02-530; or

(b) Splitting<sup>3</sup> your account into two separate accounts (one for you and one for your ex-spouse) by using WAC 415-02-520 or 415-02-540, but only if you are vested at the time the dissolution order is entered. "Vested" is defined in subsection (16) of this section.

(2) **Which section should I use?** Consult the following table for direction to the section to use in developing your property division dissolution order. Different sections are provided depending on whether your property division dissolution order is going to provide an interest to your ex-spouse or whether you are splitting your retirement account with your ex-spouse.

If you are in this system and plan:	And the following is true:	Use this section:
Any	You need general information and rules about drafting dissolution orders related to your retirement plan and system.	415-02-500
JRF, JRS, LEOFF Plan 1, and WSPRS Plan 1	You are drafting a dissolution order. (We recommend that you contact the department for assistance because some exceptions may apply.)	415-02-510
LEOFF Plan 2, PERS Plan 1 or 2, PSERS,	You are drafting a dissolution order that will be entered <b>before you are vested</b> ; or	415-02-510

If you are in this system and plan:	And the following is true:	Use this section:
SERS Plan 2, and TRS Plan 1 or 2, WSPRS Plan 2	You are vested and you are drafting a dissolution order that awards an interest in your account to your ex-spouse.	
	You <b>are</b> vested and you are drafting a dissolution order that splits your benefit into two separate accounts (for you and your ex-spouse).	415-02-520
PERS Plan 3, SERS Plan 3, and TRS Plan 3	You are drafting a dissolution order that will be entered <b>before you are vested</b> ; or	415-02-530
	You <b>are vested</b> and you are drafting a dissolution order that awards an interest in your account to your ex-spouse.	
PERS Plan 2, SERS Plan 2, and TRS Plan 2	You are drafting a dissolution order that splits your benefit into two separate accounts (for you and your ex-spouse).	415-02-540
	The department has already accepted your property division order, and you are considering a transfer to Plan 3.	415-02-550

(3) **What are the requirements for dissolution orders and amendments that provide for a property division of my retirement account?** The order must:

- (a) Be entered by a court of competent jurisdiction and enforceable in Washington state;
- (b) Be filed with the department within ninety days of the court's entry of the order;
- (c) Establish the right of your ex-spouse to a portion of your retirement;
- (d) Provide the name and date of birth of your ex-spouse;
- (e) Incorporate the applicable language in this section and one of the following: WAC 415-02-510, 415-02-520, 415-02-530, or 415-02-540; and
- (f) Indicate which WAC section was used in support of the order.

(4) **What else, besides a copy of the dissolution order, must my ex-spouse and I provide to the department?** You must provide addresses and Social Security numbers for both you and your ex-spouse before the department will honor a dissolution order or amendment. This information can be submitted in a cover letter, in another document, or by other means arranged with the department.

(5) **I belong to more than one retirement plan. Does the order have to be written any differently?** The order must include specific provisions for each plan.

(a) Example for providing an **interest** to an ex-spouse (RCW 41.50.670 and WAC 415-02-510): Paul belongs to both TRS Plan 2 and PERS Plan 3. His preretirement dissolution order gives an interest in his retirement accounts to his

ex-spouse. The order should include the language provided in:

(i) WAC 415-02-510 to divide Paul's TRS Plan 2 monthly retirement allowance or accumulated contributions.

(ii) WAC 415-02-530 to divide Paul's PERS Plan 3 monthly retirement allowance and/or accumulated contributions.

(b) Example for **splitting** an account with an ex-spouse: Mary is vested in both TRS Plan 2 and PERS Plan 3. Her preretirement dissolution order provides for splitting her retirement accounts with her ex-spouse. The order should include the language provided in:

(i) WAC 415-02-520 for preretirement splits to divide Mary's TRS Plan 2 retirement account.

(ii) WAC 415-02-540 for preretirement splits to divide Mary's PERS Plan 3 monthly retirement allowance and/or defined contributions.

(6) **What happens if my ex-spouse misses the ninety-day deadline for filing a copy of the dissolution order with the department?**

(a) RCW 41.50.670 requires the "obligee" (ex-spouse) to file a copy of the dissolution order with the department within ninety days of the order's entry with the court of record.

(b) The department will accept an order after the ninety-day deadline but will not make retroactive payments or split your defined contribution account retroactively.

(7) **How will the department divide the "after-tax" and "tax-deferred" dollars in my retirement account between my ex-spouse and me?** Depending on your plan and how long you have been a member, your retirement account may include both "after-tax" and "tax-deferred" dollars. The department will divide the "after-tax" and "tax-deferred" dollars based on the amount(s) awarded to your ex-spouse, unless the dissolution order states otherwise.

Example: At the time of John's marriage dissolution, he had \$50,000 total contributions in his retirement account with \$20,000 in after-taxed dollars and \$30,000 in tax-deferred dollars. The dissolution order awards 50% of his accumulated contributions to his ex-spouse, Susan. Therefore, the department will give Susan \$10,000 of after-tax dollars and \$15,000 of tax-deferred dollars.

(8) **If I am in a retirement plan that offers survivor options, can the court order me to name my ex-spouse as my survivor beneficiary?** Yes. To do so, the dissolution order must include the language in RCW 41.50.790(1).

(9) **Is there a minimum benefit amount that the department will pay to my ex-spouse if the property division dissolution order splits my retirement account with my ex-spouse?** The answer is different depending on if the department accepts the property division dissolution order **BEFORE** or **AFTER** you retire.

(a) **BEFORE** retirement split: Yes. If the court order splits your account with your ex-spouse, and your ex-spouse's monthly payment will be less than the minimum monthly dollar amount for your retirement plan, the department may make a lump sum payment instead of monthly payments. The lump sum payment will be equal to the present value of the monthly payments. The department will **NOT** make the lump

sum payment until your ex-spouse meets the age requirement for a normal retirement for your system and plan.

(b) **AFTER** retirement split: No. The department will pay the amount specified in the dissolution order as the ex-spouse's monthly payment amount even if it is less than the minimum monthly dollar amount for your system and plan.

(10) **Is there a maximum payment amount that the department will pay to my ex-spouse?** Yes. A court may not order the department to pay more than seventy-five percent of your monthly retirement allowance to your ex-spouse. See RCW 41.50.670(4).

(11) **How much is the fee the department charges for making payments directly to my ex-spouse?** The department charges seventy-five dollars for making the first disbursement and six dollars for each subsequent disbursement. The department will divide the fees evenly between you and your ex-spouse. See RCW 41.50.680.

(12) **What happens to my account if I return to retirement system membership?** Please contact the department for information if you are in this situation.

(13) **What language should the property division order use to divide my deferred compensation program (DCP) account?** Refer to WAC 415-501-495 or contact DCP for information about your DCP account and your marriage dissolution.

(14) **How do I contact the department for additional assistance?** Complete information is available in WAC 415-06-100 (How do I contact the department?).

(15) **Where can I find examples of completed property division dissolution orders?** Following are examples of the required language from the statutes and WAC sections that must be used in a dissolution order. The information in **bold italics** will be dictated by your own circumstances.

(a) **Example 1.** Jane Doe, a nonvested member of PERS Plan 2, and her husband, John Doe, decide to divorce. **WAC 415-02-510** governs dissolution orders of nonvested members of PERS Plan 2. Jane and John complete the paragraphs in RCW 41.50.670(2) and WAC 415-02-510(2) as follows:

**Defined Benefits:** If *Jane Doe* (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to *John Doe* (the obligee), *N/A* dollars from such payments or *a fraction where the numerator is equal to 24 (the number of months in which service credit was earned while the marital community was in existence), and the denominator is equal to the number of months of service credit earned by the obligor at the time of retirement X 50* percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the

RCW 41.50.670(2), paragraph two, and WAC 415-02-510(2)

**Accumulated Contributions:**

RCW 41.50.670(2), paragraph three, and WAC 415-02-510(2)

amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If *Jane Doe* (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to *John Doe* (the obligee) **\$5,700** dollars plus interest at the rate paid by the Department of Retirement Systems on member contributions. Such interest will accrue from the date of this order's entry with court of record.

(b) **Example 2:** Binh Nguyen (a TRS Plan 3 retiree) and his wife, Lan Nguyen, are obtaining a property division dissolution order that splits his retirement account. When he retired, Binh had selected Lan to receive survivor benefits. WAC 415-02-540 applies, and the couple completes the required paragraphs.

**Defined Benefits:**

WAC 415-02-540(12)

The Department of Retirement Systems (department) shall create a **defined benefit account** for *Lan Nguyen* (ex-spouse) in the *Teachers' Retirement System Plan 3* (name of retirement system and plan) and pay him or her **\$350** (amount) for his or her life. To pay for this benefit, *Binh Nguyen's* (member's) **monthly defined benefit** payment will be reduced for life. This provision shall become effective no more than 30 days after the department's acceptance of the order.

**Defined Contributions:**

WAC 415-02-540(9)

The Department of Retirement Systems (department) shall split *Binh Nguyen's* (member's) **defined contribution account** in the *Teachers' Retirement System Plan 3* (name of retirement system and plan) and create a separate account for *Lan Nguyen* (ex-spouse). The amount of **\$25,000** (amount) shall be transferred from *Binh Nguyen's* (member's) **defined contribution account** to *Lan Nguyen's* (ex-spouse's) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

**(16) Terms used:**

- (a) Department's acceptance - The department's determination that a dissolution order fully complies with the department's requirements and with chapter 41.50 RCW.
- (b) Dissolution order - RCW 41.50.500.
- (c) Obligee - RCW 41.50.500(5).
- (d) Obligor - RCW 41.50.500(6).
- (e) Plan 3 - WAC 415-111-100.
- (f) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

## Footnotes for section:

- <sup>1</sup> "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state. RCW 41.50.500(3) (2002).
- <sup>2</sup> When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement allowance or a portion of your contributions to your ex-spouse.
- <sup>3</sup> When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account has been established, your account and your ex-spouse's account are not tied in any way.

[Statutory Authority: RCW 41.50.050(5), 41.50.670, 41.50.680, 41.50.790. 06-18-009, § 415-02-500, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. 03-12-014, § 415-02-500, filed 5/27/03, effective 7/1/03.]

**WAC 415-02-510 How can a property division dissolution order give my ex-spouse an interest<sup>1</sup> in my Plan 1 or 2 retirement account? (1) Who may use this section?**

(a) You *MUST* use this section if you are a member of LEOFF Plan 1, WSPRS Plan 1, JRF or JRS, or a **nonvested** member of LEOFF Plan 2, PERS Plan 1 or 2, PSERS, SERS Plan 2, TRS Plan 1 or 2, or WSPRS Plan 2.

(b) You *MAY* use this section if you are a **vested** member of LEOFF Plan 2, PERS Plan 1 or 2, PSERS, SERS Plan 2, TRS Plan 1 or 2, or WSPRS Plan 2. If you are splitting your retirement account with your ex-spouse, use WAC 415-02-520.

**(2) What language must the property division dissolution order or amendment include?** The order must include the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both. (See example in WAC 415-02-500(15).)

If\_\_\_\_(the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to\_\_\_\_(the obligee)\_\_\_\_dollars from such payments or\_\_\_\_percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee

shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If\_\_\_\_(the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to\_\_\_\_(the obligee) dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

**(3) How will my account be affected if the department accepts the property division dissolution order BEFORE I retire?**

(a) Your ex-spouse will not receive any payments from the department until you terminate your employment or retire.

(b) If you terminate your employment and request a withdrawal of your accumulated contributions, the department will pay your ex-spouse his or her share when you receive your payment. If you terminate your employment and do not request a withdrawal of contributions, your ex-spouse will be unable to receive his or her share until you withdraw your accumulated contributions.

(c) If you die before retirement, the department will pay your ex-spouse his or her share of your accumulated contributions in a lump-sum payment.

**(4) How will my account be affected if the department accepts the property division dissolution order AFTER I retire?**

(a) If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your monthly retirement allowance the first month after the department has accepted the order.

(b) If your ex-spouse dies before you, the portion of your monthly retirement allowance that was being paid to your ex-spouse will be paid to you.

(c) If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least thirty days before you retired and the order required the department to name your ex-spouse as a survivor beneficiary (if allowed by your retirement system and plan). See RCW 41.50.700(1) and 41.50.790.

(d) If you are a member of LEOFF Plan 1 or WSPRS Plan 1 and if one of the provisions in RCW 41.50.700(3) applies:

(i) Your ex-spouse may be eligible to receive payments for the life of your surviving spouse; or

(ii) If you are a member of LEOFF Plan 1, your ex-spouse may be eligible to receive payments for his or her lifetime.

**(5) Is there a maximum payment amount that a property division dissolution order can award to my ex-spouse?** Yes. See RCW 41.50.670(4) and WAC 415-02-500 (10) for information.

**(6) If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made?** The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

(7) **How much is the fee the department charges for making payments directly to my ex-spouse?** See RCW 41.50.680 and WAC 415-02-500(11) for information.

(8) **What happens if I transfer to Plan 3 after the department has accepted my property division dissolution order or most recent amendment?** See WAC 415-02-550 for information.

(9) **Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-520(9) for the language that must be used.

(10) **Terms used:**

(a) Department's acceptance - That the department's determination that a dissolution order fully complies with the department's requirements and with chapter 41.50 RCW.

(b) Dissolution order - RCW 41.50.500.

(c) Obligee - RCW 41.50.500(5).

(d) Obligor - RCW 41.50.500(6).

(e) Plan 3 - WAC 415-111-100.

(f) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

Footnote to section:

<sup>1</sup>When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement allowance or a portion of your contributions to your ex-spouse.

[Statutory Authority: RCW 41.50.050(5), 41.50.670, 41.50.680, 41.50.790, 06-18-009, § 415-02-510, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. 03-12-014, § 415-02-510, filed 5/27/03, effective 7/1/03.]

**WAC 415-02-520 How can my Plan 1 or 2 retirement account be split<sup>1</sup> by a property division dissolution order?**

(1) **Who may use this section?** Vested members of LEOFF Plan 2, PERS Plan 1 or 2, PSERS, TRS Plan 1 or 2, SERS Plan 2, or WSPRS Plan 2 who have or will have a property division dissolution order or amendment dated on or after July 1, 2003<sup>2</sup>. If your ex-spouse will be receiving an interest in your account, use WAC 415-02-510.

(2) **What are the rules for splitting my account?** If you and your ex-spouse are eligible, the department will split *your* retirement account into two separate accounts—one for you, and one for your ex-spouse. The rules for splitting your account are different depending on whether your dissolution order or most recent amendment is dated *BEFORE* or *AFTER* retirement.

(3) **How will my account be affected if the department accepts the property division dissolution order *BEFORE* my retirement?**

(a) The department will split your retirement account into two completely separate accounts and create an account for your ex-spouse under his or her Social Security number for the amount awarded in the dissolution order.

(b) The department will pay each of you out of your separate accounts either a monthly allowance or a withdrawal of contributions.

(c) If you retire and receive a monthly retirement allowance, your monthly retirement allowance will have a permanent reduction to offset the amount awarded as a monthly payment to your ex-spouse.

(d) Your monthly retirement allowance will be payable over your lifetime, and your ex-spouse's monthly payment will be payable over your ex-spouse's lifetime.

(e) You will have the right to choose a benefit option with a survivor feature. See WAC 415-02-320.

(f) Your ex-spouse will not have the right to choose a benefit option with a survivor feature, but may name a beneficiary to receive any final death payment that may be due.

(g) If you terminate employment, any decision you make about your accumulated contributions will have no effect upon your ex-spouse's separate account.

(h) When you or your ex-spouse dies, there will be no impact to the other person's retirement account because the accounts are independent from one another.

(i) Your ex-spouse may begin receiving monthly payments when your ex-spouse reaches retirement age for your retirement plan, or the first day of the month following the department's acceptance of the order, whichever is later. The minimum age for an ex-spouse to begin receiving a benefit from:

(A) TRS Plan 1 and PERS Plan 1 is age sixty;

(B) PERS Plan 2, PSERS, SERS Plan 2, and TRS Plan 2 it is age sixty-five;

(C) LEOFF Plan 2 is age fifty-three; and

(D) WSPRS Plan 2 is age fifty-five.

Your age or retirement eligibility has no effect on when your ex-spouse is eligible to begin receiving a monthly payment. Your ex-spouse must apply for his or her monthly payment according to the rules for your system and plan.

(j) Your ex-spouse may withdraw his or her share of the accumulated contributions at any time before receiving a monthly payment. Regardless of whether your ex-spouse withdraws or receives a monthly payment, your monthly retirement allowance will be permanently reduced to account for your ex-spouse's share of your retirement account.

(4) **Is there a limit to the amount of contributions I can award to my ex-spouse?** Yes. The amount of contributions awarded to your ex-spouse cannot be greater than the **percentage** of your monthly retirement allowance used to determine the amount of the monthly payment awarded to your ex-spouse.

Example:

Accumulated contributions earned during the marriage period:	\$50,000
Member's monthly retirement allowance:	\$1,000
Percentage of member's monthly retirement allowance awarded to ex-spouse:	50%
Monthly payment awarded to ex-spouse:	\$500 (50% of \$1,000)

**Contributions awarded to ex-spouse: \$25,000 (50% of 50,000)**

**(5) What happens if my retirement account was split and then I retire early?**

(a) If you are eligible and decide to retire early, or must retire early because of a disability, your retirement plan may require that your monthly retirement allowance be reduced by an early retirement factor (ERF) or by some other method. See WAC 415-02-320.

(b) To determine the reduction to your monthly retirement allowance (when an ERF is used) because of your pre-retirement split (see subsection (3)(c) of this section), the adjustment to the amount awarded to your ex-spouse in the dissolution order will be reduced by the ERF used to reduce your monthly retirement allowance.

**Example:** You are a member of PERS Plan 2 and retire for disability two years before you are eligible for a service retirement. The dissolution order awarded your ex-spouse a monthly payment of five hundred dollars.

Your monthly retirement allowance before ERF is applied:	\$2,500	
ERF (factor for retiring two years early)	0.82	
Your base allowance:	\$2,050	(\$2500 x 0.82 ERF)
Adjustment for divorce split:	- \$410	(ex-spouse's \$500 x 0.82 (ERF))
<b>The monthly retirement allowance you will receive:</b>	<b>\$1640</b>	(\$2050 - \$410)

Your ex-spouse will receive the full monthly amount (\$500) that was awarded to him or her in the dissolution order, regardless of your benefit amount.

**(6) What language must be used for a property division dissolution order or amendment that is accepted by the department BEFORE my retirement?**

(a) The order must include the language provided below. Do **not** use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's monthly payment must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create an account for \_\_\_\_ (ex-spouse) in the \_\_\_\_ (name of retirement system and plan) and transfer \$ \_\_\_\_ from \_\_\_\_'s (member's) accumulated contributions account into \_\_\_\_'s (ex-spouse's) account. If \_\_\_\_ (ex-spouse) does not withdraw the contributions and becomes eligible, the department will pay him or her \$ \_\_\_\_ (amount) as a monthly payment for his or her life. If \_\_\_\_ (member) retires and receives a monthly retirement benefit payment, the payment will be permanently reduced to account for \_\_\_\_'s (ex-spouse's) monthly payment. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(b) If you are a member of PERS Plan 1 or TRS Plan 1, the amount of service credit awarded to your ex-spouse must be specified in the order if he or she is awarded a portion of gainsharing payments and cost-of-living adjustments. Because gainsharing payments and cost-of-living adjustments are based on service credit, the following paragraph must be included:

If \_\_\_\_ (ex-spouse) receives a monthly retirement payment, the department shall use \_\_\_\_ (number) months of service credit to calculate future gainsharing payments, if any, and cost-of-living adjustments when he or she becomes eligible.

**(7) How will my account be affected if the department accepts the property division dissolution order AFTER my retirement?**

(a) The department will split your retirement account **only if** you selected your ex-spouse to receive survivor benefits at the time you retired. If you did not select your ex-spouse to receive survivor benefits at the time you retired, you cannot use this section. You **must** use WAC 415-02-510.

(b) If you selected your ex-spouse to receive survivor benefits at the time you retired, the rules in subsection (3)(a) through (f) of this section will apply.

(c) At the time the department splits your account, your ex-spouse will be removed as the survivor beneficiary on your account.

(d) Regardless of his or her age, your ex-spouse will begin receiving a monthly payment the first month after the department has accepted the dissolution order.

**(8) If the property division dissolution order is dated AFTER my retirement, how will my monthly retirement allowance be calculated after the split?**

(a) The dissolution order must state the exact dollar amount your ex-spouse is to receive as his or her separate monthly payment. The following describes how the new amount of your monthly retirement allowance will be calculated, assuming your ex-spouse was awarded a monthly payment of one thousand dollars in the dissolution order.

Step 1 The department will determine the single life benefit of your current monthly retirement allowance by dividing your current monthly allowance by the survivor option factor (see WAC 415-02-380) in effect at the time of the split.

**Example:**

Current monthly retirement allowance = \$1679.38  
 Option factor = 0.9400000  
 Single life benefit amount = \$1679.38/0.9400000 = \$1786.57

Step 2 The single life benefit (\$1786.57) is divided by your annuity factor (see WAC 415-02-360) to determine the current present value of the single life benefit amount. The annuity factor the department uses is the factor for your age as of the date of the split.

**Example:**

Your age at time of the split = 61 years old  
 Annuity factor for age 61 = 0.0084149  
 Present value of single life benefit = \$1786.57/0.0084149 = \$212,310.31

Step 3 The department then determines the present value of your ex-spouse's share by dividing your ex-spouse's monthly payment (as awarded in the dissolution order) by your ex-spouse's annuity factor. The annuity factor is the factor for your ex-spouse's age as of date of the split.

**Example:**

Ex-spouse's monthly benefit amount = \$1000  
 Ex-spouse's age at time of the split = 67  
 Annuity factor for age 67 = 0.0095028

Present value of your ex-spouse's monthly benefit =  
 $\$1000/0.0095028 = \$105,232.14$

Step 4 Next, the department subtracts your ex-spouse's present value from the single life benefit present value. The result is the present value of the benefit you will receive.

**Example:**

Present value of single life benefit = \$212,310.31

Less present value of ex-spouse's benefit = -105,232.14

Your present value = \$107,078.17

Step 5 The department determines the amount of your new monthly retirement allowance by multiplying your present value by your annuity factor.

**Example:**

Your present value = \$107,078.17

Annuity factor = 0.0084149

Your new monthly retirement allowance = \$107,078.17  
 x 0.0084149 = \$901.05

(b) The department determines the percentage of the total present value each of you will receive by dividing each of your present value amounts by the single life benefit present value amount.

**Example:**

Your percentage of the single life benefit present value:  
 $\$107,078.17/\$212,310.31 = .5043$

Your ex-spouse's percentage of the single life benefit present value:  
 $\$105,232.14/\$212,310.31 = .4957$

**(9) What language must be used in a property division dissolution order or amendment that is accepted by the department AFTER my retirement?**

(a) The order must include the language provided below. Do **not** use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's monthly benefit must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create an account for \_\_\_\_\_(ex-spouse) in the \_\_\_\_\_(name of retirement system and plan) and pay him or her \$ \_\_\_\_\_(amount) as a monthly benefit payment for his or her life. To pay for this benefit, \_\_\_\_\_'s (retiree's) monthly retirement benefit payment will be reduced for his or her life. If (retiree) has any unused contributions remaining in his or her account, \$ \_\_\_\_\_(amount) shall be transferred to \_\_\_\_\_'s (ex-spouse's) account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(b) If the member is in PERS Plan 1 or TRS Plan 1, the amount of service credit awarded to the ex-spouse must be specified in the order if he or she is entitled to a portion of gainsharing payments and cost-of-living adjustments. Because gainsharing payments and cost-of-living adjustments are based on service credit, the following paragraph must be included:

If \_\_\_\_\_(ex-spouse) receives a monthly retirement payment, the department shall use \_\_\_\_\_(number) months of service credit to calculate future gainsharing payments, if any, and cost-of-living adjustments when he or she becomes eligible.

(10) **Is there a maximum payment amount that the department will pay to my ex-spouse?** Yes. See RCW 41.50.670(4) or WAC 415-02-500(10) for information.

(11) **May I amend an existing order that awarded an interest in my account to my ex-spouse under WAC 415-02-520, and remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as your survivor beneficiary will change the amount of your monthly retirement allowance. See WAC 415-02-520(9) for the language that must be used.

**Example:**

Julio and May were married when Julio retired. Julio chose benefit Option 2 (joint and one hundred percent survivorship) when he retired, and named May as his survivor beneficiary. Two years after Julio's retirement, the couple divorced. The court awarded "one hundred percent of retirement benefits" to Julio. Julio later learned that this award did not change the survivor option. Julio may return to court and obtain an order stating that May is to receive "\$0" as the dollar amount for her separate monthly benefit. The order must use the language in WAC 415-02-520(9) and be signed by the court no sooner than July 1, 2003.

(12) **How much is the fee the department charges for making payments directly to my ex-spouse?** See RCW 41.50.680 and WAC 415-02-500(11) for information.

(13) **What happens if I transfer to Plan 3 after the property division dissolution order has been filed with the department?** See WAC 415-02-550 for information.

**(14) Terms used:**

(a) Department's acceptance - The department's determination that a dissolution order fully complies with the department's requirements and RCW 41.50.500.

(b) Dissolution order - RCW 41.50.500.

(c) Plan 3 - WAC 415-111-100.

(d) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

Footnotes to section:

<sup>1</sup> When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account is established, your account and your ex-spouse's account are not tied in any way.

<sup>2</sup> If your ex-spouse was not listed as your survivor beneficiary at retirement, then no postretirement property division dissolution order (or postretirement amendment) may split your retirement account using WAC 415-02-520.

[Statutory Authority: RCW 41.50.050(5), 41.50.670, 41.50.680, 41.50.790. 06-18-009, § 415-02-520, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.50.500, 41.50.670 et seq., 41.50.790. 04-09-043, § 415-02-520, filed 4/14/04, effective 5/15/04; 03-24-049, § 415-02-520, filed 11/26/03, effective 1/1/04. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. 03-12-014, § 415-02-520, filed 5/27/03, effective 7/1/03.]



**WAC 415-02-530 How can a property division dissolution order give my ex-spouse an interest<sup>1</sup> in part of my Plan 3 retirement account? (1) Who may use this section?**

(a) You *MUST* use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3 and do not have enough service credit to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement.

(b) You *MAY* use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3, and have earned enough service to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement. If you are splitting your retirement account with your ex-spouse, use WAC 415-02-540.

**(2) What language must the property division dissolution order or amendment include to pay a portion of my defined monthly retirement benefit to my ex-spouse?** The order must use the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both.

If \_\_\_\_\_(the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to \_\_\_\_\_(the obligee) \_\_\_\_\_dollars from such payments or \_\_\_\_\_percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

**(3) How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order *BEFORE* I retire?**

(a) Your ex-spouse will not receive any payments from your defined benefit portion until you retire.

(b) If you or your ex-spouse dies before you retire, the portion of your defined benefit account awarded to your ex-spouse in the dissolution order ends.

**(4) How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order *AFTER* I retire?**

(a) If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your defined benefit payment the first month after the department has accepted the order.

(b) If your ex-spouse dies before you, the portion of your defined benefit payment being paid to him or her will be paid to you.

(c) If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least thirty days before you retired and it required the department to name your ex-spouse as a survivor beneficiary. See RCW 41.50.700(1) and 41.50.790.

**(5) Is there a maximum payment amount of the defined benefit portion of my retirement account that the property division dissolution order can award to my ex-spouse?** Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

**(6) Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (13) for the language that must be used.

**(7) If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made?** The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

**(8) How much is the fee the department charges for making payment directly to my ex-spouse?** See RCW 41.50.680 and WAC 415-02-500(11).

**(9) If the department accepts the property division dissolution order *BEFORE* I retire, how will the department divide my defined contribution account with my ex-spouse?**

(a) The amount the dissolution order awards to *your ex-spouse* will be deducted from *your* account and set up in a separate account for your ex-spouse under his or her Social Security number.

(b) *You* and *your ex-spouse* will manage your individual portions of the account independently from one another.

(c) *You* must continue to contribute to your account during your employment.

(d) *Your ex-spouse* may not contribute to his or her account.

**(10) What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:

(a) Transfer money between the state-managed (WSIB) or the self-directed (SELF) investment programs; and

(b) Transfer money among the investment options in the SELF-directed program.

**(11) How will the department make distributions to both my ex-spouse and me on each of our defined contribution accounts?**

(a) When you separate from employment or retire, the funds in your defined contribution account will be disbursed to you according to your distribution choice.

(b) Your ex-spouse must begin distribution from his or her account at the same time that you request distribution from your account.

(c) Both you and your ex-spouse have the same distribution options as outlined in WAC 415-111-310.

(d) If *you* die *before* a distribution has been made from your defined contribution account, your beneficiary(ies) must apply for a lump sum distribution of the funds in your account.

(e) If *you* die *before* a distribution has been made from your defined contribution account, your ex-spouse must begin receiving distribution of his or her funds at that time according to the distribution options in WAC 415-111-310.

(f) If *your ex-spouse* dies *before* a distribution has been made from his or her defined contribution account, your ex-spouse's beneficiary(ies) must apply for a lump sum distribution of the funds in his or her account.

(g) If *you* die *after* you begin receiving funds from your defined contribution account but before your funds have been exhausted, the remaining balance of the funds will be disbursed to your designated beneficiary(ies).

(h) If *your ex-spouse* dies *after* receiving funds from his or her account but before the funds have been exhausted, the remaining balance of the funds will be disbursed to your ex-spouse's designated beneficiary.

(12) **What language must the dissolution order or most recent amendment include to pay a portion of my defined contribution account to my ex-spouse?** The language provided in the following paragraph must be used. The order or amendment must state a specific dollar amount.

The Department of Retirement Systems (department) shall divide \_\_\_\_\_'s (member's) **defined contribution account** in the \_\_\_\_\_(retirement system and plan) and create a separate account for \_\_\_\_\_(ex-spouse). The amount of \$\_\_\_\_\_shall be transferred from \_\_\_\_\_'s (member's) **defined contribution account** to \_\_\_\_\_'s (ex-spouse) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(13) **If the department accepts the property division dissolution order AFTER I retire, how will the department divide my defined contribution account with my ex-spouse?** If your defined contribution account has not been exhausted at the time the department accepts the dissolution order, the department will divide the remaining funds as specified in the dissolution order according to subsections (9) through (12) of this section.

(14) **Terms used:**

(a) Department's acceptance - Order that fully complies with the department of retirement systems' requirements and chapter 41.50 RCW.

(b) Dissolution order - RCW 41.50.500.

(c) Ex-spouse - WAC 415-02-030.

(d) Obligee - RCW 41.50.500(5).

(e) Obligor - RCW 41.50.500(6).

(f) Plan 3 retirement systems - WAC 415-111-100.

(g) Split accounts - WAC 415-02-030.

(h) Survivor benefits - WAC 415-02-030.

Footnote to section:

<sup>1</sup> When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement benefit payments or a portion of your contributions to your ex-spouse.

[Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. 03-12-014, § 415-02-530, filed 5/27/03, effective 7/1/03.]

**WAC 415-02-540 How can my Plan 3 retirement account be split<sup>1</sup> by a property division dissolution order?**

(1) **Who may use this section?** You may use this section if:

(a) You are a member of TRS Plan 3, SERS Plan 3 or PERS Plan 3;

(b) You have enough service credit to receive a defined benefit payment when you meet the age requirement for your system; and

(c) You have or will have a property division dissolution order or amendment dated on or after July 1, 2003<sup>2</sup>. If your

ex-spouse will be receiving an interest in your account, use WAC 415-02-530.

(2) **What are the rules for splitting my account?** If you and your ex-spouse are eligible, the department will split both portions of *your* retirement account (defined benefit and defined contributions) into two separate accounts - one for you, and one for your ex-spouse. The rules for splitting your account are different depending on whether your dissolution order or most recent amendment is dated *before* or *after* retirement.

(3) **How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order BEFORE I retire?**

(a) The department will split *your* defined benefit account into two completely separate accounts and create an account for your ex-spouse for the amount awarded in the defined benefit portion of the dissolution order under your ex-spouse's Social Security number.

(b) The department will pay each of you a defined benefit, when eligible, out of your separate accounts.

(c) The amount awarded to your ex-spouse as his or her defined benefit payment will be a permanent reduction to your defined benefit payment amount.

(d) Your defined benefit payment will be payable over your lifetime, and your ex-spouse's defined benefit payment will be payable over his or her lifetime.

(e) You will have the right to pick a survivor option for your defined benefit payment for your own account.

(f) Your ex-spouse will not have the right to pick a survivor option for his or her defined benefit payment but may name a beneficiary to receive any final death payment that may be due.

(g) You may begin receiving your defined benefit payment when eligible according to the rules for your system.

(h) Your ex-spouse may begin receiving monthly payments when he or she reaches age sixty-five, or the first day of the month following the department's acceptance of the order, whichever is later. Your ex-spouse must apply for retirement according to the rules for your system and plan. Your age or retirement eligibility has no effect on when your ex-spouse is eligible to begin receiving his or her monthly benefit.

(i) When you or your ex-spouse dies, there will be no impact to the other person's retirement account, because the accounts are independent from one another.

(4) **What happens to my defined benefit if my account was split and then I retire early?**

(a) If you are eligible and decide to retire early, or must retire early because of a disability, your monthly retirement benefit payment will be reduced by an early retirement factor (ERF). See WAC 415-02-320.

(b) To determine the reduction to your benefit because of your preretirement split (see subsection (3)(c) of this section), the adjustment to the amount awarded to your ex-spouse in the dissolution order will be reduced by the ERF used to reduce your benefit.

Example: You are a member of TRS Plan 3 and retire for disability five years before you are eligible for a service retirement. The dissolution order awarded your ex-spouse a monthly benefit of two hundred fifty dollars.

Your defined benefit before ERF is applied:	\$1,000	
ERF (factor for retiring two years early)	0.61	
Your base benefit:	\$610	(\$1,000 x 0.61 ERF)
Adjustment for divorce split:	-\$152.50	(ex-spouse's \$250 x 0.61 (ERF) )
<b>The defined benefit you will receive:</b>	<b>\$457.50</b>	<b>(\$610 - \$152.50)</b>

Your ex-spouse will receive the full monthly amount (\$250) that was awarded to him or her in the dissolution order, regardless of your benefit amount.

(5) **What language must be used in a property division dissolution order that the department accepts BEFORE I retire to pay a portion of my monthly defined benefit payment to my ex-spouse?** The order must use the language provided below. Do not use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's defined monthly benefit payment must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create a **defined benefit monthly account** for \_\_\_ (ex-spouse) in the \_\_\_(name of retirement system and plan). When \_\_\_(ex-spouse) becomes eligible for monthly payments, [s]he (upon application) will begin to receive \$ \_\_\_per month for the remainder of his/her lifetime. When \_\_\_(member) becomes eligible for monthly payments, [s]he (upon application) will begin to receive the calculated monthly benefit less the amount herein specified for \_\_\_(ex-spouse). This provision shall become effective no more than 30 days after the department's acceptance of the order.

(6) **If ordered in the dissolution order, how will the department split my preretirement defined contribution account?**

(a) The amount the dissolution order awards to your ex-spouse will be deducted from your defined contribution account and set up in a separate account for your ex-spouse under his or her Social Security number.

(b) You and your ex-spouse will manage your separate accounts independently from one another.

(c) You must continue to contribute to your account during your employment.

(d) Your ex-spouse may not contribute to his or her account.

(7) **What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:

(a) Transfer money between investment programs (state-managed (WSIB) or self-directed (SELF)); and

(b) Transfer money among the investment options in the SELF-directed program.

(8) **How will the department make distributions to my ex-spouse and me out of our defined contribution accounts?**

(a) **You** must be separated from employment before funds in your account can be distributed according to your distribution choice.

(b) **Your ex-spouse** may begin receiving distribution of the funds in his or her account at any time according to his or her distribution choice.

(c) Both you and your ex-spouse will have the same distribution options as outlined in WAC 415-111-310.

(d) If **you** die before a distribution has been made from your defined contribution account, your beneficiary(ies) must apply for a lump sum death benefit from your account.

(e) If **your ex-spouse** dies before a distribution has been made from his or her account, your ex-spouse's beneficiary(ies) must apply for a lump sum death payment from his or her account.

(f) If **you** die after you begin receiving funds but before the funds in your account have been exhausted, the balance will be paid to your designated beneficiary(ies).

(g) If **your ex-spouse** dies after receiving funds but before the funds in his or her account have been exhausted, the balance will be paid to your ex-spouse's designated beneficiary(ies).

(9) **What language must be used in a property division dissolution order to award a portion of my defined contribution account to my ex-spouse?** The order must include the language provided in the following paragraph. The exact dollar amount to transfer to your ex-spouse's defined contribution account must be specified. Do not use formulas or percentages. (See example in WAC 415-02-500 (15)(b)).

The Department of Retirement Systems (department) shall split \_\_\_(member's) **defined contribution account** in the (name of retirement system and plan) and create a separate account for \_\_\_(ex-spouse). The amount of \$ \_\_\_(amount) shall be transferred from \_\_\_'s (member's) **defined contribution account** to \_\_\_'s (ex-spouse's) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(10) **Can I amend an existing order that has awarded an interest in my account to my ex-spouse under WAC 415-02-530 and remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (13) for the language that must be used.

**Example:**

Julio and May were married when Julio retired. Julio chose survivor Option 2 (joint and one hundred percent survivorship) when he retired. This meant that if Julio died, May would receive monthly survivor benefits. Two years after Julio's retirement, the couple divorced. The court awarded "one hundred percent of retirement benefits" to Julio. Julio later learned that this award did not change the survivor option. Julio can return to court and obtain an order stating that May is to receive "\$0" as the dollar amount for her separate monthly benefit. The order must use the language in WAC 415-02-540 and be signed by the court no sooner than July 1, 2003.

(11) **If the dissolution order or amendment is dated AFTER my retirement, how will my defined monthly retirement benefit payment be split?**

(a) The department will split your defined monthly retirement benefit payment **only if** you selected your ex-

spouse to receive a survivor benefit at the time you retired. If you did not select your ex-spouse to receive a survivor benefit at the time you retired, you cannot use this section. You **must** use WAC 415-02-530.

(b) If you selected your ex-spouse to receive survivor benefits at the time you retired, the rules in subsection (3)(a) through (f) of this section will apply.

(c) At the time the department splits your account, your ex-spouse will be removed as the survivor beneficiary on your account.

(d) Regardless of his or her age, your ex-spouse will begin receiving a monthly benefit payment the first month after the department accepts the property division dissolution order.

**(12) If the dissolution order or amendment is dated AFTER my retirement, how will my monthly retirement benefit be calculated after the split?**

(a) The dissolution order must state the exact dollar amount your ex-spouse is to receive as his or her separate monthly benefit. The following describes how the new amount of your benefit will be calculated assuming your ex-spouse was awarded a monthly benefit of six hundred dollars in the dissolution order.

Step 1 The department will determine the single life benefit of your current monthly benefit payment by dividing your currently monthly benefit payment by the survivor option factor (see WAC 415-02-380) in effect at the time of the split.

**Example:**

Currently monthly benefit = \$1200  
 Option factor = 0.865  
 Single life benefit amount =  $\$1200/0.865 = \$1387.28$

Step 2 The single life benefit (\$1387.28) is divided by your annuity factor (see WAC 415-02-340) to determine the current present value of the single life benefit amount. The annuity factor the department uses is the factor for your age as of the date of the split.

**Example:**

Your age at time of the split = 61 years old  
 Annuity factor for age 61 = 0.0065448  
 Present value of single life benefit =  $\$1387.28/0.0065448 = \$211,966.75$

Step 3 The department then determines the present value of your ex-spouse's share by dividing your ex-spouse's monthly benefit amount (as awarded in the dissolution order) by your ex-spouse's annuity factor. The annuity factor is the factor for your ex-spouse's age as of date of the split.

**Example:**

Ex-spouse's monthly benefit amount = \$600  
 Ex-spouse's age at time of the split = 67  
 Annuity factor for age 67 = 0.0076715  
 Present value of your ex-spouse's monthly benefit =  $\$600/0.0076715 = \$78,211.56$

Step 4 Next, the department subtracts your ex-spouse's present value from the single life benefit

present value. The result is the present value of the benefit you will receive.

**Example:**

Present value of single life benefit = \$211,966.75  
 Less present value of ex-spouse's benefit = -78,211.56  
 Your present value = \$133,755.19

Step 5 The department determines your new monthly benefit amount by multiplying your present value by your annuity factor.

**Example:**

Your present value = \$133,755.19  
 Annuity factor = 0.0065448  
 Your new monthly benefit amount =  $\$133,755.19 \times 0.0065448 = \$875.40$

(b) The department determines the percentage of the total present value each of you will receive by dividing each of your present value amounts by the single life benefit present value amount.

**Example:**

Your percentage of the single life benefit present value:  
 $\$133,755.19/\$211,966.75 = .6310$   
 Your ex-spouse's percentage of the single life benefit present value:  
 $\$78,211.56/\$211,966.75 = .3690$

**(13) What language must the postretirement property division dissolution order or most recent amendment include to split my monthly defined benefit payment with my ex-spouse?** Do not use the language in RCW 41.50.670 (2). The order must include the language provided in the following paragraph. The exact dollar amount of your ex-spouse's monthly benefit payment must be specified. Do not use formulas or percentages. (See example in WAC 415-02-500 (15)(b).)

The Department of Retirement Systems (department) shall create a **defined benefit account** for \_\_\_ (ex-spouse) in the (name of retirement system and plan) and pay him or her \$ (amount) for his or her life. To pay for this benefit, \_\_\_(member's) **monthly defined benefit** payment will be reduced for life. This provision shall become effective no more than 30 days after the department's acceptance of the order.

**(14) How will the department split my postretirement defined contribution account?** If your defined contribution account has not been fully disbursed at the time of the dissolution order, the department will split the remaining portion of your defined contribution according to the provisions of subsections (6) through (9) of this section.

**(15) Is there a maximum payment that a property division dissolution order can award to my ex-spouse?** Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

**(16) How much is the fee the department charges for making payments directly to my ex-spouse?** See RCW 41.50.680 and WAC 415-02-500(11) for information.

**(17) Terms used:**

(a) Department's acceptance - A dissolution order that fully complies with the department of retirement systems' requirements and chapter 41.50 RCW.

- (b) Dissolution order - RCW 41.50.500.
- (c) Ex-spouse - WAC 415-02-030.
- (d) Split accounts - WAC 415-02-030.
- (e) Survivor benefits - WAC 415-02-030.
- (f) Plan 3 retirement systems - WAC 415-111-100.
- (g) TRS - Teachers' retirement system.

- (g) Split accounts - WAC 415-02-030.
- (h) TRS - Teachers' retirement system.

Footnotes to section:

- <sup>1</sup> When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account is established, your account and your ex-spouse's account are not tied in any way.
- <sup>2</sup> If an ex-spouse was not listed as the member's survivor beneficiary at retirement, then no postretirement property division order (or postretirement amendment) may split the member's retirement account using WAC 415-02-540.

Footnote to section:

- <sup>1</sup> The section does not apply to retirees, because retirees cannot transfer to Plan 3.

[Statutory Authority: RCW 41.50.050(5), 41.50.500, 41.50.670, 41.50.710, and 41.50.790. 08-10-025, § 415-02-550, filed 4/25/08, effective 5/26/08. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. 03-12-014, § 415-02-550, filed 5/27/03, effective 7/1/03.]

[Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670 et seq., [41.50.]790. 03-24-049, § 415-02-540, filed 11/26/03, effective 1/1/04. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. 03-12-014, § 415-02-540, filed 5/27/03, effective 7/1/03.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

**TAXES AND FEES**

**WAC 415-02-700 Are fallen heroes' survivor benefits nontaxable? (1) What is the fallen heroes tax exemption?**

The department makes survivor benefit annuity payments to qualified survivor beneficiaries of public safety officers killed in the line of duty. All or part of the annuity benefit paid may be nontaxable under applicable federal law<sup>1</sup>. **Lump sum payments do not qualify** for nontaxable treatment under this provision of law.

(a) **Who is covered?** Deceased public safety officers who were members of LEOFF, PERS, PSERS and WSPRS. If the deceased officer was a member of another plan, please contact the department or your tax advisor to discuss the matter.

(b) **What time period is covered?**

MEMBER'S DATE OF DEATH	SURVIVOR BENEFIT PAYMENT DATE
On or after January 1, 1997	On or after January 1, 1997
On or before December 31, 1996	On or after January 1, 2002

(2) **Can I rely on the department's determination of whether the payments are nontaxable?** No.

(a) The department does not guarantee that payments should or should not be designated as exempt from federal income tax.

(b) The department does not guarantee that it was correct in withholding or not withholding taxes from survivor benefit payments to you.

(c) The department does not:

(i) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(ii) Assume any liability for your compliance with the Internal Revenue Code.

(d) You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

(3) **How will the department determine whether to withhold or not withhold from your survivor benefit annuity payment for income tax purposes?**

(a) If you receive survivor benefit annuity payments because of the death of a public safety officer killed in the line of duty, and you are the public safety officer's spouse, ex-spouse, or child, the department will not withhold taxes **on the portion** of your survivor benefit payments attributable to the officer's service as a public safety officer.

**WAC 415-02-550 What happens to my defined contributions if I transfer to Plan 3 after the department of retirement systems accepts my property division dissolution order? (1) Who may use this section?** You may use this section if you were a member of PERS Plan 2, SERS Plan 2, or TRS Plan 2 and **first** obtained a property division dissolution order using the language in RCW 41.50.670(2) and WAC 415-02-510 or 415-02-520, and **then** transfer to Plan 3.<sup>1</sup>

(2) **What happens if the property division dissolution order (using the language in RCW 41.50.670(2) and WAC 415-02-510) did not split my account?** Refer to WAC 415-02-530 for information about your defined benefit account and about your and your ex-spouse's defined contribution accounts after you transfer to Plan 3.

(3) **What happens if the property dissolution order used the language in WAC 415-02-520 and did split my account?**

(a) Your **ex-spouse's account will remain in Plan 2**. Your ex-spouse is ineligible to transfer to Plan 3.

(b) The balance of your accumulated contributions remaining in your Plan 2 account after it was split will be transferred to your Plan 3 defined contributions account. (Refer to chapter 415-111 WAC for information about your defined contribution account.)

(4) **How will gainsharing be applied to my account?** Gainsharing is not applied to Plan 2 member accounts. If gainsharing is applied after you have transferred to Plan 3, only you will receive the gainsharing amount.

(5) **Terms used:**

- (a) Dissolution order - RCW 41.50.500.
- (b) Ex-spouse - WAC 415-02-030.
- (c) Gainsharing - Chapter 41.31 RCW (Plan 1); chapter 41.31A RCW (Plan 3); WAC 415-02-030; 415-111-440.
- (d) PERS - Public employees' retirement system.
- (e) Plan 3 retirement systems - WAC 415-111-100.
- (f) SERS - School employees' retirement system.

(b) The department will compare the service credits associated with the member's employment as a public safety officer to the member's overall service credit to determine the portion of the survivor benefit payment that qualifies.

(c) **Examples:** In the following examples, assume that the plan administrator has determined that the death of the member qualifies under the fallen heroes tax exemption provision. Assume that the monthly survivor benefit payable is \$2000.

**Example 1.** Joe was employed as a law enforcement officer. He spent his entire career in law enforcement from July 1, 1976, until his death on June 10, 2003 (324 months).

Total service credit = 324 months  
 Service credit as public safety officer = 324 months  
 $324 / 324 = 1.0$   
 $1.0 \times \$2,000 = \$2,000$

**\$2,000 is not subject to withholding**

**Example 2.** Brian was employed as a research analyst for a state agency from July 1, 1976, to May 30, 1995 (227 months service credit). He was employed in a public safety officer position for another state agency from June 1, 1995, until his death on June 10, 2003 (97 months service credit).

Total service credit = 324 months  
 Service credit as public safety officer = 97 months  
 $97 / 324 = .299383$   
 $.299383 \times \$2,000 = \$598.77$

**\$598.77 is not subject to withholding**

**Example 3.** Susan was hired on July 1, 1976, as a research analyst for a state agency. She terminated that employment on May 30, 1995 (227 months service credit). Susan was hired into a public safety officer position on June 1, 2003, for another state agency. She died on June 4, 2003.

Total service credit = 227.25 months  
 Service credit as public safety officer = .25 months  
 $.25 / 227.25 = .001100$   
 $.001100 \times \$2,000 = \$2.20$

**\$2.20 is not subject to withholding**

(d) **What are the exceptions?** Subsection (3)(a) of this section shall not apply with respect to the death of any public safety officer if:

(i) The death was caused by the intentional misconduct of the officer or by the officer's intention to bring about his or her own death;

(ii) The officer was voluntarily intoxicated at the time of death;

(iii) The officer was performing his or her duties in a grossly negligent manner at the time of death; or

(iv) The payment is to an individual whose actions were a substantial contributing factor to the death of the officer.

(4) **Who will decide whether to withhold money for income tax from your survivor benefit payments?**

(a) The plan administrator will make the decision.

(b) If you disagree with the plan administrator's decision, you may petition for review under chapter 415-04 WAC.

(5) **What types of evidence will the department use in making the decision regarding whether to withhold taxes from the survivor payments?**

(a) Cause of death stated on the certified death certificate;

(b) Facts surrounding the public safety officer's death;

(c) The deceased public safety officer's job description;

(d) The deceased's membership records;

(e) Materials that the survivor submits for consideration; and

(f) Any other relevant evidence.

(6) **Examples:**

(a) **Police officer:** Charles is a police officer who works for a police department in a large Washington city. He receives a call to report to duty because a riot has started downtown. Charles drives to the riot scene and is killed getting out of his car from a bullet fired by a rioter. The department will not withhold taxes on survivor benefit payments.

(b) **Fire fighter:** Elaine is a fire fighter who attends a barbecue party on the Fourth of July. During the party, the barbecue falls over and the garage catches on fire. Elaine grabs a hose and puts out the fire, but dies from smoke inhalation in the process. The department would review the evidence and circumstances to determine whether Elaine would be considered to be "on duty" at the time of her death. If Elaine was not on duty, the department will withhold taxes on survivor benefit payments.

(c) **Park ranger:** Bobbi is a park ranger employed by the state parks and recreation commission. Her job duties include administration, development, maintenance, and visitor services, in addition to law enforcement, within a state park or park area. She is required to have knowledge of fire prevention and suppression methods and equipment. Although Bobbi is commissioned to enforce laws, her principal job functions do not include criminal law enforcement or crime control. The department would withhold taxes on payments to her survivors unless Bobbi was actually engaged in crime control, enforcement of criminal law, or fire suppression at the time of her death.

(7) **Definitions used;<sup>2</sup> these definitions apply to this WAC section ONLY.**

(a) **Chaplain** - any individual serving as an officially recognized or designated member of a legally organized fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency.

(b) **Child** - any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is:

(i) Eighteen years of age or under;

(ii) Over eighteen years of age and a student as defined in Section 8101 of Title 5, United States Code; or

(iii) Over eighteen years of age and incapable of self-support because of physical or mental disability;

(c) **Fire fighter** - an individual serving as an officially recognized or designated member of a legally organized fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew.

(d) **Intoxication** - a disturbance of mental or physical faculties:

(i) Resulting from the introduction of alcohol into the body as evidenced by:

(A) A postmortem blood alcohol level of .20 per centum or greater; or

(B) A postmortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the department receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death; or

(ii) Resulting from drugs or other substances in the body.

(e) **Law enforcement officer** - an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers.

(f) **Line of duty** means:

(i) Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he or she serves. For other officers, "line of duty" means any action the officer is so obligated or authorized to perform in the course of controlling or reducing crime, enforcing the criminal law, or suppressing fires; and

(ii) Any action which an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(g) **Public agency** - any unit of government that meets the definition of "employer" in any retirement plan that the department administers.

(h) **Public safety officer:**

(i) Regardless of full-time or part-time status, an individual serving a public agency in an official capacity as a law enforcement officer, fire fighter, chaplain, or member of a rescue squad or ambulance crew; or

(ii) An individual who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties:

(A) Are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) Are determined by the head of the agency to be hazardous duties.

(i) **Rescue** - the provision of first response emergency medical treatment, transportation of persons in medical distress and under emergency conditions to medical care facilities, or search and rescue assistance in locating and extracting from danger persons lost, missing, or in imminent danger of bodily harm.

#### Footnotes to section:

<sup>1</sup> The "Omnibus Crime Control and Safe Streets Act of 1968," Act June 19, 1969, P.L. 90-351, which appears generally as 42 USCS §§ 3701 et seq., including Title 26 U.S.C. Sec. 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of 2001.

<sup>2</sup> These definitions duplicate, as closely as possible, those in 42 USCS § 3796b (2003), the applicable federal definition section. Provisions not applicable to any plans administered by the department have been deleted.

[Statutory Authority: RCW 41.50.050(5), 41.04.393. 06-18-009, § 415-02-700, filed 8/24/06, effective 9/24/06; 03-18-031, § 415-02-700, filed 8/26/03, effective 10/1/03.]

**WAC 415-02-710 What is the \$150,000 death benefit? (1) What is the \$150,000 death benefit?** This is a benefit consistent with workers' compensation law, Title 51 RCW. The benefit may be nontaxable under applicable federal law. It is payable to LEOFF, PERS, PSERS, SERS, TRS, and WSPRS beneficiaries if the member died as a result of:

(a) An injury sustained in the course of employment; or  
(b) An occupational disease or infection that arose naturally and proximately out of employment.

(2) **Who is covered?** Deceased members of LEOFF, PERS, PSERS, SERS, TRS, and WSPRS. If the deceased was a member of another plan, please contact the department.

(3) **Who will determine eligibility for the benefit?** The Washington state department of labor and industries (L&I) will determine eligibility consistent with Title 51 RCW and applicable retirement statutes in chapter 41.26 RCW (LEOFF), chapter 41.40 RCW (PERS), chapter 41.37 RCW (PSERS), chapter 41.35 RCW (SERS), chapter 41.32 RCW (TRS), or chapter 43.43 RCW (WSPRS).

(4) **Who will receive the \$150,000 death benefit?**

(a) **LEOFF Plan 2, PERS, PSERS, SERS, TRS, and WSPRS Plan 2:** The person(s) the member designated as his or her beneficiary(ies) for his or her retirement plan will receive the benefit *unless* the member designated a *different* beneficiary(ies) for the \$150,000 death benefit. If the member did not designate a beneficiary for either the plan or death benefit, then the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's estate.

(b) **LEOFF Plan 1 and WSPRS Plan 1:** In these plans, the member's surviving spouse is automatically the beneficiary for the member's retirement plan. The member may designate a different person(s) for the \$150,000 death benefit. If the member did not designate a beneficiary for either the plan or death benefit, then the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's estate.

(5) **How do I apply for the benefit?** To apply:

(a) Obtain an application from the department.

(b) Submit a correctly completed application to the department. The department will submit the application to L&I.

(6) **How will I receive the benefit?** L&I will notify you and the department of approval or disapproval of eligibility. If you are approved, you may choose to have the department send the lump sum payment directly to you or to your bank.

(7) **How will DRS treat the \$150,000 payment for tax purposes?**

(a) The department will treat the payment as nontaxable.

(b) The department does not guarantee that payments should or should not be designated as exempt from federal income tax.

(c) The department does not guarantee that it was correct in withholding or not withholding taxes from the death benefit payment.

(d) The department does not:

(i) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(ii) Assume any liability for your compliance with the Internal Revenue Code.

(e) You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

[Statutory Authority: RCW 41.50.050(5), 41.04.017, 41.26.048, 41.32.053, 41.35.115, 41.40.0931, 41.40.0932, 43.43.285. 08-11-102, § 415-02-710, filed 5/20/08, effective 6/20/08; 06-18-009, § 415-02-710, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.04.017, 41.26.048, 41.32.053, 41.35.115, 41.40.0932, 43.43.285. 03-24-050, § 415-02-710, filed 11/26/03, effective 1/1/04.]

**WAC 415-02-720 What does the department charge for processing split payments?** This section applies whenever the department administers split payments for child support, mandatory benefit assignment orders (MBAOs), or other direct pay orders.

	Type	Amount	Statutory Authority
(1)	<b>Child support</b>	Ten dollars for the first disbursement and one dollar for each additional. Fees will be charged to the obligor	RCW 26.18.110(4); 26.23.060(9) and 74.20A.080(15)
(2)	<b>Mandatory assignment of retirement benefits (MBAO)</b>	Twenty-five dollars for the first disbursement and six dollars for each additional. Fees will be charged to the obligor	RCW 41.50.600(4)
(3)	<b>Property division obligations</b> (see also WAC 415-02-500 (11))	Seventy-five dollars for the first disbursement and six dollars for each additional. Fees will be divided equally between the obligor and obligee	RCW 41.50.680

[Statutory Authority: RCW 41.50.050(5), 41.50.600, 41.50.680, 26.18.110(4), 26.23.060(9), 74.20A.080(15). 04-04-040, § 415-02-720, filed 1/29/04, effective 3/1/04.]

**Chapter 415-04 WAC  
PETITION PROCEDURE**

**WAC**

- 415-04-010 Definitions.
- 415-04-015 When can I use the petition process?
- 415-04-017 What is not covered by this chapter?
- 415-04-020 How do I file a petition for review?
- 415-04-025 Who may file a petition?
- 415-04-030 What should my petition include?

- 415-04-035 How much information do I need to provide in support of my petition?
- 415-04-037 If I petition for disability retirement benefits, who pays the cost of obtaining additional medical data?
- 415-04-040 What will the department do after receiving my petition?
- 415-04-050 How do I appeal a petition decision?

**WAC 415-04-010 Definitions. Good reason** means a strong reason for failing to respond to a request for information by the petition examiner. A good reason you may need more time to respond to the petition examiner's request for information may include, but is not limited to, the following examples:

- (1) You could not provide information within the requested time period because you were in the hospital, which prevented you from responding; or
- (2) The information that you need to submit is not readily accessible and requires additional time to obtain. If this is the case, you must explain why it will require more time to obtain this information.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-010, filed 8/24/01, effective 9/24/01. 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 415-04-015 When can I use the petition process?** You may use the petition process to request review of administrative decisions that address the following matters, including, but not limited to:

- (1) Service credits;
- (2) Service retirement benefits;
- (3) Membership in the retirement systems;
- (4) Disability benefits, except as otherwise provided by law;
- (5) Survivor benefits; and
- (6) Benefit increases provided by RCW 41.16.145 or 41.18.104.
- (7) Deferred compensation accounts, except that review of decisions regarding payments due to unforeseeable emergency, are governed by WAC 415-08-015.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060. 01-18-018, § 415-04-015, filed 8/24/01, effective 9/24/01.]

**WAC 415-04-017 What is not covered by this chapter?** You may not use the petition process to request review of administrative decisions that address the following matters, including, but not limited to:

- (1) Overpayments if the procedures in RCW 41.50.135 or 41.50.138 apply.
- (2) Deferred compensation plan payments because of an unforeseeable emergency (see WAC 415-08-015).
- (3) Law enforcement officers' and fire fighters' (LEOFF) Plan 1 appeals of disability board decisions that the LEOFF administrator reviews. For more information about LEOFF Plan 1 disability board appeals, please refer to RCW 41.26.-140 (reexaminations of disability beneficiaries), RCW 41.26.200 (right to appeal); WAC 415-104-035 (jurisdiction), WAC 415-104-045 (who can appeal, and deadline), WAC 415-104-050 (how DRS will handle the appeal), and WAC 415-104-060 (records reviewed on appeals).



[Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42, 02-12-084, § 415-04-017, filed 6/4/02, effective 7/5/02. Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-017, filed 8/24/01, effective 9/24/01.]

#### **WAC 415-04-020 How do I file a petition for review?**

(1) You may request administrative review of an administrator's decision by filing a petition with the petition examiner.

(2) You must file the petition within one hundred twenty days from the date you received the administrator's decision.

(3) If you fail to file the petition within one hundred twenty days, you lose the right to judicial review, because of your failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-020, filed 8/24/01, effective 9/24/01. 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 415-04-025 Who may file a petition?** You may file a petition if you are a member, current or former spouse, designated beneficiary or employer, and have a sufficient stake in the outcome of the petition proceeding.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-025, filed 8/24/01, effective 9/24/01.]

#### **WAC 415-04-030 What should my petition include?**

Your petition should include:

(1) A statement of what you want the department to do (relief requested) after considering the petition;

(2) An explanation of why your request has merit;

(3) All facts relating to the petition, including any relevant documents or sworn statements;

(4) The name and address of your attorney, if applicable; and

(5) Your name, address, phone number, fax number, e-mail address, and signature.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-030, filed 8/24/01, effective 9/24/01. 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 415-04-035 How much information do I need to provide in support of my petition?** You bear the burden of convincing the petition examiner that you are entitled to the relief requested. You must provide sufficient information to outweigh the information that the plan administrator used in making the administrative determination that is being reviewed.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-035, filed 8/24/01, effective 9/24/01.]

**WAC 415-04-037 If I petition for disability retirement benefits, who pays the cost of obtaining additional medical data?** If you petition the department for a disability retirement benefit and you need to provide additional medical data in support of your petition, you must pay any cost involved.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-037, filed 8/24/01, effective 9/24/01.]

(2009 Ed.)

**WAC 415-04-040 What will the department do after receiving my petition?** (1) A petition examiner will review your petition.

(2) Within fourteen days from the date that you file a petition with the department, the petition examiner will determine whether you have a sufficient stake in the outcome of the proceeding to have the department consider the issues in your petition.

(a) If the petition examiner determines that you **do not** have a sufficient stake in the outcome, the petition examiner:

(i) May refer the matter back to the plan administrator for further investigation.

(ii) Will notify you of this decision within fourteen days of the date you file the petition. You may appeal this decision to the presiding officer under WAC 415-04-050.

(b) If the petition examiner determines that **you do** have a sufficient stake in the outcome, the petition examiner:

(i) Will notify interested parties, such as the member, current or former employer(s), designated beneficiaries, former spouse or the department, that you filed a petition;

(ii) Will request that the interested parties submit any written response to the petition no later than twenty days from the date of receipt of the notice;

(iii) May extend the time limit for response if the interested party shows a good reason to need more time.

(3) The petition examiner may request additional information at any time.

(4) The petition examiner will forward a copy of an interested party's response to you.

(a) You will have ten days to reply.

(b) The petition examiner may extend your time to respond if you demonstrate that you need more time for good reason.

(c) If an extension is not granted and you do not reply within ten days, you waive the right to reply.

(5) The petition examiner will issue a written decision within sixty days of:

(a) The end of your final period to reply under subsection (4) of this section; or

(b) Receipt of additional information from the department or the office of the attorney general necessary to make a decision.

(6) In the written decision, the petition examiner will state facts and sources of law used to make the decision. The petition examiner will send a copy to you and to the other parties.

(7) The petition examiner may refer the petition back to the plan administrator for an administrative determination without issuing a petition decision if:

(a) The petition adds new issues or facts that have not been addressed in the plan administrator's final determination; or

(b) The plan administrator did not have access to a petition decision or final order of the department that would have changed the outcome of the administrative determination.

[Statutory Authority: RCW 41.50.050(5), 04-09-042, § 415-04-040, filed 4/14/04, effective 5/15/04. Statutory Authority: RCW 41.50.050(5), 41.50.-050, 41.50.060, 01-18-018, § 415-04-040, filed 8/24/01, effective 9/24/01. 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 How do I appeal a petition decision?** (1) You may file an appeal of the petition decision with the department's director no later than sixty days after you receive the petition decision.

(2) You must follow the procedures in chapter 415-08 WAC in filing your appeal.

(3) If you fail to file your appeal within sixty days, you lose your right to judicial review, because of your failure to exhaust administrative remedies as required by RCW 34.05.534.

[Statutory Authority: RCW 41.50.050(5), 41.50.050, 41.50.060, 01-18-018, § 415-04-050, filed 8/24/01, effective 9/24/01. 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	How do I contact the department?
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, coor-

inating the staff of the department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973.

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

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

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

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

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

- 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";

(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 How do I contact the department?**

(1) Mailing address: Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380.

(2) Street address: 6835 Capitol Blvd., Tumwater, WA 98501.

(3) Phone numbers: (360) 664-7000 or toll-free (outside Olympia area) 1 (800) 547-6657, or TDD (for the hearing impaired) (360) 586-5450.

(4) E-mail address: [recep@drs.wa.gov](mailto:recep@drs.wa.gov).

(5) Web site: <http://www.drs.wa.gov>.

[Statutory Authority: RCW 41.50.050(5) and 42.17.250. 03-24-052, § 415-06-100, filed 11/26/03, effective 12/27/03. Statutory Authority: RCW 41.50.050(5), 41.50.055(5), 34.05.220 (1)(b), 42.17.250, 01-18-017, § 415-06-100, filed 8/24/01, effective 9/24/01; Order 4, § 415-06-100, filed 7/27/77.]

WAC 415-06-110 Adoption of form. The director hereby adopts for use by all persons requesting inspection and/or copying or copies of the department records, the form attached hereto as Appendix A, entitled "Request for public record."

APPENDIX A
REQUEST FOR PUBLIC RECORDS

Name of Requestor:
Address:
Date 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 Record Record Withheld
Granted [ ] 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: Subsection (1) ( ).
(3) If withheld, briefly explain how the exemption applies to the record withheld.
(4) If request granted, time, . . . . ., day, . . . . .

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

Chapter 415-08 WAC
APPEALS

WAC

- 415-08-010 Scope.
415-08-015 Appealing a denied request for an in-service deferred compensation withdrawal.
415-08-020 Time limit for filing appeals—Procedure.
415-08-023 Contents of the notice of appeal.
415-08-025 Presiding officer.
415-08-027 Parties may stipulate to the record on appeal.
415-08-030 Parties.
415-08-040 Representing another person before the presiding officer.
415-08-050 Appearance in certain proceedings may be limited to attorneys.
415-08-080 Withdrawal or substitution of representatives.
415-08-090 Ethical conduct required.
415-08-100 Appearance by former employee of agency or former member of attorney general's staff.
415-08-105 Prehearing and posthearing memoranda.
415-08-280 Discovery.
415-08-420 Presentation of evidence—Burden of proof.

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.

- 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,

- 415-08-340 filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250. Rules of evidence—Official notice—Matters of law. [Order 4, § 415-08-340, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-350 Rules of evidence—Official notice—Material facts. [Order 4, § 415-08-350, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-360 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [Order 4, § 415-08-360, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-370 Presumptions. [Order 4, § 415-08-370, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-380 Presumptions—Additional evidence by presiding officer. [Order 4, § 415-08-380, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-390 Stipulations and admissions of record. [Order 4, § 415-08-390, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-400 Expert or opinion testimony number and qualifications of witnesses. [Order 4, § 415-08-400, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-410 Expert or opinion testimony number and qualifications of witnesses—Written sworn statements. [Order 4, § 415-08-410, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-430 Petitions for rule making, amendment or repeal—Who may petition. [Order 4, § 415-08-430, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-440 Petitions for rule making, amendment or repeal—Requisites. [Order 4, § 415-08-440, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-450 Petitions for rule making, amendment or repeal—Agency must consider. [Order 4, § 415-08-450, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-460 Petitions for rule making, amendment or repeal—Notice of disposition. [Order 4, § 415-08-460, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-470 Declaratory rulings. [Order 4, § 415-08-470, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.
- 415-08-480 Declaratory rulings—Forms. [Order 4, § 415-08-480, filed 7/27/77.] Repealed by 93-11-079, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 34.05.250.

**WAC 415-08-010 Scope.** This chapter governs the procedure 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 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 Appealing a denied request for an in-service deferred compensation withdrawal.** WAC 415-501-510 and Section 457 of the Internal Revenue Code authorize distributions 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; and chapters 10-08 and 415-08 WAC. The department will be represented in the proceeding by an assistant attorney general.

[Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42, 02-12-084, § 415-08-015, filed 6/4/02, effective 7/5/02. 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 parties. 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.]

[Title 415 WAC—p. 62]

**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 accomplished 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.

[Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42. 02-12-084, § 415-08-420, filed 6/4/02, effective 7/5/02. 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.]

(2009 Ed.)

## 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 certain plans.
415-10-040	Calculation of cost to purchase service credit for members of PERS Plan 1, TRS Plan 1 or WSPRS Plan 1 or 2.
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 under RCW 41.50.165, 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 a Plan 3 member purchase service credit?

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

415-10-110	Can I purchase SERS Plan 2 credit in SERS Plan 3? [Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-110, filed 10/27/00, effective 11/27/00.] Repealed by 02-03-120, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050(5).
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**WAC 415-10-010 Can I purchase service credit after the statutory deadline?** RCW 41.50.165 generally allows you to purchase service credit that you failed to establish or reestablish within the statutory deadline.

(1) **You must pay the actuarial value of the increase to your retirement benefit.** 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 benefit calculation; and

(b) Beginning your retirement benefit at an earlier age, if applicable. This second factor applies only to PERS Plan 1, TRS Plan 1, and WSPRS Plans 1 and 2.

(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 pension funding council and actuarial factors adopted or approved by the state actuary.

[Statutory Authority: RCW 41.50.050(5) and 41.50.165. 02-03-120, § 415-10-010, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-010, filed 10/27/00, effective 11/27/00. 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) In PERS Plan 1, TRS Plan 1 or WSPRS Plan 1: The average of your two highest consecutive years of compensation as of the date of your service credit purchase.

(b) In Plan 2 or Plan 3: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(c) In PSERS: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(d) In LEOFF Plan 1: The basic salary attached to your position at the date of your service credit purchase.

(2) **Factors** means the actuarial cost factors calculated by the state actuary and adopted by the department that are used in the formulas for calculating the cost of a service credit purchase. See WAC 415-02-370 for additional information about the service credit purchase factors.

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

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

(5) **PSERS** means the public safety employees' retirement system established under chapter 41.37 RCW.

(6) **SERS** means the school employees' retirement system established under chapter 41.35 RCW.

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

(8) **TRS** means the teachers' retirement system established under chapter 41.32 RCW.

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

(10) **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.

(11) **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(5) and chapter 41.37 RCW. 08-02-048, § 415-10-020, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5), 41.50.165. 03-15-006, § 415-10-020, filed 7/3/03, effective 8/3/03. Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 02-03-120, § 415-10-020, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-020, filed 10/27/00, effective 11/27/00. 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 certain plans.** If you are a member of LEOFF Plan 1 or 2, PERS Plan 2 or 3, PSERS, TRS Plan 2 or 3, or SERS Plan 2 or 3, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50-165(2) using the following formula:

$$\text{Service Credit Purchase Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

This represents the cost of the additional retirement allowance you will receive by including the additional service credit from your purchase into your retirement benefit calculation.

**Example: Purchase of additional service credit.**

Ron is an active PERS Plan 2 member who currently has 18 years of service. Ron turned age 61 last month. His average earnings are \$50,000. Ron would like to purchase 3 years of service that he previously withdrew but did not restore before the deadline.

The department will first determine Ron's normal retirement age to identify the appropriate factor from the Factor 1 table<sup>i</sup> to use in the formula for calculating the service credit

purchase cost. Normal retirement age (NRA) is the earliest age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. Ron's NRA will come when he is age 65 and has 21 years of service<sup>ii</sup>. Since he is currently age 61, Ron is 4 years (48 months) to normal retirement age. So, the department will use the factor 0.2016 from the Factor 1 table, which is factor for 48 months to NRA under PERS Plan 2.

The department will then calculate the cost of purchasing the service credit using the Service Credit Purchase Cost formula:

$$\text{Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

The cost of Ron's purchase would be calculated as follows:

$$\text{Cost} = \$50,000 \times 3 \text{ (years purchased)} \times 0.2016 \text{ (48 months to NRA)} = \$30,240$$

Ron's total cost to purchase 3 years of service credit is \$30,240.

Footnotes to section:

<sup>i</sup>See WAC 415-02-370.

<sup>ii</sup>Ron would first qualify under the PERS Plan 2 eligibility rule of being age 65 or older with at least 5 years of service.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-10-030, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5), 41.50.165. 03-15-006, § 415-10-030, filed 7/3/03, effective 8/3/03; 02-03-120, § 415-10-030, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-030, filed 10/27/00, effective 11/27/00. Statutory Authority: RCW 41.50.050 and 41.50.165. 97-01-014, § 415-10-030, filed 12/6/96, effective 1/6/97.]

**WAC 415-10-040 Calculation of cost to purchase service credit for members of PERS Plan 1, TRS Plan 1 or WSPRS Plan 1 or 2.** If you are a member of PERS 1, TRS 1 or WSPRS Plan 1 or 2, 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:

$\begin{aligned} \text{Part 1 Cost} = & \text{Average Earnings} \\ & \times \\ & \text{Service Credit Being Purchased} \\ & \times \\ & \text{Factor 1} \end{aligned}$	$\begin{aligned} \text{Part 2 Cost} = & \text{Average Earnings} \\ & \times \\ & \text{Years of Service} \\ & \times \\ & \text{Years of Earlier Retirement} \\ & \times \\ & \text{Factor 2} \\ & \times \\ & \text{Factor 3} \end{aligned}$
$\text{Service Credit Purchase Cost (Part 3)} = \text{Part 1 Cost} + \text{Part 2 Cost}$	

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 beginning your retirement benefit at an earlier age. If your purchase does not allow you to begin your retirement at an earlier age, your Part 2 Cost is zero.



**Example: Purchase of additional service credit that enables earlier retirement.**

Don is an active PERS 1 member who currently has 18 years of service. Don turned age 50 last month. His average earnings are \$50,000. Don would like to purchase 3 years of service that he previously withdrew but did not restore before the deadline.

The department will first determine Don's normal retirement age. Normal retirement age (NRA), is the earliest age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. The department will use Don's NRA to identify the appropriate factor from the Factor 1 table<sup>i</sup> to use in the formula for calculating the Part 1 Cost. Since Don can retire earlier due to the service credit purchase, the normal retirement age will also be used to identify the appropriate factor from the Factor 3 table<sup>ii</sup> to use in the formula for calculating the Part 2 Cost. Don's NRA will come in 7 years when he is age 57 and has 25 years of service<sup>iii</sup>. Since he is currently age 50, Don is 7 years (84 months) to normal retirement age. So, the department will use the factors for 84 months to NRA from the Factor 1 table and the Factor 3 table.

The department will next determine how much earlier Don can retire if he purchases service credit. If Don purchases 3 years of service, his service credit total will increase to 21 years. This means that Don would reach 25 years of service when he is age 54. In another year, Don would be eligible to retire (age 55, with 26 years). With the purchase, Don is eligible to retire 2 years earlier (age 55) than his NRA of 57.

The department will then calculate the cost of purchasing the service credit using the three part formula:

$$\begin{aligned} \text{Part 1 Cost} &= \text{Average Earnings} \times \text{Service Purchased} \times \text{Factor 1} \\ \text{Part 2 Cost} &= (\text{Total Service}^{\text{iv}}) \times (\text{Average Earnings}) \times (\text{Factor 2}^{\text{v}}) \times (\text{Years} \\ &\quad \text{of Earlier Retirement}) \times (\text{Factor 3}) \\ \text{Service Credit Purchase Cost (Part 3)} &= \text{Part 1 Cost} + \text{Part 2 Cost} \end{aligned}$$

The cost of Don's purchase would be calculated as follows:

$$\begin{aligned} \text{Part 1 Cost} &= \$50,000 \times 3 \text{ (years purchased)} \times 0.1680 \text{ (7 years to NRA)} = \\ &\quad \$25,200 \\ \text{Part 2 Cost} &= \$50,000 \times 26 \text{ years} \times 2 \text{ years earlier} \times 0.00434 \text{ (PERS 1)} \times \\ &\quad 0.7940 \text{ (84 months to NRA)} = \$8,959 \\ \text{Service Credit Purchase Cost (Part 3)} &= \$25,200 + \$8,959 = \$34,159^{\text{vi}} \end{aligned}$$

Don's total cost to purchase 3 years of service credit is \$34,159.

Footnotes to section:

<sup>i</sup>See WAC 415-02-370.

<sup>ii</sup>See WAC 415-02-370.

<sup>iii</sup>Don would qualify under the PERS Plan 1 eligibility rule of being age 55 or older with at least 25 years of service.

<sup>iv</sup>This means the total service credit the member would have at retirement, including the purchased service credit.

<sup>v</sup>See WAC 415-02-370.

<sup>vi</sup>This result is rounded to the nearest dollar.

[Statutory Authority: RCW 41.50.050(5), 41.50.165. 03-15-006, § 415-10-040, filed 7/3/03, effective 8/3/03. Statutory Authority: RCW 41.50.050(5), chapter 41.45 RCW, and RCW 41.50.165. 02-23-037, § 415-10-040, filed 11/13/02, effective 1/1/03. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-040, filed 10/27/00, effective 11/27/00. 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 will not move you from one plan to another.** 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: Chapter 41.50 RCW. 00-22-049, § 415-10-050, filed 10/27/00, effective 11/27/00. 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 service 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 under RCW 41.50.165, can I receive a refund of my payments?** (1) **You may receive a refund only after you separate from**

**service and apply for withdrawal of your contributions.** Your payments to purchase service credit under RCW 41.50.165(2) qualify as a part of your accumulated contributions. There are additional restrictions for TRS Plan 1, LEOFF Plan 2 and members of the Plan 3 systems as listed in subsections (2), (3), and (4) of this section.

(2) **Restrictions for TRS Plan 1 members.** At the time of retirement, RCW 41.32.498(2) prohibits you from withdrawing payments made to purchase service credit under RCW 41.50.165(2).

(3) **Restrictions for LEOFF Plan 2 members.** Payments made to purchase service credit under RCW 41.50.165(2) and interest on those payments will be refunded at one hundred percent. Those payments will not be included when calculating the one hundred fifty percent refund of contributions under RCW 41.26.540 (1)(b).

(4) **Restrictions for Plan 3 members of TRS, SERS and PERS.** When you apply for service credit under RCW 41.50.165(2), one-half of the amount due will go into your defined benefit plan and one-half will go into your defined contribution plan. As a member of any Plan 3 system, you may apply for a refund of your contributions from the **defined contribution** portion of your account upon separation from employment. Your refund will be based on the market value of your contributions, including earnings and losses, at the time you withdraw. The defined benefit portion will be paid when you are eligible to receive benefits.

#### Example 1 (Market has gains):

Joe restores 5 years of service credit at a total cost of \$10,000.00. One-half, or \$5,000.00, goes into Joe's defined contribution plan member account, and the other \$5,000.00 goes into the pension trust fund for his defined benefit plan. Joe separates two years later and applies for the withdrawal of his defined contribution account. While Joe was in service the market experienced gains. The value of Joe's defined contribution account is now \$6,000.00. Joe receives \$6,000.00 (minus applicable taxes and penalties). The defined benefit portion is not refundable but Joe will receive a one percent defined benefit allowance when he is eligible.

#### Example 2 (Market has losses):

Joe restores 5 years of service credit at a total cost of \$10,000.00. One-half, or \$5,000.00, goes into Joe's defined contribution plan member account, and the other \$5,000.00 goes into the pension trust fund for his defined benefit plan. Joe separates two years later and applies for the withdrawal of his defined contribution account. While Joe was in service the market suffered a loss. The value of Joe's defined contribution account is now \$4,000.00. Joe receives \$4,000.00 (minus applicable taxes and penalties). The defined benefit portion is not refundable but Joe will receive a one percent defined benefit allowance when he is eligible.

[Statutory Authority: RCW 41.50.050(5), 41.26.540, 41.32.498, 41.40.730, 41.40.830, 41.50.160, 41.50.165, 41.50.175, 02-03-120, § 415-10-080, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-080, filed 10/27/00, effective 11/27/00. 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 a Plan 3 member purchase service credit? (1) Transferring purchased Plan 2 credit under RCW 41.50.165(2) into Plan 3.** If you purchase Plan 2 service credit under this chapter and later enter Plan 3, that credit will also transfer to Plan 3.

(a) Fifty percent of the money you paid to purchase the service credit will be credited to the Plan 3 defined contribution account.

(b) The other fifty percent will be credited to the Plan 3 defined benefit plan established under RCW 41.32.831 for TRS Plan 3, RCW 41.35.600 for SERS Plan 3, and RCW 41.40.780 for PERS Plan 3.

(2) **Purchasing Plan 2 service credit after transferring to Plan 3.** You may purchase service credit initially available under Plan 2 after you transfer to Plan 3. The service will be credited in Plan 3. If you purchase Plan 2 service credit under this chapter, fifty percent of the money you pay to purchase the service credit will be credited to your Plan 3 defined contribution account. The other fifty percent will be credited to the Plan 3 defined benefit portion established under RCW 41.32.831 for TRS Plan 3, RCW 42.35.600 for SERS Plan 3 and RCW 41.40.780 for PERS Plan 3.

(3) **Not applicable for service earned after transferring to Plan 3.** Service you earn as a Plan 3 member is automatically recredited if you reenter membership and earn at least twelve service credit months. Plan 3 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 3 under RCW 41.50.165.

[Statutory Authority: RCW 41.50.050(5), 41.50.165, 41.50.175. 02-03-120, § 415-10-100, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapter 41.50 RCW. 00-22-049, § 415-10-100, filed 10/27/00, effective 11/27/00. 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 41.50.090. 78-12-038 (Order V), § 415-100-050, 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.
- 415-100-060 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.]

**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: Benefit option without survivor features (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) Such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems; or
- (b) If there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse; or
- (c) The member's estate; or
- (d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(2) **Benefit options with a survivor feature.**

(a) 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 contribu-

tions are exhausted, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (i) Such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems; or
- (ii) If there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse; or
- (iii) The member's estate; or
- (iv) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(b) 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.

(c) 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.

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

(i) Option Four is available 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 subsection 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.

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 COLAs	191.05
Original Option One Benefit Amount		+ Total COLAs		= 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 subsection, and thereafter the retiree also dies before all contributions are exhausted, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

(a) Such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems; or

(b) If there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse; or

(c) The member's estate; or

(d) If there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(4) **Survivor.** For the purposes of this section, "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 41.50.050(5), 2.10.052, 2.10.070(6), 2.10.140 - [2.10.]146, 2.12.030, 01-13-009, § 415-100-055, filed 6/8/01, effective 7/9/01. 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.]

**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 415-103 WAC**

**WASHINGTON STATE PATROL RETIREMENT SYSTEM (WSPRS)**

**WAC**

415-103-010	WSPRS definitions.
415-103-100	Are payments I receive reportable compensation?
415-103-215	What are the WSPRS Plan 1 retirement benefit options?
415-103-225	What are my WSPRS Plan 2 retirement benefit options?
415-103-275	How do I designate a beneficiary, and who will receive a distribution if I die before retirement?
415-103-300	Actuarial tables, schedules, and factors.

**WAC 415-103-010 WSPRS definitions.** (1) **General.** The definitions in RCW 43.43.120 and 41.50.010 apply to this chapter. In case of conflict between definitions, RCW 43.43.120 will prevail.

**(2) Membership.**

(a) WSPRS Plan 1 refers to members of the Washington state patrol retirement system commissioned before January 1, 2003.

(b) WSPRS Plan 2 refers to members of the Washington state patrol retirement system commissioned on or after January 1, 2003.

[Statutory Authority: RCW 41.50.050(5) and chapter 43.43 RCW. 02-23-037, § 415-103-010, filed 11/13/02, effective 1/1/03. Statutory Authority: RCW 41.50.050(5), 43.43.142, 43.43.278, 43.43.280, 01-13-010, § 415-103-010, filed 6/8/01, effective 7/9/01.]

**WAC 415-103-100 Are payments I receive reportable compensation?** The following table will help you determine whether certain types of payments are reportable compensation. The department determines reportable compensation based upon the nature of the payment, not the name applied. See RCW 43.43.120(23).

Type of Payment	Commission Date: Prior to 7/1/01	Commission Date: On or after 7/1/01
Overtime related to RCW 47.46.040(4) earned prior to 7/1/01	Yes	No
Overtime related to RCW 47.46.040(4) earned on or after 7/1/01	No	No
Voluntary overtime earned prior to 7/1/01	Yes	No
Voluntary overtime earned on or after 7/1/01	No	No
Fringe benefits, including, but not limited to, any type of insurance, or contributions for insurance, such as medical, dental, or life insurance, for members and/or their dependents	No	No
Lump sum payments for:		

Type of Payment	Commission Date: Prior to 7/1/01	Commission Date: On or after 7/1/01
Deferred annual sick leave <sup>1</sup>	No	No
Unused accumulated annual leave - 240 hour maximum <sup>2</sup>	Yes	No
Holiday pay - 80 hour maximum	Yes	No

<sup>1</sup>See also RCW 41.04.340(4).

<sup>2</sup>See also RCW 43.43.263, 43.01.040 and 43.01.044.

[Statutory Authority: RCW 41.50.050(5) and chapter 43.43 RCW. 02-23-037, § 415-103-100, filed 11/13/02, effective 1/1/03.]

**WAC 415-103-215 What are the WSPRS Plan 1 retirement benefit options?** This section only applies to members commissioned before January 1, 2003 (WSPRS Plan 1).

(1) When retiring for service, a married member can choose either Option A (historic retirement option) under RCW 43.43.260 and 43.43.270 or Option B under RCW 43.43.278. Both options include a survivor feature that entitles the eligible surviving spouse and any eligible children to receive a monthly allowance after the retiree dies.

(2) **Option A (historic retirement option and survivor benefit).** The department pays the retiree a monthly retirement allowance in accordance with RCW 43.43.260 (Benefits). The department pays survivor benefits in accordance with RCW 43.43.270 (Retirement allowances).

(a) **Surviving spouse.** When the retiree dies, the department pays the retiree's surviving spouse a monthly retirement allowance equal to the gross monthly allowance then payable to the retiree, or an allowance equal to fifty percent of the average final salary (AFS) used to determine the retiree's benefit, whichever is less.

(b) **Surviving children when there is a surviving spouse.** If the retiree has a surviving spouse and surviving unmarried children under the age of eighteen years, each child shall be entitled to a benefit equal to five percent of the retiree's average final salary (AFS) at retirement. The combined benefits to the surviving spouse and all children cannot exceed sixty percent of the retiree's AFS.

(3) **Option B (actuarially equivalent retirement option and survivor benefit).** The department pays the retiree a monthly retirement allowance that is reduced by three percent from the benefit calculated under Option A. The department pays survivor benefits in accordance with RCW 43.43.278.

(a) **Surviving spouse.** When the retiree dies, the department pays the retiree's surviving spouse a monthly retirement allowance equal to the gross monthly allowance then payable to the retiree.

(b) **Surviving children when there is a surviving spouse.** If the retiree has a surviving spouse and surviving unmarried children under the age of eighteen years, each surviving unmarried child under the age of eighteen years shall be entitled to a benefit equal to five percent of the retiree's average final salary (AFS) at retirement.

(4) **Benefits included in Option A and Option B.**

(a) **Cost-of-living adjustment.** The retiree's annual adjustment every July is based upon the provisions in RCW 43.43.260(5). The annual adjustment applies to the eligible surviving spouse and any eligible children, who receive a monthly allowance after the retiree dies.

(b) **Surviving spouse eligibility.** To be eligible for an allowance, the surviving spouse of a retiree must either:

(i) Have been married to the retiree prior to his or her retirement and continuously thereafter until the retiree's death; or

(ii) Have been married to the retiree for at least two years prior to the retiree's death.

(c) **Remarriage of surviving spouse.** If a surviving spouse who is receiving benefits under this subsection marries another member of WSPRS and that retiree dies before the spouse, the spouse will receive only the higher of the two survivors' allowances for which he or she qualifies. The surviving spouse cannot receive more than one survivor allowance at a time under this subsection.

(d) **Surviving children when there is no surviving spouse.** If there is no surviving spouse or the surviving spouse dies, the unmarried child or children under the age of eighteen years shall be entitled to a benefit equal to thirty percent of the retiree's AFS for one child and an additional ten percent of AFS for each additional child. The combined benefits to the surviving children cannot exceed sixty percent of the retiree's AFS. Benefit payments under this subsection will be divided equally among the children.

(e) **End of benefits.** All benefits end when the surviving spouse dies or the youngest unmarried child reaches age eighteen, whichever occurs last.

(f) **Distribution of remaining contributions.** Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (f)(i) of this subsection is living or in existence at the time of the retiree's death.

(5) **Pop-up provision.**

(a) This subsection only applies to members retiring on or after July 1, 2000, who select Option B.

(b) If the retiree and spouse divorce, or if the spouse dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that the retiree would have received had the retiree chosen Option A at retirement; plus

(ii) Any cost of living adjustments (COLA) the retiree received prior to the divorce or the spouse's death.

(c) **Pop-up recalculation example:**

Option B: Bob retired on August 1, 2000. His Option A benefit would have been \$3,000. He selected Option B so that his spouse, Linda, will receive his monthly allowance and COLA after he dies. As a result, his monthly allowance was

reduced by three percent from \$3,000, the Option A, historic retirement and survivor benefit, to \$2,910. Bob's COLA for 2001 was \$87.30 (three percent of \$2,910) and for 2002 was \$89.92 (three percent of \$2,997.30).

Linda died in September 2002. Under the "pop-up" provision, Bob's monthly benefit increased in October 2002 to a total of \$3,177.22. His new benefit amount includes the \$3,000 he would have received had he originally chosen Option A, plus the total of the COLAs he received in 2001 (\$87.30) and 2002 (\$89.92). On July 1, 2003, Bob's COLA will be based on the average consumer price index to a maximum of three percent. See RCW 43.43.260(5).

(d) If a retiree whose benefit increases under this subsection dies and there is no eligible child, all benefit payments end. Any remaining balance of the retiree's accumulated contributions will be paid to:

(i) The person(s), trust, organization, or retiree's estate specified by the retiree on the appropriate department designated form, duly executed and properly on file with the department on or before the retiree's death; or

(ii) To the retiree's legal representative, if no person or entity designated in (d)(i) of this subsection is living or in existence at the time of the retiree's death.

(6) For more information see chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement allowances.

(7) Terms used in this section:

"Pop-up" - see WAC 415-02-030.

[Statutory Authority: RCW 41.50.050(5), 43.43.260, [43.43.]270, [43.43.]278, [43.43.]280(1), 02-23-037, § 415-103-215, filed 11/13/02, effective 1/1/03. Statutory Authority: RCW 41.50.050(5), 43.43.142, 43.43.278, 43.43.280, 01-13-010, § 415-103-215, filed 6/8/01, effective 7/9/01. Statutory Authority: RCW 43.43.278 and 41.50.050, 00-11-103, § 415-103-215, filed 5/18/00, effective 6/18/00.]

**WAC 415-103-225 What are my WSPRS Plan 2 retirement benefit options?** This section applies to WSPRS Plan 2 members. Upon retirement for service under RCW 43.43.250, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance (no survivor option).** The department will pay you a monthly retirement allowance throughout your life. Your monthly allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the depart-

ment will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667 percent) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 43.43.271(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

**Example:**

John retires from WSPRS in 2008. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2013. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2008	2,000.00	1,750.00		0.00
2009		1,750.00	.02	35.00
2010		1,785.00	.03	53.55

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2011		1,838.55	.025	45.96
2012		1,884.51	.03	56.54
2013	2,000.00	1,941.05	—	—
		Total COLAs		191.05
Original Monthly Allowance \$2000	+ Total COLAs		= New Monthly Allowance	
	+ \$191.05		= \$2,191.05*	

\* In the future, John's COLA will be based on his increased monthly allowance.

#### (6) May I change my benefit option after retirement?

Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

#### (7) Who will receive the balance of my accumulated contributions, if any, after my death?

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 43.43.271.

[Statutory Authority: RCW 41.50.050(5), 43.43.271. 05-23-062, § 415-103-225, filed 11/14/05, effective 12/15/05. Statutory Authority: RCW 41.50.-050(5), 43.43.260, [43.43.]271, [43.43.]280(1), [43.43.]295. 02-23-037, § 415-103-225, filed 11/13/02, effective 1/1/03.]

#### WAC 415-103-275 How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to members commissioned on or after January 1, 2003.

(1) You may designate or change a beneficiary by submitting a Beneficiary Designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 43.43.295.

(7) If your surviving spouse is eligible to receive a benefit under RCW 43.43.295(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

#### EXAMPLE ONE.

##### Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.



In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

### Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 43.43.295.

### EXAMPLE TWO.

#### Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

### Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

### EXAMPLE THREE.

#### Facts

When she became a WSPRS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

### Result

Unless required to do otherwise by court order, the department will comply with RCW 43.43.295(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

### EXAMPLE FOUR.

#### Facts

John is a member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 43.43.295(2). However, Mary died the following week before requesting a distribution from the department.

### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eli-

(2009 Ed.)

gible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5). 05-12-041, § 415-103-275, filed 5/25/05, effective 6/25/05.]

**WAC 415-103-300 Actuarial tables, schedules, and factors.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances of members of the Washington state patrol retirement system plan 2.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 02-18-048, § 415-103-300, filed 8/28/02, effective 9/1/02.]

## Chapter 415-104 WAC

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

#### WAC

415-104-005	Purpose.
415-104-011	Definitions.
415-104-015	Scope.
415-104-025	Public records.
415-104-035	Jurisdiction of director.
415-104-045	Appeal of a local disability board decision.
415-104-050	Review of disability board action—Appeal of director's decision.
415-104-060	Records reviewed on appeals filed under RCW 41.26.200.
415-104-070	Parties to a de novo hearing.
415-104-080	The department can require an examination.
415-104-090	Notice of appeal to the superior court.
	<b>GENERAL ADMINISTRATION</b>
415-104-100	Certification of record.
415-104-108	Actuarial tables, schedules, and factors.
415-104-111	How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement?
415-104-112	Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.
	<b>CESSATION OF DISABILITY</b>
415-104-115	Purpose and scope.
415-104-125	DRS review of disability board order.
415-104-135	Notice for hearing.
415-104-145	Department examination.
415-104-155	Burden of proof.
415-104-165	Payment of benefits pending final determination.
415-104-175	Comparison of disability retirement allowance and service retirement allowance.
	<b>BENEFIT OPTIONS</b>
415-104-202	Survivor benefit options—LEOFF Plan 1.
415-104-211	Married LEOFF Plan 2 member's benefit selection—Spousal consent required.
415-104-215	What are my retirement benefit options—LEOFF Plan 2?
	<b>MEMBERSHIP</b>
415-104-224	Purpose and scope of eligibility rules.
415-104-225	Am I a LEOFF member?
415-104-235	Can I terminate my status as a LEOFF member?
415-104-245	Am I required to meet minimum medical and health standards in order to establish or reestablish Plan 1 membership?
	<b>BASIC SALARY</b>
415-104-298	Purpose and scope of basic salary rules.
415-104-299	Basic salary table.
415-104-301	What is basic salary?
	<b>LEOFF PLAN 1</b>
415-104-305	Definitions.
415-104-311	How is basic salary for LEOFF Plan I determined?

415-104-3200	Basic monthly rate is LEOFF Plan I basic salary.	415-104-605	Urinary system.
415-104-3201	Deferred payments.	415-104-610	Head.
415-104-3202	Retroactive basic salary increases attached to a position are LEOFF Plan I basic salary.	415-104-615	Neck.
415-104-3203	Paid leave is LEOFF Plan I basic salary.	415-104-620	Heart.
415-104-3204	Shift differential is LEOFF Plan I basic salary.	415-104-624	Vascular system.
415-104-3205	Additional duty pay is LEOFF Plan I basic salary.	415-104-628	Heart and vascular system—Miscellaneous.
415-104-330	What are special salary or wages?	415-104-630	Height.
415-104-3301	Educational premium payments are not LEOFF Plan I basic salary.	415-104-634	Weight.
415-104-3302	Performance bonuses are not LEOFF Plan I basic salary.	415-104-638	Body build.
415-104-3303	Cafeteria plans are not LEOFF Plan I basic salary.	415-104-640	Lungs and chest wall—General.
415-104-3304	Leave cash outs or other severance pay are not LEOFF Plan I basic salary.	415-104-644	Lungs and chest—Tuberculous lesions.
415-104-3305	Overtime is not LEOFF Plan I basic salary.	415-104-648	Lungs and chest—Nontuberculous lesions.
415-104-3306	Deferred wages that are not attached to a position are not LEOFF Plan I basic salary.	415-104-650	Table 2—Table of weight.
415-104-340	Disability payments are not LEOFF Plan I basic salary.	415-104-660	Mouth.
415-104-3401	Employer taxes and contributions are not LEOFF Plan I basic salary.	415-104-663	Nose and sinuses.
415-104-3402	Fringe benefits are not LEOFF Plan I basic salary.	415-104-666	Pharynx, trachea, esophagus, and larynx.
415-104-3403	Illegal payments are not LEOFF Plan I basic salary.	415-104-668	Miscellaneous mouth, throat, and nose diseases.
415-104-3404	Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan I basic salary.	415-104-670	Neurological disorders.
415-104-3405	Standby pay is not LEOFF Plan I basic salary.	415-104-680	Psychoses.
415-104-3406	Retirement or termination bonuses are not LEOFF Plan I basic salary.	415-104-684	Psychoneuroses.
415-104-350	Payments in lieu.	415-104-688	Personality disorders.
	LEOFF PLAN 2	415-104-690	Skin and cellular tissues.
415-104-360	How is basic salary for LEOFF Plan II determined?	415-104-700	Spine and sacroiliac joints.
415-104-363	Deferred wages.	415-104-705	Scapulae, clavicles, and ribs.
415-104-365	Retroactive basic salary increases are LEOFF Plan II basic salary.	415-104-710	Systemic diseases.
415-104-367	Cafeteria plans.	415-104-715	Miscellaneous conditions and defects.
415-104-370	Overtime is LEOFF Plan II basic salary.	415-104-720	Tumors.
415-104-373	Paid leave is LEOFF Plan II basic salary.	415-104-725	Malignant diseases and tumors.
415-104-374	LEOFF Plan 2 part-time leave of absence.	415-104-730	Venereal diseases.
415-104-375	Salary or wages not attached to a position are LEOFF Plan II basic salary.	415-104-740	Mental examination.
415-104-377	Performance bonuses are LEOFF Plan II basic salary.	415-104-745	Mental examination—Requirement.
415-104-379	Shift differential is LEOFF Plan II basic salary.	415-104-750	Mental examination—Procedure.
415-104-380	Disability payments.	415-104-755	Mental examination—Retention by employing department.
415-104-383	Employer taxes and contributions are not LEOFF Plan II basic salary.		ELECTED OFFICIALS
415-104-385	Fringe benefits are not LEOFF Plan 2 basic salary.	415-104-782	Option to preserve LEOFF I retirement rights.
415-104-387	Illegal payments are not LEOFF Plan II basic salary.	415-104-783	Verification of eligibility for preservation of LEOFF plan I membership.
415-104-390	Reimbursements or allowances in lieu of a reimbursement are not LEOFF Plan II basic salary.	415-104-784	Member contributions for LEOFF plan I elected officials.
415-104-393	Standby pay is not LEOFF Plan II basic salary.	415-104-785	Employer contributions for LEOFF plan I elected officials.
415-104-395	Termination or retirement bonuses are not LEOFF Plan II basic salary.		DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER
415-104-397	Statutorily excluded payments are not LEOFF Plan II basic salary.	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.
415-104-401	Cash outs of accrued leave or other forms of severance pay are not LEOFF Plan II basic salary.	415-104-0111	Commissioned—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0111, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-405	Payments in lieu.	415-104-0112	Director of public safety—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0112, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-450	How do I designate a beneficiary, and who will receive a distribution if I die before retirement?	415-104-0113	Elective employer—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0113, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-455	Are my spouse and dependent children eligible to have their health care insurance premiums paid for?	415-104-0114	Full time—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0114, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-475	How does a fire fighter who provides emergency medical services transfer PERS service credit to LEOFF Plan 2?	415-104-0115	Fully compensated—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0115, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-480	LEOFF Plan 2 duty disability benefits.	415-104-0117	LEOFF employer—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0117, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-485	LEOFF nonduty disability benefits.		
	MINIMUM MEDICAL AND HEALTH STANDARDS		
415-104-500	Purpose.		
415-104-510	Minimum standards for membership—Physical examination.	415-104-0114	Full time—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0114, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-520	Abdomen and gastrointestinal system.	415-104-0115	Fully compensated—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0115, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.
415-104-530	Blood and blood-forming tissue diseases.		
415-104-540	Dental.		
415-104-550	Ears.		
415-104-555	Hearing.		
415-104-560	Table 1—Table of acceptable audiometric hearing level.		
415-104-570	Endocrine and metabolic disorders.		
415-104-580	Upper extremities.		
415-104-584	Lower extremities.		
415-104-588	Miscellaneous extremities.		
415-104-590	Eyes.		
415-104-595	Vision.		
415-104-600	Genitalia.		

415-104-0118	LEOFF Plan I elected official—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0118, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.	415-104-200	Decision and order of the local disability board. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-200, filed 2/15/78. Formerly WAC 297-30-010.] Repealed by 87-07-016 (Order 87-4), filed 3/11/87. Statutory Authority: RCW 41.50.050(5) and 41.50.090.
415-104-0120	Public safety officer—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0120, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.	415-104-201	Background and purpose. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-014, § 415-104-201, 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.
415-104-0121	Plan I and Plan II—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0121, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.	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, 41.40.188 and 41.40.660.
415-104-0122	LEOFF—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-0122, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.	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.
415-104-0125	Uniformed fire fighter position—Definition. [Statutory Authority: RCW 41.50.050. 96-04-003, § 415-104-0125, filed 1/24/96, effective 2/24/96.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW.	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.
415-104-020	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.	415-104-230	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.
415-104-030	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.	415-104-240	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.
415-104-105	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.	415-104-250	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.
415-104-110	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.	415-104-260	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 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.	415-104-270	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.
415-104-140	Location. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-140, filed 2/15/78. Formerly WAC 297-25-100.] 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.
415-104-150	Meetings. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-150, filed 2/15/78. Formerly WAC 297-25-020.] 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.
415-104-160	Office of the chairman. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-160, filed 2/15/78. Formerly WAC 297-25-030.] 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.
415-104-170	Business hours. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-170, filed 2/15/78. Formerly WAC 297-25-030.] 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.
415-104-180	Correspondence. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-180, filed 2/15/78. Formerly WAC 297-25-040.] 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), §
415-104-190	Identification. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-190, filed 2/15/78. Formerly WAC 297-25-050.] 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, 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 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

(1) **Commissioned** means that an employee 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.

(2) **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.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a director of public safety.

(3) **Elective employer** means the employer of the LEOFF Plan 1 elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

(4) **Full-time employee** means an employee who is regularly scheduled to earn basic salary from an employer for a minimum of one hundred sixty hours each calendar month.

(5) **Fully compensated employee** means an employee who 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:

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

(6) **LEOFF** means the law enforcement officers' and fire fighters' retirement system established by chapter 41.26 RCW.

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

(8) **LEOFF Plan 1 elected official** means a LEOFF Plan 1 member who is a civil service employee on leave of absence because he or she has 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.

(9) **Plan 1 and Plan 2.**

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

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

(10) **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.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a public safety officer.

(11) **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(5) and chapter 41.26 RCW. 02-18-046, § 415-104-011, filed 8/28/02, effective 9/30/02. 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.]

**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.** The director or the director's designee (director, designee or DRS) does not have authority to review local disability board findings or decisions regarding:

(1) Whether a 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; or

(2) A member's right to the employer's payment for medical services pursuant to RCW 41.26.030(22) and 41.26.150.

[Statutory Authority: RCW 41.50.050.99-16-075, § 415-104-035, filed 8/3/99, effective 9/3/99. 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 Appeal of a local disability board decision.** Any person aggrieved by the decision of a local disability board may appeal the decision if it:

- (1) Denies disability leave;
- (2) Denies disability retirement; or
- (3) Cancels a previously granted disability retirement.

The written notice of appeal must be submitted to DRS within thirty days in accordance with RCW 41.26.200.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-045, filed 8/3/99, effective 9/3/99. 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—Appeal of director's decision.** Under RCW 41.26.-120(3) and 41.26.125(3), DRS must review a disability board's order to grant a disability retirement allowance. DRS must:

- (1) Affirm (approve) the board's decision; or
- (2) Remand (send back) the case for further proceeding;

or

- (3) Reverse (deny) the board's decision.

DRS must serve a copy of the decision on the applicant, employer, and disability board. DRS must notify the applicant of the right to file a notice for hearing (an appeal under RCW 41.26.200) if the DRS decision denies the disability retirement allowance.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-050, filed 8/3/99, effective 9/3/99. 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 Records reviewed on appeals filed under RCW 41.26.200.** DRS will review the appeal based on the record established by the disability board and materials appearing in the records of the department of retirement systems. DRS must:

- (1) Affirm (approve) the board's decision; or
- (2) Remand (send back) the case for further proceeding;

or

- (3) Reverse (deny) the board's decision.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-060, filed 8/3/99, effective 9/3/99. 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 applicant, the employer, and the department are parties to a hearing held under RCW 41.26.221. The disability board may appear at such hearing only in support of the department's decision.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-070, filed 8/3/99, effective 9/3/99. 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 The department can require an examination.** The department has discretion to require an applicant for disability retirement to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW 41.26.221. The cost of such examination is the responsibility of the department.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-080, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-080, filed 3/11/87.]

(2009 Ed.)

**WAC 415-104-090 Notice of appeal to the superior court.** Any party aggrieved by a DRS final decision and order issued under RCW 41.26.211 may petition for judicial review within thirty days after the decision and order was mailed. Any party wishing to perfect a superior court appeal must comply with chapter 34.05 RCW, the Administrative Procedure Act.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-090, filed 8/3/99, effective 9/3/99. 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.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances of members of the Washington state law enforcement officers' and fire fighters' retirement system.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 02-18-048, § 415-104-108, filed 8/28/02, effective 9/1/02. 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 How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement?** This rule applies to you if you are a LEOFF 2 retiree who returns to work in an eligible LEOFF, public employees' retirement system (PERS), public safety employees' retirement system (PSERS), school employees' retirement system (SERS), or teachers' retirement system (TRS) position.

(1) **If you return to employment in a LEOFF eligible position, you must reenter membership and your retirement allowance will stop.** When you separate from service, the department will calculate your retirement allowance according to this subsection.

(a) If you previously retired before age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance:

(A) Based on the present value of the retirement allowance payments you received during your initial retirement;

(B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if you are not yet fifty-three; and

(C) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(b) If you previously retired at or after age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(c) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

(2) **If you enter employment in a PERS, PSERS, SERS, or TRS eligible position**, you have two options:

(a) You may decline membership in the PERS, PSERS, SERS, or TRS retirement system. Under this option, you will continue to receive your monthly LEOFF Plan 2 retirement allowance; or

(b) You may choose to become a member of the PERS, PSERS, SERS, or TRS retirement system. Under this option, your LEOFF Plan 2 retirement allowance will be suspended while you earn a retirement benefit in the other system. When you terminate employment in the PERS, PSERS, SERS, or TRS eligible position, you will resume receiving your LEOFF Plan 2 retirement allowance, along with a retroactive payment of your LEOFF Plan 2 retirement allowance for the time you were employed.

(i) Your **ongoing LEOFF Plan 2 retirement allowance** will include any cost of living adjustments (COLAs) that you would have received if your LEOFF allowance had not been suspended during the period of non-LEOFF employment.

(ii) Your **retroactive payment** will equal the sum of your suspended LEOFF Plan 2 retirement allowances, including COLAs, during the period of non-LEOFF employment. You may choose to receive your retroactive payment in either of the following forms:

(A) A lump sum; or

(B) An increase in your ongoing LEOFF Plan 2 retirement allowance on an actuarial basis. The amount of the increase is calculated by taking the lump sum amount and multiplying it by an actuarial factor that is determined by your age at the time your retirement allowance is resumed. See the table in WAC 415-02-340 for the actuarial factors.

[Statutory Authority: RCW 41.50.050(5) and 41.26.500. 08-23-071, § 415-104-111, filed 11/18/08, effective 12/19/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-104-111, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and 41.26.500. 06-03-096, § 415-104-111, filed 1/17/06, effective 2/17/06; 05-12-043, § 415-104-111, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 41.26.470, 2001 c 261. 02-14-072, § 415-104-111, filed 6/28/02, effective 7/29/02. Statutory Authority: RCW 41.50.050. 94-09-040, § 415-104-111, filed 4/19/94, effective 5/20/94.]

**WAC 415-104-112 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. The department shall compute an interim retirement allowance that shall be paid to the member until 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 may, 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 may 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, earnings history, and any additional information requested by the department, the department will complete a final computation of the member's retirement allowance. The department's final computation may increase, decrease, or leave unchanged the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, either before or after the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may 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 basic salary to a member in the member's retirement allowance computation, or excluding basic salary not reported by an employer;

(d) Benefit overpayments and underpayments;

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

(f) Excluding an individual from membership in the retirement system or plan who is entitled to such membership.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-112, filed 8/3/99, effective 9/3/99.]

## 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 depart-

ment 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 DRS review of disability board order.** (1) Under the provisions of RCW 41.26.135, DRS must review a disability board determination that an applicant's disability has ceased pursuant to RCW 41.26.130(3). DRS must:

- (a) Affirm (approve) the board's decision; or
- (b) Remand (send back) the case for further proceedings;

or

- (c) Reverse (deny) the board's decision.

(2) A retiree aggrieved by a decision of the local disability board that the disability has not ceased may appeal the determination to the director. The written notice of appeal must be submitted to DRS within thirty days as provided by RCW 41.26.140(6).

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-125, filed 8/3/99, effective 9/3/99. 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.** A person aggrieved by:

(1) The director's decision on review of the local board determination; or

(2) The director's decision after review of the record on appeal must invoke the director's jurisdiction by filing a notice for hearing in accordance with RCW 41.26.211 and WAC 415-08-020 before they can appeal to the superior court. Such hearing shall be in accordance with RCW 41.26.221.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-135, filed 8/3/99, effective 9/3/99. 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 41.26.221. The cost of such examination is the responsibility of the department.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-145, filed 8/3/99, effective 9/3/99. 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.** The department will continue to pay monthly benefits when a disability board determines that a retiree's disability has ceased until there is a final determination from which no appeal is taken. The department will pay either the retiree's monthly service retirement allowance or monthly disability retirement allowance, whichever is less. Any retro-

(2009 Ed.)

active adjustment required as the result of the final determination will be made after the appeal period has passed.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-165, filed 8/3/99, effective 9/3/99. 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 disability retirement allowance and the service retirement allowance as required by RCW 41.26.130(3), the department must:

(1) Compute the service retirement allowance using a final average salary calculated as follows:

(a) The department shall first calculate the greatest basic salaries that were or would have been payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed;

(b) The department shall then divide the total basic salaries during the selected twenty-four month period by twenty-four to compute the final average salary.

(2) Compute the service retirement allowance. 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.

(3) Compare the service retirement allowance to the monthly disability retirement allowance that the member was receiving on the date that the disability ceased.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-175, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.50.050(5) and 41.50.090. 87-07-016 (Order 87-4), § 415-104-175, filed 3/11/87.]

## BENEFIT OPTIONS

**WAC 415-104-202 Survivor benefit options—LEOFF Plan 1.** (1) **To whom does this section apply?** This section applies to you if you are a retiree of LEOFF Plan 1.

(2) **What are flexible survivor benefit options?** RCW 41.26.164 allows a retiree to provide a survivor option for a spouse who is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161. The survivor option will provide a lifetime benefit for the spouse after the retiree's death.

(3) **How will my monthly retirement allowance be affected by selecting a flexible survivor option?** Your monthly retirement allowance will be actuarially reduced beginning the first month following the month in which the department receives the completed form.

(4) **What are the flexible survivor option choices?**

(a) **Joint and whole allowance option.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your surviving spouse a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(b) **Joint and one-half allowance option.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your surviving spouse a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

[Title 415 WAC—p. 79]

(c) **Joint and two-thirds allowance option.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your surviving spouse a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(5) **Do I qualify to add a flexible survivor option?** You may select a flexible survivor option if:

(a) Your current spouse is not eligible for survivor benefits under RCW 41.26.160 or 41.26.161;

(b) Some portion of your monthly retirement allowance is payable to you, after any reduction pursuant to a property division obligation under RCW 41.50.670;

(c) You have not previously selected a flexible survivor option; and

(d) You meet the deadline and application requirements in subsection (6) of this section.

(6) **How do I add a flexible survivor option?** You may select a flexible survivor option and name your current spouse as your survivor beneficiary, provided that:

(a) The selection is made:

(i) During a one-year window, on or after the date of the first anniversary and before the second anniversary of the marriage; or

(ii) No later than June 30, 2006, if you cannot comply with (a)(i) of this subsection because you were married prior to July 1, 2005;

(b) You provide a copy of your certified marriage certificate to the department;

(c) You provide proof, satisfactory to the department, of your current spouse's birth date; and

(d) You file the properly completed forms with the department in a timely manner.

(7) **May I remove the flexible survivor option in the future?** Your choice of a flexible survivor option is irrevocable with the following exceptions:

(a) Your spouse dies before you; or

(b) You and your spouse divorce.

See subsection (8) of this section.

(8) **What happens if my spouse dies before me, or if we divorce?** If your spouse dies before you, or if you divorce, your monthly retirement allowance will increase, effective the first day of the following month. Your increased monthly allowance will be the amount you would have received had you not chosen a flexible survivor option plus any cost-of-living adjustments (COLA) you received prior to your spouse's death.

(9) **What happens to my eligible surviving children's share if I select a flexible survivor option?** There is *no* impact to the benefit provided under RCW 41.26.160 or 41.26.161 to surviving children if you select a flexible survivor option.

(10) **Actuarial information.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating retirement allowances.

**Terms used in this section:**

(a) Child or children - RCW 41.26.030(7).

(b) Eligible surviving child - RCW 41.26.160 and 41.26.161.

(c) Eligible surviving spouse - RCW 41.26.161 and 41.26.162.

(d) Surviving spouse - RCW 41.26.030(6).

[Statutory Authority: RCW 41.50.050(5), 41.26.164, 05-22-110, § 415-104-202, filed 11/2/05, effective 12/3/05. Statutory Authority: RCW 41.50.-050(5), 41.26.162, 41.26.164, chapter 41.45 RCW, 03-12-014, § 415-104-202, filed 5/27/03, effective 7/1/03.]

**WAC 415-104-211 Married LEOFF Plan 2 member's benefit selection—Spousal consent required.** (1) A LEOFF Plan 2 member, if married, must provide the spouse's written consent to the option selected under WAC 415-104-215. If a married LEOFF Plan 2 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).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "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 filed with the department constitutes spousal consent.

[Statutory Authority: RCW 41.50.050(5) and 41.26.460, 03-12-014, § 415-104-211, filed 5/27/03, effective 7/1/03. Statutory Authority: RCW 41.50.-050, 99-16-075, § 415-104-211, filed 8/3/99, effective 9/3/99. 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 What are my retirement benefit options—LEOFF Plan 2?** If you retire for service under RCW 41.26.430 or nonduty disability under RCW 41.26.470, or if you choose to receive a monthly allowance for duty disability under RCW 41.26.470, you must choose to have your monthly retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.



(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.26.460(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retire on or after January 1, 1996.** Your increased monthly allowance will be:

- (i) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus
- (ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death based on your original option selection.

**Example:**

Agnes retires in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in January 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	—	—

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
			Total COLAs	191.05
	Original Option One Monthly Allowance \$2000	+ Total COLAs	= New Monthly Allowance	
		+ \$191.05	=	\$2,191.05*

\* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) **Members who retired before January 1, 1996.** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.26.460(3).

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate.

(8) For more information, see RCW 41.26.460.

[Statutory Authority: RCW 41.50.050(5), 41.26.460, 05-23-062, § 415-104-215, filed 11/14/05, effective 12/15/05; 03-12-014, § 415-104-215, filed 5/27/03, effective 7/1/03. Statutory Authority: RCW 41.50.050(5), 41.26.-460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, 41.40.845, 01-10-045, § 415-104-215, filed 4/26/01, effective 6/1/01. Statutory Authority: RCW 41.50.050, 99-16-075, § 415-104-215, filed 8/3/99, effective 9/3/99. 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 LEOFF 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 regard-

less 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 and 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 and 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 415-104-011.
- (b) "Director of public safety" - WAC 415-104-011.
- (c) "Employer" - RCW 41.26.030.
- (d) "Fire fighter" - RCW 41.26.030.
- (e) "Full time" - WAC 415-104-011.
- (f) "Fully compensated" - WAC 415-104-011.
- (g) "Law enforcement officer" - RCW 41.26.030.
- (h) "Member" - RCW 41.26.030.
- (i) "Public safety officer" - WAC 415-104-011.
- (j) "Uniformed fire fighter position" - WAC 415-104-011.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW, 02-18-046, § 415-104-225, filed 8/28/02, effective 9/30/02. 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 LEOFF 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 employee" - WAC 415-104-011.

(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(5) and chapter 41.26 RCW. 02-18-046, § 415-104-235, filed 8/28/02, effective 9/30/02. 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 1 membership? (1) You may be required to meet minimum medical and health standards in order to establish or reestablish Plan 1 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 1 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 1 from the first day of your employment. Your enrollment in Plan 1, 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 1 membership because you did not meet minimum medical and health standards, you will enter membership in Plan 2.**

(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 1.

(b) If you do not meet the standards, your employer must stop reporting you to the department in Plan 1 and report you in Plan 2. The department will transfer your membership from Plan 1 to Plan 2 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 415-104-011.

(d) "Fully compensated" - WAC 415-104-011.

(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 1 and Plan 2" - WAC 415-104-011.

[Statutory Authority: RCW 41.50.050(5), 41.26.035, 41.26.045 - [41.26.-047. 04-02-003, § 415-104-245, filed 12/24/03, effective 1/1/04. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-104-245, filed 7/25/95, effective 8/25/95.]

## BASIC SALARY

**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.

[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 415-104-299 Basic salary table.** The following table will help you determine whether certain types of payments are basic salary under LEOFF Plan 1 or 2. Be sure to read 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 1) and WAC 415-104-360 (Plan 2).

Type of Payment	LEOFF 1 Basic Salary?	LEOFF 2 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, including insurance	No - WAC 415-104-3402	No - WAC 415-104-385
Illegal Payments	No - WAC 415-104-3403	No - WAC 415-104-387

Type of Payment	LEOFF 1 Basic Salary?	LEOFF 2 Basic Salary?
Leave Cash Outs/Severance	No - WAC 415-104-3304	No - WAC 415-104-401
Longevity	Yes - WAC 415-104-311	Yes - WAC 415-104-375
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
Workers' Compensation	Not Applicable	No - WAC 415-104-380

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. 03-06-042, § 415-104-299, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050. 99-16-075, § 415-104-299, filed 8/3/99, effective 9/3/99. 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 1

**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.]

**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).

(2009 Ed.)

[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.

[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.

[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) Employer retirement contributions;

(2) Any type of insurance such as medical, dental, or life insurance; and any employer contribution to meet the premium or charge for the 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(5) and chapter 41.26 RCW. 03-06-042, § 415-104-3402, filed 2/27/03, effective 4/1/03. Statutory Authority:

(2009 Ed.)

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 pay-

ment based fully or partially on notification of a member's 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 2

**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.

[Title 415 WAC—p. 88]

(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.

(2009 Ed.)



(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 415-104-374 LEOFF Plan 2 part-time leave of absence. (1) What are the LEOFF Plan 2 part-time leave rules for law enforcement officers?**

(a) You must be a current LEOFF Plan 2 *law enforcement* member;

(b) Your employer must authorize you to work part time and go on an unpaid part-time leave of absence;

(c) While in part-time work/part-time leave status, you cannot do any other work for pay for your employer; and

(d) When you return to full-time employment, the employment must be with the same employer who granted you the part-time leave.

(2) **May I purchase service credit for periods of part-time leave?** See WAC 415-02-175 for information about purchasing service credit for an unpaid authorized leave of absence.

[Statutory Authority: RCW 41.50.050(5). 04-20-005, § 415-104-374, filed 9/23/04, effective 10/24/04. Statutory Authority: RCW 41.50.050(5) and 41.26.520. 02-18-047, § 415-104-374, filed 8/28/02, effective 9/1/02.]

**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. 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 2 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 2. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or
- (3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-104-367.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.26 RCW. 03-06-042, § 415-104-385, filed 2/27/03, effective 4/1/03. 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.]

**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.]

**WAC 415-104-450 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to Plan 2 members.

(1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust the department must receive:

- (i) A copy of the entire trust document;
- (ii) The name, address, telephone number of the current trustee; and
- (iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.26.510.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.26.510(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

- (a) Your accumulated contributions; or
- (b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

#### Examples:

##### EXAMPLE ONE.

#### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

#### Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.26.510.

##### EXAMPLE TWO.

#### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

**Result**

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

**EXAMPLE THREE.****Facts**

When she became a LEOFF Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

**Result**

Unless required to do otherwise by court order, the department will comply with RCW 41.26.510(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

**EXAMPLE FOUR.****Facts**

John is a LEOFF 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.26.510(2). However, Mary died the following week before requesting a distribution from the department.

**Result**

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5). 05-12-041, § 415-104-450, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050. 00-10-017, § 415-104-450, filed 4/21/00, effective 5/22/00.]

**WAC 415-104-455 Are my spouse and dependent children eligible to have their health care insurance premiums paid for?** If you are a Plan 2 member and you die in the line of duty, your surviving spouse and/or dependent children may be eligible for PEBB health care insurance and to have their monthly premiums paid for.

**(1) Who can have their health care insurance premiums paid for?** To have PEBB health care insurance premiums paid for, your beneficiary must:

- (a) Be a surviving spouse or surviving dependent child, as defined in RCW 41.26.030, of a Plan 2 member who dies in the line of duty, as determined by L&I;
- (b) Receive a death benefit; and
- (c) Be approved for PEBB health care insurance.

**(2) Who makes this determination?** L&I, DRS, and HCA each play a role in determining your spouse or children's eligibility to have their PEBB health care insurance premiums paid for. L&I will determine whether you died in the line of duty and will notify DRS of their determination. DRS will identify your eligible spouse and dependent chil-

dren and will notify the PEBB program within HCA. The PEBB program will then determine eligibility for enrollment in PEBB health care insurance.

**(3) What do my spouse or dependent children need to do to receive these payments?** Once DRS is notified of your death in the line of duty, we will send your spouse or dependent children information about enrolling in PEBB health care insurance. If your spouse or dependent children want PEBB health care insurance, they must complete an enrollment application and send it to the PEBB program. DRS or the PEBB program may contact them for more information.

**(4) How will the monthly premiums be paid for?** Upon enrollment in PEBB health care insurance, DRS will make direct payment of your spouse or dependent children's monthly premiums to HCA. They do not need to send any money to DRS or HCA.

**(5) How long can my spouse or dependent children remain enrolled in PEBB health care insurance?** Your spouse or dependent children can remain enrolled in PEBB health care insurance so long as they are eligible under HCA rules (see chapters 182-08 and 182-12 WAC). As long as they are eligible for PEBB health care insurance, their monthly premiums will be paid for by DRS.

**(6) Definitions:**

- (a) DRS - department of retirement systems.
- (b) HCA - health care authority.
- (c) L&I - department of labor and industries.
- (d) PEBB - public employees benefits board.

[Statutory Authority: RCW 41.50.050(5) and 41.26.510. 08-15-112, § 415-104-455, filed 7/18/08, effective 8/18/08.]

**WAC 415-104-475 How does a fire fighter who provides emergency medical services transfer PERS service credit to LEOFF Plan 2? (1) Who may use this section?**

You may use this section if you:

- (a) Are currently employed in a law enforcement officers' and fire fighters' (LEOFF) Plan 2 covered position working for a fire department;
- (b) Were formerly employed in a position providing emergency medical services and the position was covered under PERS Plan 1 or 2; and
- (c) Worked for an employer that *relocated* your position to a fire department.

**(2) How do I know if my job providing emergency medical services was "relocated" to a fire department?** To be considered "relocated":

- (a) The duties of the position must have required providing emergency medical services and the position must have been covered under PERS Plan 1 or 2;
- (b) The employer must have been a city, town, county, or district that transferred the position to a fire department; and
- (c) The fire department must have covered the transferred position under LEOFF Plan 2.

**(3) I worked as an emergency medical technician/paramedic (EMT) and I am now enrolled in LEOFF Plan 2. Can I transfer my EMT service into LEOFF Plan 2?** Yes. You may transfer your EMT service into LEOFF Plan 2 if:

- (a) You provided emergency medical services as an EMT; and

(b) You are in a LEOFF Plan 2 position with the fire department as a result of your employer relocating your position as described in subsection (2) of this section.

(4) **Who determines whether or not my job providing emergency medical services was "relocated" to a fire department?** The department of retirement systems (DRS) will determine whether or not your job was relocated based on the criteria described in subsection (2) of this section. To do so, DRS will contact your former employer that covered your job providing emergency medical services under PERS and verify:

(a) That your position was relocated to a fire department; and

(b) The number of months you worked in that position.

(5) **I formerly worked as an EMT for a PERS employer that relocated my job to a fire department. I was not working in the job at the time it was relocated, but am now working for the fire department in the same job. Can I transfer my PERS EMT service to LEOFF Plan 2?** Yes. Even though you were not working in the job at the time it was relocated, you can transfer your PERS EMT service as long as you are employed with the fire department covered under LEOFF Plan 2 at the time you request the transfer.

(6) **Can I transfer PERS EMT service into LEOFF Plan 2 if I worked for an employer that did not "relocate" the position to a fire department?** No. To transfer PERS EMT service to LEOFF Plan 2, you must have worked in a position that was relocated as described in subsections (1) and (2) of this section.

(7) **What do I need to do if I have PERS EMT service that can be transferred to LEOFF Plan 2?**

(a) Contact the LEOFF unit at DRS. Once DRS verifies you meet the criteria to transfer as described in subsections (1) and (2) of this section, DRS will provide you an *EMT Transfer Packet* that includes an "EMT transfer cost estimate and benefit comparison." DRS will also provide you an "EMT Request for Transfer Form." You must complete, sign and return the form to the LEOFF unit to choose to transfer the service credit.

(b) You must pay the difference in the member contribution rates between the PERS rate and the LEOFF rate, plus interest, for each month of EMT service that you transfer.

(8) **How is the interest calculated?** Interest is calculated at eight percent annually, compounded monthly, and is based on the difference between the required PERS contribution amount and the required LEOFF Plan 2 contribution amount for each month you transfer. DRS calculates the interest for the rate difference for each month being transferred, beginning with the oldest month, then totals each month's interest calculation for the "interest" portion of the bill.

Example: DRS creates a bill in October 2003 to transfer the months of June and July 2002. The member contribution rate difference for each month is \$35.00. The interest for June would be \$4.18, and for July \$3.92. The total interest charge for these two months is \$8.10; the total bill is \$78.10 (\$35.00 x 2 + \$8.10). The interest calculated for June 2002 is more because it includes one more month of interest than the month of July 2002. The chart below shows how the interest is calculated:

Month/Year of Interest Calculation		Interest for June 2002 @ .00667 <sup>1</sup>		Interest for July 2002 @ .00667	
June	2002	\$35.00	.23		
July	2002	\$35.23	.23	\$35.00	.23
August	2002	\$35.46	.24	\$35.23	.23
September	2002	\$35.70	.24	\$35.46	.24
October	2002	\$35.94	.24	\$35.70	.24
November	2002	\$36.18	.24	\$35.94	.24
December	2002	\$36.42	.24	\$36.18	.24
January	2003	\$36.66	.24	\$36.42	.24
February	2003	\$36.90	.25	\$36.66	.24
March	2003	\$37.15	.25	\$36.90	.25
April	2003	\$37.40	.25	\$37.15	.25
May	2003	\$37.65	.25	\$37.40	.25
June	2003	\$37.90	.25	\$37.65	.25
July	2003	\$38.15	.25	\$37.90	.25
August	2003	\$38.40	.26	\$38.15	.25
September	2003	\$38.66	.26	\$38.40	.26
October	2003	\$38.92	.26	\$38.66	.26
<b>Total October</b>	<b>2003</b>		<b>\$4.18</b>		<b>\$3.92</b>

(9) **Do I have to pay the bill in a lump sum?** No. You may make installment payments. Interest will be recalculated each month against the unpaid balance.

(10) **What is the time frame for transferring?** You must make the decision to transfer no later than June 30, 2008. You must complete the transfer by June 30, 2013.

(11) **When will the EMT service be transferred into my LEOFF Plan 2 account?** The EMT service will be transferred after:

(a) The bill is paid in full; and

(b) Five years have passed after DRS receives your request to transfer.

(12) **What if I decide not to transfer my PERS EMT service into LEOFF Plan 2?** Your EMT service will remain in PERS and you may either withdraw or begin receiving a PERS retirement benefit when you are eligible. If you do not withdraw, you will be a dual member of PERS and LEOFF Plan 2 under the provisions of chapter 41.54 RCW.

**(13) Can I retire before the transfer is completed?**

Yes.

(a) You may retire from LEOFF Plan 2 once you are eligible, but your retirement benefit will be calculated using only your LEOFF Plan 2 service.

(b) After the conditions described in subsection (11) of this section have been met, the PERS EMT service will be transferred into your LEOFF Plan 2 account and your retirement benefit will be recalculated and increased to include the transferred service. The increase will be prospective only from the day following the five-year waiting period. For example, if you requested the transfer on September 15, 2003, and you retired on August 1, 2007, your retirement benefit would be increased on September 16, 2008.

**(14) What if I request to transfer but change my mind before the transfer is completed?** If you decide to not transfer your PERS EMT service into LEOFF Plan 2, you must notify the LEOFF unit at DRS within five years from the date you requested the transfer. LEOFF staff will cancel your request and refund any money you have paid on the transfer bill.

**(15) Can I transfer non-EMT PERS service into LEOFF Plan 2?** No. Only the PERS service credit you earned working as an EMT for an employer that relocated your EMT position to a fire department can be transferred into LEOFF Plan 2.

**(16) Can I transfer my PERS EMT service into LEOFF Plan 2 and withdraw my non-EMT PERS service?** Yes. You can withdraw your non-EMT PERS service as soon as the PERS EMT service is fully transferred to LEOFF Plan 2. To be fully transferred, the conditions described in subsection (11) of this section must be met.

**(17) Can I transfer my PERS EMT service into LEOFF Plan 1?** No. If you reentered LEOFF Plan 1 membership after your position was relocated to a fire department, you may choose to remain in PERS or return to LEOFF Plan 1 membership, but you may not transfer the PERS EMT service into LEOFF Plan 1.

**(18) What happens if I die before the PERS EMT service is transferred into my LEOFF Plan 2 account?**

(a) If your bill *is not* paid in full at the time of your death, the transfer will be canceled and any payments made will be refunded to your designated beneficiary.

(b) If the bill *is* paid in full at the time of your death, but the five-year waiting period has not expired, then the following rules will apply.

(i) If you die with less than ten years of service, or you have at least ten years of service but you don't have an eligible surviving spouse or minor children, the contributions in your LEOFF 2 account, including any payments made on the EMT optional service bill, will be refunded to your designated beneficiary.

(ii) If you die with at least ten years of service and have an eligible surviving spouse or minor children and if your spouse or children choose a monthly benefit payment instead of a lump sum payment, the monthly benefit will be increased the day following the end of the five-year waiting period.

(iii) If you die after retirement and chose a survivor option, your survivor's benefit will be increased the first day following the expiration of the five-year waiting period.

**(19) Terms used:**

(a) DRS - Department of retirement systems.

(b) EMT - Emergency medical technician or paramedic who provides emergency medical services and is covered under LEOFF Plan 2 working for a fire department.

(c) LEOFF - Law enforcement officers' and fire fighters' retirement system.

(d) PERS - Public employees' retirement system.

[Statutory Authority: RCW 41.50.050(5), 41.26.547, 04-04-039, § 415-104-475, filed 1/29/04, effective 3/1/04.]

**WAC 415-104-480 LEOFF Plan 2 duty disability benefits.** This section applies to you if you are a LEOFF Plan 2 member who incurs a disability in the line of duty per RCW 41.26.470 (6) and (7) and this section.

**(1) Who is entitled to duty disability benefits?** Any member of LEOFF Plan 2 who the department determines has:

(a) Incurred a physical or mental disability in the line of duty;

(b) Become totally incapacitated for continued employment in a LEOFF eligible position; and

(c) Separated from a LEOFF eligible position due to the disability.

**(2) How is "line of duty" defined?** Line of duty means any action or activity occurring in conjunction with your employment or your status as a law enforcement officer or fire fighter and required or authorized by law, rule, regulations, or condition of employment or service.

**(3) When are the duty disability provisions effective?** The duty disability provisions under RCW 41.26.470 (6) and (7) are effective June 10, 2004.

**(4) How do I apply for duty disability benefits?** The department must receive:

(a) A completed three-part disability retirement application on the form provided by the department.

(i) Part 1: Disability retirement application. You must complete and sign the application. If you are married, your spouse must sign consenting to the retirement payment option you choose. Your signature(s) must be notarized.

(ii) Part 2: Employer's statement and report. Your employer must complete, sign and return it directly to the department.

(iii) Part 3: Medical report. You must complete Section 1. The remainder must be completed and signed by a person licensed according to Washington state law to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, clinical psychology, podiatry, dentistry, or optometry;

(b) Additional information requested by the department; and

(c) Any other material you want the department to consider.

**(5) What evidence will the department use to determine whether I am entitled to benefits under this section?** The department will consider any relevant information submitted by you or your employer, or otherwise available to the department, including:

(a) Information and determinations by the department of labor and industries (L&I) or a self-insurer;

(b) Medical, vocational, and other information about your disability;

(c) Your job description;

(d) Your membership records, maintained by the department; and

(e) Any other relevant evidence.

(6) **What would disqualify me for duty disability benefits?** You are not eligible for duty disability benefits if any of the following apply:

(a) Your application does not provide adequate proof that you are totally incapacitated for continued employment in a LEOFF-eligible position;

(b) Your application does not provide adequate proof that your disability was incurred in the line of duty;

(c) The disability occurred as a result of intentional misconduct including but not limited to:

(i) An action you took intentionally to bring about your own disability;

(ii) Gross negligence on your part; or

(iii) Your voluntary intoxication. As used in this section, "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of:

(A) Alcohol into the body as evidenced by:

(I) A blood alcohol level of .20 per centum or greater; or

(II) A blood alcohol level of at least .10 per centum but less than .20 per centum unless the department receives convincing evidence that the officer or fire fighter was not acting in an intoxicated manner immediately prior to the injury; or

(B) Drugs or other substances in the body.

(7) **Who decides if I meet the requirements for benefits under this section?** The LEOFF plan administrator.

(8) **May I petition a decision made by the LEOFF plan administrator?** Yes. If the LEOFF plan administrator denies your request for a disability benefit under this section, you may petition for review under chapter 415-04 WAC.

(9) **What are the duty disability retirement benefits?** As a duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent; or

(b) A monthly allowance equal to:

(i) Ten percent of your final average salary (FAS), which is nontaxable; and

(ii) Two percent of your FAS for each year of service beyond five years.

Your monthly allowance will not be adjusted for early retirement. However, if you choose a benefit option with a survivor feature as described in WAC 415-104-215, your monthly allowance will be actuarially reduced to offset the cost. The factors used to determine the amount of the reduction are in WAC 415-02-380.

**Example:** Tom incurs a duty disability at age 42 after twenty years of service. His final average salary is \$5000 per month. Tom's wife is also age 42. He chooses Benefit Option Two so that, after his death, his wife will receive a monthly allowance equal to the gross monthly allowance he was receiving. See WAC 415-104-215 (2)(b).

Tom's minimum duty disability allowance, calculated at 10 percent of his final average salary (FAS) is:

Allowance	\$5000 X 10% =	\$500
Allowance after the actuarial reduction for Option Two (survivor feature)	\$500 X 0.87 =	\$435 (nontaxable)

In addition, Tom will receive:

Allowance	15 years X 2% X FAS (\$5000) =	\$1500
Allowance after the actuarial reduction for Option Two (survivor feature)	\$1500 X 0.87 =	\$1305

Tom will receive \$435 (nontaxable) plus \$1305 (taxable), for a total monthly allowance of \$1740.

(10) **Are my duty disability benefits taxable?** The department reports disability benefits to the Internal Revenue Service as required by federal law. Based on current federal law, part of your benefit may be taxable. You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

The department does not:

(a) Guarantee that payments are exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from benefit payments to you;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(11) **If I previously withdrew my contributions, may I apply for duty disability benefits?** If you separated from employment due to a disability and withdrew your contributions, you may apply for duty disability benefits according to the provisions of subsection (4) of this section.

(12) **If I previously withdrew my contributions and am approved for duty disability benefits, what will I receive as a benefit?** If the LEOFF plan administrator determines you are entitled to duty disability benefits, the department will amend Internal Revenue Service reporting to designate your previous withdrawal as nontaxable. In addition, you may choose either of the following:

(a) If you previously withdrew 100% of your contributions, you may choose to receive an additional lump sum payment equal to 50% of the contributions you withdrew. The payment will be nontaxable; or

(b) If you previously withdrew 100% or 150% of your contributions, you may choose to receive a monthly allowance according to subsection (9) of this section. You must repay the amount you withdrew, either in a lump sum payment or by having your monthly allowance permanently actuarially reduced to offset the amount of your previous withdrawal.

**Example:** John was injured on the job and separated from his LEOFF position in March 2002. At the time he separated, he was 43 years old, had 10 years of service, and his final average salary was \$5,000.00 per month. At that time, John chose to withdraw \$75,000, which equaled 150 percent of his retirement contributions.

John subsequently applied under the provisions of RCW 41.26.470 (6) and (7) and was deemed eligible for duty disability benefits. The department calculated John's benefit according to the methods in subsection (9) of this section. John determined it was to his advantage to take a monthly allowance.

If John repays the entire amount he withdrew in a lump sum, his monthly allowance will be calculated according to the formula in subsection (9)(b) of this section:

Minimum monthly allowance	10% X FAS (\$5000) =	\$500 (nontaxable)
	Plus:	
Monthly allowance	5 years X 2% X FAS (\$5000) =	\$500
John's total monthly allowance will be \$1,000 <sup>1</sup> .		

If John repays the withdrawn amount through a permanent actuarial reduction, his monthly allowance will be reduced as follows:

Monthly allowance (calculated above)	=	\$1000
Reduction to repay the withdrawn amount (\$75,000)	\$75,000 X .0049904 (annuity factor, which is based on the retiree's age) =	-\$374.28
Monthly allowance		\$625.72 <sup>2</sup>

<sup>1</sup> Annuity factors are provided in WAC 415-02-340.

<sup>2</sup> If John chooses a benefit option with a survivor feature, as described in WAC 415-104-215, his monthly allowance will be actuarially reduced to offset the cost. Survivor option factors are provided in WAC 415-02-380.

**(13) When does a duty disability retirement benefit end?** The department may require comprehensive medical examinations to reevaluate your eligibility for continued disability benefits according to the provisions of RCW 41.26.470(2). Your duty disability benefit will cease if:

- (a) You return to work in a LEOFF-eligible position; or
- (b) Medical examination reveals that you are no longer totally incapacitated for employment in a LEOFF eligible position and you are no longer entitled to workers' compensation benefits under Title 51 RCW.

**(14) If I retire for a duty disability and die, will my survivor beneficiary receive a monthly allowance?** If you choose a benefit option with a survivor feature under WAC 415-104-215(2) at the time of retirement, your survivor beneficiary will receive a monthly allowance after your death.

**(15) What happens if I return to a LEOFF-eligible position?** If you return to a LEOFF-eligible position, your monthly allowance will stop.

**(16) If I return to a LEOFF-eligible position, how will my future retirement benefit be affected?** When you re-entire, your monthly allowance will be calculated pursuant to RCW 41.26.500 and WAC 415-104-111.

[Statutory Authority: RCW 41.50.050(5) and 41.26.470 (6) and (7). 06-18-007, § 415-104-480, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5) and 41.26.470. 04-22-074, § 415-104-480, filed 11/1/04, effective 12/2/04.]

**WAC 415-104-485 LEOFF nonduty disability benefits.** This section applies to you if you are a LEOFF Plan 2 member who incurs a disability not in the line of duty. If your disability or injury was incurred in the line of duty, see WAC 415-104-480.

**(1) Who is entitled to nonduty disability benefits?** Any member of LEOFF Plan 2 who the department determines has:

- (a) Incurred a physical or mental disability while not in the line of duty;
- (b) Become totally incapacitated for continued employment in a LEOFF eligible position; and
- (c) Separated from a LEOFF-eligible position due to the disability.

**(2) How is "line of duty" defined?** Line of duty means any action or activity occurring in conjunction with your employment or your status as a law enforcement officer or fire fighter and required or authorized by law, rule, regulations, or condition of employment or service.

**(3) How do I apply for nonduty disability benefits?** The department must receive:

(a) A completed three-part disability retirement application on the form provided by the department.

(i) Part 1: Disability retirement application. You, or a person with legal authority to apply on your behalf, must complete and sign the application. If you are married, your spouse must sign consenting to the retirement payment option you choose. Your signature(s) must be notarized.

(ii) Part 2: Employer's statement and report. Your employer must complete, sign and return it directly to the department.

(iii) Part 3: Medical report. You must complete Section 1. The remainder must be completed and signed by a person licensed according to Washington state law to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, clinical psychology, podiatry, dentistry, or optometry;

(b) Additional information requested by the department; and

(c) Any other material you want the department to consider.

**(4) Is there a time limit for filing an application for nonduty disability benefits?** No. There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

**(5) What evidence will the department use to determine whether I am entitled to benefits under this section?** The department will consider any relevant information submitted by you or your employer, or otherwise available to the department, including:



- (a) Information and determinations by the department of labor and industries (L&I) or a self-insurer;
- (b) Medical, vocational, and other information about your disability;
- (c) Your job description;
- (d) Your membership records, maintained by the department; and
- (e) Any other relevant evidence.

(6) **What would disqualify me for nonduty disability benefits?** You are not eligible for nonduty disability benefits if any of the following apply:

- (a) Your application does not provide adequate proof that you are totally incapacitated for continued employment in a LEOFF-eligible position;
- (b) Your disability is the result of your criminal conduct committed after April 21, 1997. See RCW 41.26.061.

(7) **Who decides if I meet the requirements for benefits under this section?** The LEOFF plan administrator.

(8) **May I petition a decision made by the LEOFF plan administrator?** Yes. If the LEOFF plan administrator denies your request for a disability benefit under this section, you may petition for review under chapter 415-04 WAC.

(9) **What are the nonduty disability retirement benefits?** As a nonduty disability retiree, your retirement benefit is a monthly allowance equal to:

(a) Two percent times your final average salary times your service credit years. This allowance will be actuarially reduced to reflect the difference in age at the time of disability retirement and age 53. If you qualify for alternative early retirement per RCW 41.26.430(3), your reduction will be three percent per year before age 53.

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, your monthly allowance will be actuarially reduced to offset the cost. The factors used to determine the amount of reduction are in WAC 415-104-380.

**Example:** Tom incurs a nonduty disability at age 42 after twenty years of service. His final average salary is \$5,000 per month. Tom's wife is also age 42. He chooses Benefit Option Two so that, after his death, his wife will receive a monthly allowance equal to the gross monthly allowance he was receiving. See WAC 415-104-215 (2)(b).

Tom's nonduty disability allowance is:

Nonduty disability allowance  $\$5,000 \times 2\% \times 20 \text{ years} = \$2,000$

Allowance after the actuarial reduction for early retirement  $\$2,000 \times 0.39 = \$780$

Allowance after the actuarial reduction for Option Two (survivor feature)  $\$780 \times .87 = \$679$

(10) **Are my nonduty disability benefits taxable?** The department reports disability benefits to the Internal Revenue Service as required by federal law. Based on current federal law, your benefit may be taxable. You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

(2009 Ed.)

The department does not:

- (a) Guarantee that payments are exempt from federal income tax;
- (b) Guarantee that it was correct in withholding or not withholding taxes from benefit payments to you;
- (c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or
- (d) Assume any liability for your compliance with the Internal Revenue Code.

(11) **If I previously retired for service under the alternative early retirement provisions of RCW 41.26.430(3), but I qualified for a disability retirement, can I apply for duty or nonduty disability benefits?** Yes. If you retired under the alternative early retirement provisions of RCW 41.26.430(3) on or before January 1, 2001, you can apply to retire under the disability provisions of RCW 41.26.470. Your benefit will be reduced by three percent per year before age 53 instead of actuarially reduced by the early retirement factors in WAC 415-02-320.

(12) **If I previously retired for disability but was otherwise qualified for a service retirement under the alternative early retirement provisions of RCW 41.26.430(3), can I have my benefit recalculated to reflect a three percent reduction instead of being actuarially reduced by the early retirement reduction factors in WAC 415-102-320?** Yes. If you retired on or after January 1, 2001, and met the requirements of RCW 41.26.430(3), you can have your disability benefit recalculated under those provisions.

(13) **When does a nonduty disability retirement benefit end?** The department may require comprehensive medical examinations to reevaluate your eligibility for continued disability benefits according to the provisions of RCW 41.26.470(2). Your nonduty disability benefit will cease if:

- (a) You return to work in a LEOFF-eligible position; or
- (b) Medical examination reveals that you are no longer totally incapacitated for employment in a LEOFF-eligible position and you are no longer entitled to workers' compensation benefits under Title 51 RCW.

(14) **If I retire for a nonduty disability and die, will my survivor beneficiary receive a monthly allowance?** If you choose a benefit option with a survivor feature under WAC 415-104-215(2) at the time of retirement, your survivor beneficiary will receive a monthly allowance after your death.

(15) **What happens if I return to a LEOFF-eligible position?** If you return to a LEOFF-eligible position, your monthly allowance will stop.

(16) **If I return to a LEOFF-eligible position, how will my future retirement benefit be affected?** When you re-retire, your monthly allowance will be calculated pursuant to RCW 41.26.500 and WAC 415-104-111.

[Statutory Authority: RCW 41.50.050(5), 07-09-032, § 415-104-485, filed 4/10/07, effective 5/11/07.]

## 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

[Title 415 WAC—p. 97]

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.]

(2009 Ed.)

**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)	(1) Average of six readings in these speech frequencies not greater than 20 decibels with no level greater than 25 decibels. (divide by six)			(2)	50	(2)	(1)	
or								
b. Better ear . . . (1)	15	15	15	(2)	30	(2)	(1)	
Worse ear . . . (1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
(1) No requirement	"Better ear" is interpreted to mean the ear with better hearing at the frequency level being tested.							
(2) Not yet standardized								

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

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

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

- (1) **Limitation of motion:** An individual will be considered unacceptable if the joint ranges of motion are less than the measurements listed below;
  - (a) **Hip:**
    - (i) Flexion to 90°;
    - (ii) Extension to 10° (beyond 0);
  - (b) **Knee:**
    - (i) Full extension;
    - (b) Flexion to 90°;
  - (c) **Ankle:**
    - (i) Dorsiflexion to 10°;
    - (ii) Plantar flexion to 10°;

**(2) Foot and ankle:**

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

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

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

(d) Clubfoot;

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

(f) Flatfoot, spastic;

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

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

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

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

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

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

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

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

(i) Within the preceding six months;

(ii) Six months or more have elapsed since operation without recurrence, and there is instability of the knee ligaments in lateral 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 tissues 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) Angiomatoses, phakomatoses, 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 macule. 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 retrovulbar 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) Myastagmus, 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;

(2009 Ed.)

(18) **Vulva**:

- (a) Leukoplakia;
- (b) Vulvitis, acute or chronic.

(19) Major abnormalities and defects of the genitalia such as a change of sex, a history thereof, or complications (adhesions, disfiguring scars, etc.) residual to surgical correction of these conditions.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-600, filed 2/15/78. Formerly WAC 297-50-110.]

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

- (1) **Albuminuria** if persistent or recurrent including so-called orthostatic or functional albuminuria;
- (2) **Cystitis, chronic**: Individuals with acute cystitis are unacceptable until the condition is cured;
- (3) **Enuresis** determined to be a symptom of an organic defect not amendable to treatment, see also WAC 415-104-688;
- (4) **Epispadias or hypospadias** when accompanied by evidence of infection of the urinary tract or if clothing is soiled when voiding;
- (5) **Hematuria, cylindruria**, or other findings indicative of renal tract disease;
- (6) **Incontinence** of urine;
- (7) **Kidney**:
  - (a) Absence of one kidney, regardless of cause;
  - (b) Acute or chronic infections of the kidney;
  - (c) Cystic or polycystic kidney, confirmed history of;
  - (d) Hydronephrosis or pyonephrosis;
  - (e) Nephritis, acute or chronic;
  - (f) Pyelitis, pyelonephritis;
- (8) **Penis**, amputation of, if the resulting stump is insufficient to permit micturition in a normal manner;
- (9) **Peyronie's disease**;
- (10) **Prostate gland**, hypertrophy of, with urinary retention;
- (11) **Renal calculus**:
  - (a) Substantiated history of bilateral renal calculus at any time;
  - (b) Verified history of renal calculus at any time with evidence of stone formation within the preceding twelve months, current symptoms or positive X ray for calculus;
- (12) **Skeneitis**;
- (13) **Urethra**:
  - (a) Stricture of the urethra;
  - (b) Urethritis, acute or chronic, other than gonorrheal urethritis without complications;
- (14) **Urinary fistula**;
- (15) **Other diseases and defects of the urinary system** which obviously preclude satisfactory performance of duty or which require frequent and prolonged treatment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-605, filed 2/15/78. Formerly WAC 297-50-110.]

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

- (1) **Abnormalities** which are apparently temporary in character resulting from recent injuries until a period of three

[Title 415 WAC—p. 103]

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) **Unsightly 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 tachyarrhythmia, flutter, or fibrillation, ventricular tachycardia or fibrillation;

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

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

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

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

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

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

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

(8) **Tachycardia** persistent with a resting pulse rate of 100 or more, regardless of cause.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-620, filed 2/15/78. Formerly WAC 297-50-130.]

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

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

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

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

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

(5) **Thrombophlebitis:**

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

(b) Recurrent thrombophlebitis;

(6) **Varicose veins**, if more than mild, or if associated with edema, skin ulceration, or residual scars from ulceration.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-624, filed 2/15/78. Formerly WAC 297-50-130.]



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

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

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

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

(4) **Substantiated history of rheumatic fever or chorea** within the previous two years, recurrent attacks of rheumatic fever or chorea at any time, or with evidence of residual cardiac damage.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-628, filed 2/15/78. Formerly WAC 297-50-130.]

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

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

(2) **Women:** Height below . . . inches or over . . . inches, as specified by hiring agency.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-630, filed 2/15/78. Formerly WAC 297-50-140.]

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

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

(2) **Weight related to age and height** which is in excess of the maximum shown in WAC 415-104-650 (Table 2) for all applicants.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-634, filed 2/15/78. Formerly WAC 297-50-140.]

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

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

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

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

(4) **Obesity:** Even though the individual's weight is within the maximum shown in WAC 415-104-650 (Table 2) he will be reported as medically unacceptable when the medical and musculature, constitutes obesity of such a degree as to interfere with the satisfactory completion of prescribed training.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-638, filed 2/15/78. Formerly WAC 297-50-140.]

(2009 Ed.)

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

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

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

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

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

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

(6) **Acute nontuberculous pneumonia;**

(7) **Foreign body in trachea or bronchus;**

(8) **Foreign body of the chest wall** causing symptoms;

(9) **Lobectomy**, history of, for a nontuberculous 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 tubercular lesions of the lungs and chest are causes for rejection of membership:

(1) **Active tuberculosis** in any form or location;

(2) **Pulmonary tuberculosis**, active within the past five years;

(3) **Substantiated history or X-ray findings** of pulmonary tuberculosis of more than minimal extent at any time; or minimal tuberculosis not treated with a full year of approved chemotherapy or combined chemotherapy and surgery; or a history of pulmonary tuberculosis with reactivation, relapse, or other evidence of poor host resistance.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-644, filed 2/15/78. Formerly WAC 297-50-150.]

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

(1) **Acute mastitis**, chronic cystic mastitis, if more than mild;

(2) **Bronchial asthma**, except for childhood asthma with a trustworthy history of freedom from symptoms since the twelfth birthday;

(3) **Bronchitis**, chronic with evidence of pulmonary function disturbance;

(4) **Bronchiectasis;**

(5) **Bronchopleura fistula;**

(6) **Bullous or generalized pulmonary emphysema;**

(7) **Chronic abscess of lung;**

[Title 415 WAC—p. 105]

(8) **Chronic fibrous pleuritis** of sufficient extent to interfere with pulmonary function or obscure the lung field in the roentgenogram;

(9) **Chronic mycotic diseases** of the lung including coccidioidomycosis; residual cavitation or more than a few small-sized inactive and stable residual modules demonstrated to be due to mycotic disease;

(10) **Empyema**, residual sacculation or unhealed sinuses of chest wall following operation for empyema;

(11) **Extensive pulmonary fibrosis** from any cause, producing dyspnea on exertion;

(12) **Foreign body of the lung or mediastinum** causing symptoms or active inflammatory reaction;

(13) **Multiple cystic disease** of the lung or solitary cyst which is large and incapacitating;

(14) **New growth on breast, history of mastectomy;**

(15) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;

(16) **Pleurisy with effusion** of unknown origin within the preceding five years;

(17) **Sarcoidosis**, see WAC 415-104-710;

(18) **Suppurative periostitis** of rib, sternum, clavicle, scapula, or vertebra.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-648, filed 2/15/78. Formerly WAC 297-50-150.]

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

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

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

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

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

- (1) **Hard palate**, perforation of;
- (2) **Harelip**, unless satisfactorily repaired by surgery;
- (3) **Leukoplakia**, if severe;
- (4) **Lips**, unsightly mutilations of, from wounds, burns, or disease;

(5) **Ranula**, if extensive, see also WAC 415-104-720 and 415-104-725.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-660, filed 2/15/78. Formerly WAC 297-50-180.]

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

(1) **Allergic manifestations:**

- (a) Chronic atrophic rhinitis;
- (b) Hay fever if severe; or if not controllable by 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.]

**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

(2009 Ed.)

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

[Title 415 WAC—p. 107]

- (12) **Ichthyosis:** Severe;
- (13) **Leprosy:** Any type;
- (14) **Leukemia cutis;** mycosis fungoides, Hodgkins' disease;
- (15) **Lichen planus;**
- (16) **Lupus erythematosus** (acute, subacute, or chronic) or any other dermatosis aggravated by sunlight;
- (17) **Neurofibromatosis** (Von Recklinghausen's disease);
- (18) **Nevi or vascular tumors:** If extensive, unsightly, or exposed to constant irritation;
- (19) **Psoriasis** or verified history thereof;
- (20) **Radiodermatitis;**
- (21) **Scars** which are so extensive, deep, or adherent that they may interfere with the wearing of required equipment, or that show a tendency to ulcerate;
- (22) **Scleroderma:** Diffuse type;
- (23) **Tuberculosis,** see WAC 415-104-710;
- (24) **Warts, plantar,** which have materially interfered with the following of a useful vocation in civilian life;
- (25) **Urticaria:** Chronic;
- (26) **Xanthoma:** If disabling or accompanied by hypercholesterolemia or hyperlipemia;
- (27) **Any other chronic skin disorder** of a degree or nature which requires frequent outpatient treatment or hospitalization, interferes with the satisfactory performance of duty, or is so disfiguring as to make the individual objectionable in ordinary social relationships.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-690, filed 2/15/78. Formerly WAC 297-50-210.]

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

- (1) **Arthritis,** see WAC 415-104-588(1);
- (2) **Complaint of disease or injury of the spine or sacroiliac joints** either with or without objective signs and symptoms which have prevented the individual from successfully following a physically active vocation in civilian life. Substantiation or documentation of the complaint without symptoms and objective signs is required;
  - (3) **Deviation or curvature of spine** from normal alignment, structure, or function (scoliosis, kyphosis, or lordosis, spina bifida occulta, spondylolysis, etc.) if:
    - (a) Mobility and weight-bearing power is poor;
    - (b) More than moderate restriction of normal physical activities is required;
    - (c) Of such a nature as to prevent the individual from following a physically active vocation in civilian life;
    - (d) Of a degree which will interfere with the wearing of required equipment;
    - (e) Symptomatic, associated with positive physical finding(s) demonstrable by X ray;
  - (4) **Disease of the lumbosacral or sacroiliac joints** of a chronic type and obviously associated with pain referred to the lower extremities, muscular spasm, postural deformities and limitation of motion in the lumbar region of the spine;
  - (5) **Granulomatous diseases** either active or healed;

(6) **Healed fracture of the spine or pelvic bones** with associated symptoms which have prevented the individual from following a physically active vocation in civilian life or which preclude the satisfactory performance of required duties;

(7) **Ruptured nucleus pulposus** (herniation of intervertebral disk) or history of operation for this condition;

(8) **Spondylolysis or spondylolisthesis** that is symptomatic or is likely to interfere with performance of duty or is likely to require assignment limitations.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-700, filed 2/15/78. Formerly WAC 297-50-220.]

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

(1) **Fractures,** until well healed, and until determined that the residuals thereof will not preclude satisfactory performance of required duties;

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

(3) **Osteomyelitis** of rib, sternum, clavicle, scapula, or vertebra;

(4) **Prominent scapulae** interfering with function or with the wearing of required equipment.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-705, filed 2/15/78. Formerly WAC 297-50-220.]

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

- (1) **Dermatomyositis;**
- (2) **Lupus erythematosus;** acute, subacute, or chronic;
- (3) **Progressive systemic sclerosis;**
- (4) **Reiter's disease;**
- (5) **Sarcoidosis;**
- (6) **Scleroderma,** diffuse type;
- (7) **Tuberculosis:**
  - (a) Active tuberculosis in any form or location;
  - (b) Pulmonary tuberculosis;
  - (c) Confirmed history of tuberculosis of a bone or joint, genitourinary organs, intestines, peritoneum or mesenteric glands at any time;
  - (d) Meningeal tuberculosis; disseminated tuberculosis.

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

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

- (1) **Allergic manifestations:**
  - (a) Allergic rhinitis (hay fever), see WAC 415-104-570(2);
  - (b) Asthma, see WAC 415-104-670 (2)(c);
  - (c) Allergic dermatoses, see WAC 415-104-690;
  - (d) Visceral, abdominal, and cerebral allergy, if severe or not responsive to treatment;
- (2) **Any acute pathological condition,** including acute communicable diseases, until recovery has occurred without sequelae;

(3) **Any deformity** which is markedly unsightly or which impairs general functional ability to such an extent as to prevent satisfactory performance of duty;

(4) **Chronic metallic poisoning** especially beryllium, manganese, and mercury. Undesirable residuals from lead, arsenic, or silver poisoning make the examinee medically unacceptable;

(5) **Cold injury**, residuals, of (example: frostbite, chilblain, immersion foot, or trench foot) such as deep seated acne, paresthesia, hyperhidrosis, easily traumatized skin, cyanosis, amputation of any digit or ankylosis;

(6) **Positive tests for syphilis** with negative TPI test unless there is a documented history of adequately treated lues or any of the several conditions which are known to give a false-positive S.T.S. (vaccinia, infectious hepatitis, immunizations, a typical pneumonia, etc.) or unless there has been a reversal to a negative S.T.S. during an appropriate follow-up period (three to six months);

(7) **Filariasis; trypanosomiasis; amebiasis; schistosomiasis;** (hookworm) associated with anemia, malnutrition, etc., if more than mild, and other similar worm or animal parasitic infestations, including the carrier states thereof;

(8) **Heat pyrexia** (heatstroke, sunstroke, etc.): Documented evidence of predisposition (includes disorders of sweat mechanism and previous serious episode), recurrent episodes requiring medical attention, or residual injury resulting therefrom (especially cardiac, cerebral, hepatic, and renal);

(9) **Industrial solvent and other chemical intoxication, chronic** including carbon bisulfide, 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;

(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;

(2009 Ed.)

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

(7) **Tumors of the internal or external female genitalia.**

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-720, filed 2/15/78. Formerly WAC 297-50-240.]

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

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

(2) **Malignant lymphomata;**

(3) **Malignant tumor of any kind**, at any time, substantiated diagnosis of, even though surgically removed, confirmed by accepted laboratory procedures, except as noted in WAC 415-104-590 (1)(f).

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-725, filed 2/15/78. Formerly WAC 297-50-240.]

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

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

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

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

(3) **Neurosyphilis**, see WAC 415-104-670 (1)(c).

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

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

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

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

(a) Hospitalization;

(b) Prolonged care by a physician;

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

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

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

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

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

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

(c) Chronic alcoholism or alcohol addiction;

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

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

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

(7) **Specific learning defects** secondary to organic or functional mental disorders.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-740, filed 2/15/78. Formerly WAC 297-50-260.]

**WAC 415-104-745 Mental examination—Requirement.** All applicants must be screened by a licensed physician, who may at his discretion, request the assistance of a psychiatrist or clinical psychologist.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-745, filed 2/15/78. Formerly WAC 297-50-260.]

**WAC 415-104-750 Mental examination—Procedure.**

(1) Applicants will complete preliminary history forms as required by the examiner. The "report of medical history" completed by the applicant will be made available to the examiner.

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

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

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

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

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

(4) The mental examination report will be retained in permanent files by the employing fire department and must be available for examination at any reasonable time by representatives of the retirement system board.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-750, filed 2/15/78. Formerly WAC 297-50-270.]

**WAC 415-104-755 Mental examination—Retention by employing department.** The employing fire department shall permanently retain the results of the mental examination as conducted by the examiner under WAC 415-104-750.

[Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-104-755, filed 2/15/78. Formerly WAC 297-50-260.]

**ELECTED OFFICIALS**

**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 offi-

cial 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

#### GENERAL PROVISIONS

415-105-010	Preamble.
415-105-020	Purpose.
415-105-030	Board doctor.
415-105-040	Disability leave.
415-105-050	Examination, review and determination.
415-105-060	Granting disability retirement.
415-105-070	Decision and order.
415-105-072	Burden of proof to cancel disability allowance.
415-105-074	Determination to cancel disability allowance.
415-105-080	Notice of denial of benefits and right to appeal.
415-105-090	Reexamination after retirement.

#### CESSATION OF DISABILITY

415-105-100	Purpose—Age fifty and older.
415-105-110	Application to disability board—Age fifty and older.
415-105-120	Burden of proof in disability board proceedings.
415-105-130	Standard for determination.
415-105-140	Examination by board physician.
415-105-150	Disability board order.

#### CESSATION OF DISABILITY WHILE UNDER AGE FIFTY

415-105-160	Purpose—Under age fifty.
415-105-170	Application to the disability board—Under age fifty.
415-105-180	Disability board hearing and order.

### GENERAL PROVISIONS

**WAC 415-105-010 Preamble.** These rules are not intended to weaken the authority of the local disability board nor to prevent the disability board from adopting additional rules or procedures necessary for performing its duties.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-010, filed 8/3/99, effective 9/3/99. 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 under the authority of section 1, chapter 294, Laws of 1981 (RCW 41.26.115) to provide a basis for uniform administration of disability retirement matters. These rules must be followed by each disability board.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-020, filed 8/3/99, effective 9/3/99. 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) Each board must appoint a board doctor. The board must not approve a disability retirement without prior examination of the applicant by the board doctor or a specialist selected by the board doctor. The board doctor must be a practicing physician licensed under the provisions of chapter 18.71 RCW; or, if the board doctor practices outside the state of Washington, then he/she must be a physician licensed by the state in which he/she practices.

(2) The board doctor and any selected specialist must be knowledgeable about the normal, routine duties, functions and general demands of the position the applicant held at the time the applicant discontinued service.

(3) The board must furnish the examining physician with the applicant's job and/or position description. The board must inform the physician that the board's decision to grant or deny a disability retirement allowance is to be measured against the actual, normal, routine duties that the applicant performs.

(4) The board doctor or approved specialist will provide medical services requested by the board including examinations pursuant to RCW 41.26.120(1); 41.26.125(1); 41.26.130(5); and 41.26.150 (1)(a).

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-030, filed 8/3/99, effective 9/3/99. 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) The applicant must prove the existence of:

(a) A disabling condition; and

(b) Whether or not the condition was incurred in the line of duty.

(2) The application must include the name of each physician contacted by the applicant within the last six months for the disabling illness or injury. The applicant must advise each examining physician that:

(a) The board has requested the evaluation;

(b) Any reports of the evaluation will be reviewed by the board;

(c) That the doctor-patient privilege may not be invoked with respect to the evaluation; and

(d) The physician may be requested by the board to testify as to his or her findings.

(3) The disability board is authorized to demand the appearance of the applicant and to request the appearance of any other persons it deems appropriate.

(4) Following receipt of an application for disability benefits, the board must:

(a) Review the application and all relevant information about the applicant's fitness for duty;

(b) Consider the duties of the applicant's position; and

(c) Consider any other pertinent evidence.

The board must either grant or deny disability leave based on the evidence or continue the matter pending receipt of additional information.

(5) If the information before the board is insufficient to determine whether or not the applicant is disabled, the matter can be continued to the next regular meeting or set for consideration at a special meeting. The board must advise the applicant of:

(a) The additional information needed;

(b) The applicant's obligation to provide the additional information; and

(c) The date by which the information must be provided.

(6) The applicant may waive any or all of the disability leave granted pursuant to RCW 41.26.120(4) and 41.26.125 (4).

(7) The board is not to use the minimum medical and health standards (MMHS) to determine whether or not an applicant is unfit for duty. The MMHS established pursuant to RCW 41.26.046 govern entry or reentry into LEOFF System membership and were provided only to safeguard the fiscal integrity of the pension system.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-040, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 81-23-032 (Order 81-03), § 415-105-040, filed 11/16/81.]

**WAC 415-105-050 Examination, review and determination.** (1) The board must have the applicant examined during the fifth or sixth month of disability leave. The examination is to be performed by the board doctor or a specialist selected by the board doctor. The board shall not approve the disability retirement without this examination unless:

(a) The applicant establishes that the disabling condition will exist for at least six months; and

(b) The applicant voluntarily waives disability leave.

(2) Following receipt of the examination report, the board must:

(a) Review the medical evidence and all relevant information about the applicant's fitness for duty;

(b) Consider the duties of the applicant's position; and

(c) Consider any other pertinent evidence.

The board must either grant or deny disability retirement based on the evidence or return the applicant to duty for a reasonable period of trial service.

(3) If the board cannot determine with reasonable certainty whether or not the applicant is disabled, the board may issue a written order that the applicant is to return to duty for a reasonable period of trial service to determine the applicant's fitness for active duty.

(a) The length of the trial service period must be supported by medical evidence.

(b) During the period of trial service the applicant is to return to the same duties in the same position held at the time of discontinuance of service.

(c) If the applicant is found to be disabled, the board is not to grant a second six-month period of disability leave, but is to return the applicant to disability leave status for the remainder, if any, of the initial six-month leave period.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-050, filed 8/3/99, effective 9/3/99. 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) The applicant is required to prove that he or she is disabled and unable to perform with average efficiency the duties of the position held at the time of discontinuance of service.

(2) The board must determine, based on the evidence, that the applicant is disabled from performing his or her duties and the disability has been continuous since the beginning of the disability leave period.

(3) The board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period if:

(a) The regular meeting of the board does not precede the end of the six-month disability leave period by more than forty days; and

(b) Medical evidence shows the disability is expected to continue through the full six-month period.

(4) The applicant is not entitled to a disability retirement allowance if:

(a) The employer advises the board that there is an available position for which the applicant is qualified and to which a person of the same grade or rank is normally assigned; and

(b) The board determines that the applicant is capable of discharging the duties of the position with average efficiency.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-060, filed 8/3/99, effective 9/3/99. 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 Decision and order.** (1) After granting or denying a disability retirement allowance, the board must enter a written decision and order that includes:

(a) Appropriate findings of fact supported by credible evidence sufficient to sustain the decision; and

(b) Conclusions of law.

(2) When a disability retirement allowance is granted, the decision and order and all supporting documentation must be sent to the director of the department of retirement systems.

(a) The accompanying findings of fact shall include at least the following:

(i) The applicant's length of service with the employer and the position held at discontinuance of service;

(ii) The names of the examining physicians and the dates of the examinations;

(iii) The nature of the disability;

(iv) Whether or not the disability was incurred in the line of duty;

(v) Whether or not the disability was incurred in other employment;

(vi) Dates encompassing disability leave;

(vii) Dates related to authorized return to duty on a trial basis and the factual basis for the decision; and

(viii) Dates encompassing waiver of disability leave, if applicable, and that applicant established that the disability will be continuous for at least six months.

(b) The supporting documentation shall include a copy of at least the following:

(i) The application for disability benefits showing the applicant's current mailing address;

(ii) The job description accurately reflecting the duties of the position the applicant held at discontinuance of service;

(iii) Employer statement(s), if any, relevant to the applicant's position and/or fitness for duty;

(iv) All medical and other evidence considered by the board; and

(v) The minutes and/or transcript of all meetings at which the applicant's disability status was considered.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-070, filed 8/3/99, effective 9/3/99. 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 415-105-072 Burden of proof to cancel disability allowance.** The disability board has the burden of proof in any proceeding to cancel a disability retirement allowance.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-072, filed 8/3/99, effective 9/3/99.]



**WAC 415-105-074 Determination to cancel disability allowance.** The board need not rely solely on medical evidence in making its determination. To cancel a disability retirement allowance, the board must demonstrate that:

(1) The retiree is reasonably able to perform the ordinary duties of his or her former position or a position within the retiree's former rank with average efficiency; and

(2) There has been a material change in the circumstances upon which the retirement was based; and

(3) No other physical or mental disability now prevents the retiree from performing the ordinary duties of his or her position or rank.

The board may not cancel a disability retirement allowance based on a determination that the medical condition was incorrectly diagnosed at the time of the initial disability hearing. 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 or her duties with average efficiency, the retiree shall continue to receive the disability retirement allowance. The board must send a copy of all determinations and the examination reports and other evidence on which they are based to the department of retirement systems.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-074, filed 8/3/99, effective 9/3/99.]

**WAC 415-105-080 Notice of denial of benefits and right to appeal.** (1) The board must immediately notify the applicant if the board:

(a) Denies disability leave or retirement; or

(b) Cancels a previously granted disability leave or retirement.

(2) The board must advise the applicant of his or her right to appeal the board's decision to the director of the department of retirement systems pursuant to RCW 41.26.-200.

(3) Notification and advice must be in writing and served by personal service or mail unless the applicant or the applicant's authorized representative attends the meeting and is advised in person of the board's decision and the applicant's right to appeal.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-080, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 81-23-032 (Order 81-03), § 415-105-080, filed 11/16/81.]

**WAC 415-105-090 Reexamination after retirement.**

(1) Every retiree under 49.5 years of age must be medically reexamined every six months by the board doctor or approved physician, except as provided in subsection (4) of this section.

(2) The retirement allowance of any retiree who fails to submit to a medical examination as required in subsection (1) of this section shall be discontinued until the retiree complies with the reexamination requirement. If the retiree continues for one year to refuse to undergo reexamination, the board shall cancel his or her retirement allowance.

(3) If the retiree resides more than one hundred miles from his or her former employer, the board may authorize the retiree to be examined by a physician in the retiree's local area. The board must approve the local area physician and provide him or her with information about the purpose of the

(2009 Ed.)

examination and the issues to be addressed in the physician's report to the board.

(4) If the board doctor or approved physician finds that no possibility exists for the retiree's recovery and return to duty, the board may determine that subsequent medical examinations are not required. The determination may be made at the time of retirement or at any time thereafter, but must be based on a current (within ninety days) recommendation of the examining physician. The board must notify the department of retirement systems when it makes a determination of permanent disability. A copy of the physician's report must accompany the notice.

(5) If the examination shows that the retiree is fit to perform the duties of the rank or position held at retirement, the retiree shall be entitled to a hearing before the board. The notification and hearing shall comply with the requirements of the Administrative Procedure Act, chapter 34.05 RCW. Unless the retiree waives his or her right to the hearing, the board must hold the hearing before it can cancel the disability retirement allowance.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-090, filed 8/3/99, effective 9/3/99. 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—Age fifty and older.**

These rules are adopted under 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 age fifty and older who seeks a determination that his/her disability has ceased.

[Statutory Authority: RCW 41.50.050, 99-16-075, § 415-105-100, filed 8/3/99, effective 9/3/99. 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—Age fifty and older.** (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 and that no

other physical or mental disability now prevents the retiree from performing the ordinary duties of his/her position or rank;

(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 41.50.050. 99-16-075, § 415-105-110, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115. 87-07-015 (Order 87-3), § 415-105-110, filed 3/11/87.]

**WAC 415-105-120 Burden of proof in disability board proceedings.** The retiree has the burden of proof in the proceedings before the disability board.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-120, filed 8/3/99, effective 9/3/99. 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 must 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 must 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.

[Title 415 WAC—p. 114]

(3) The board doctor or other physician will 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 41.50.050. 99-16-075, § 415-105-140, filed 8/3/99, effective 9/3/99. 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.** (1) The board must review the application, the medical evaluation by the board doctor, and any other relevant evidence. The board must determine whether the 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.

(2) If the board determines that the retiree's disability has ceased, it shall enter its written decision and order including appropriate findings of fact and conclusions of law. The disability board must:

(a) Enter a decision which specifies the date the disability retirement allowance will cease;

(b) Immediately send a copy of the decision and order to the department of retirement systems.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-150, filed 8/3/99, effective 9/3/99. 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 under 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/her disability has ceased.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-160, filed 8/3/99, effective 9/3/99. 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 apply for a determination that the disability has ceased. The application must be:

(a) Made to the disability board which originally found the member to be disabled; and

(b) In writing; and

(c) Contain the information stated in WAC 415-105-110(2).

Thereafter, the rules and procedures stated in WAC 415-105-120 through 415-105-140 shall be in effect.

[Statutory Authority: RCW 41.50.050. 99-16-075, § 415-105-170, filed 8/3/99, effective 9/3/99. 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) The board must review the application, the medical evaluation of the board doctor, and any other relevant evidence. The board must then determine whether the retiree has met the standards set out in WAC 415-105-130 and is

(2009 Ed.)

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 34.05 RCW.

(2) After the hearing, the board must enter its written decision and order, including appropriate findings of fact and conclusions of law. The board order must either deny the retiree's application or cancel his/her disability retirement allowance and restore 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 41.50.050, 99-16-075, § 415-105-180, filed 8/3/99, effective 9/3/99. Statutory Authority: RCW 41.26.115, 87-07-015 (Order 87-3), § 415-105-180, filed 3/11/87.]

### Chapter 415-106 WAC

#### PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM

##### WAC

##### DEFINITIONS

415-106-010 Definitions.

##### ADMINISTRATION

415-106-050 How does the department comply with Internal Revenue Code distribution rules?  
415-106-060 What are the IRS limitations on maximum benefits and maximum contributions?  
415-106-070 Assets for exclusive benefit of members and beneficiaries.  
415-106-080 Actuarial tables, schedules, and factors.

##### MEMBERSHIP

415-106-100 Am I eligible for PSERS membership?  
415-106-105 May I join PSERS if my duties qualify for PSERS membership, but my employer is not specifically listed in WAC 415-106-010(2)?  
415-106-110 If I am a member of PERS, may I change my membership to PSERS?

##### REPORTABLE COMPENSATION

415-106-200 Purpose and scope of reportable compensation rules.  
415-106-205 What is reportable compensation?  
415-106-210 What types of payments are considered reportable compensation?  
415-106-215 Are salary increases based on longevity or educational attainment considered reportable compensation?  
415-106-220 Are overtime payments reportable compensation?  
415-106-225 Is standby pay reportable compensation?  
415-106-230 Is performance pay reportable compensation?  
415-106-235 Is a retirement bonus or incentive reportable compensation?  
415-106-240 Are payments for reinstatement or payment instead of reinstatement reportable compensation?  
415-106-245 Are retroactive salary increases reportable compensation?  
415-106-250 Is severance pay reportable compensation?  
415-106-255 Is sick leave or vacation leave, whether used or cashed out, reportable compensation?  
415-106-260 Is paid leave, which is not earned over time, reportable compensation?  
415-106-265 Is the pay I receive from my employer when I am on union leave reportable compensation?  
415-106-270 Is compensation for periods of absence due to sickness or injury reportable compensation?  
415-106-275 Are disability insurance or workers' compensation payments reportable compensation?

(2009 Ed.)

415-106-280 Will the compensation that is imputed to periods of unpaid leave be used in the calculation of my AFC?  
415-106-285 Is the pay I receive while on legislative leave reportable compensation?  
415-106-290 Is compensation applied toward cafeteria plans reportable compensation?  
415-106-295 Are fringe benefits reportable compensation?  
415-106-300 Are payroll deductions reportable compensation?  
415-106-305 Are payments, which are outside my employer's legal authority, reportable compensation?  
415-106-310 Are optional payments reportable compensation?  
415-106-315 Are nonmoney payments from my employer reportable compensation?  
415-106-320 Are reimbursements for business expenses reportable compensation?  
415-106-325 Vehicles—Is the value of my use of an employer's vehicle reportable compensation?  
415-106-330 Are vehicle allowances reportable compensation?

##### ELECTED AND APPOINTED OFFICIALS

415-106-400 If I establish PSERS membership and now hold a state elective position, may I continue to accrue service credit in PSERS?  
415-106-401 If I hold a state elective position before establishing PSERS membership, may I establish service credit for my prior service in the state elective position?  
415-106-405 May I retire from PSERS while holding a state elective position?

##### DISABILITY BENEFITS

415-106-500 PSERS disability benefits.

##### RETIREMENT

415-106-600 What are my retirement benefit options?  
415-106-610 How do I apply for retirement benefits?  
415-106-620 How does the department calculate my retirement allowance?

##### POSTRETIREMENT EMPLOYMENT

415-106-700 As a PSERS retiree, how will my retirement allowance be affected if I return to employment?  
415-106-710 How does the department calculate my retirement allowance if I reenter PSERS membership and then re-retire?  
415-106-900 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?

##### DEFINITIONS

**WAC 415-106-010 Definitions.** The definitions in RCW 41.37.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.37 RCW are defined in this chapter.

(1) **AFC** means average final compensation as defined in RCW 41.37.010(14).

(2) **Employer** means the state or local government entities as defined in RCW 41.37.010(4) employing members eligible for PSERS.

(3) **Full-time employee** means an employee who is regularly scheduled to provide at least one hundred sixty hours of compensated service for an employer each calendar month.

(4) **LEOFF** means the law enforcement officers' and fire fighters' retirement system.

(5) **PERS** means the public employees' retirement system.

(6) **PSERS** means the public safety employees' retirement system.

(7) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.37.010(6).

(8) **SERS** means the school employees' retirement system.

(9) **TRS** means the teachers' retirement system.

[Title 415 WAC—p. 115]

(10) **WSPRS** means the Washington state patrol retirement system.

(11) **County corrections department** means any subsection or unit of a county employing correctional employees.

(12) **City corrections department** means any subsection or unit of a city employing correctional employees.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-046, § 415-106-010, filed 12/27/07, effective 1/27/08.]

## ADMINISTRATION

**WAC 415-106-050 How does the department comply with Internal Revenue Code distribution rules?** (1) This section applies only to the public safety employees' retirement system (PSERS).

(2) All benefits paid from the PSERS retirement plan shall be distributed in accordance with the requirements of IRC section 401 (a)(9) and the regulations under that section. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(a) Distribution of a member's benefit must begin by the later of the April 1 of the year following the calendar year in which a member attains age seventy and one-half or the April 1 of the year following the calendar year in which the member retires;

(b) The member's entire benefit must be distributed over the member's life or the lives of the member and a designated beneficiary;

(c) The life expectancy of a member or the member's spouse or beneficiary may not be recalculated after the benefits commence;

(d) If a member dies before the distribution of the member's benefits has begun, distribution of the member's entire interest must be distributed in accordance to IRC section 401 (a)(9) and the regulations implementing that section. Distributions must occur over the life expectancy of the designated beneficiary and must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died;

(e) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Federal Internal Revenue Code; and

(f) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death. Death benefits must be distributed in accordance with IRC section 409 (a)(9) and the regulations implementing that section.

(3) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to IRC section 401 (a)(31).

(a) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually)

made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(ii) Any distribution to the extent such distribution is required under IRC section 401 (a)(9);

(iii) The portion of any distribution that is not includible in gross income; and

(iv) Any other distribution that is reasonably expected to total less than two hundred dollars during the year.

(b) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, effective for taxable years beginning prior to January 1, 2007, this portion may be paid only to an individual retirement account or annuity described in IRC section 408 (a) or (b), or to a qualified defined contribution plan described in IRC section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Provided, however, effective for taxable years beginning after December 31, 2006, this portion may be paid only to:

(i) An individual retirement account or annuity described in IRC section 408 (a) or (b);

(ii) A qualified defined contribution plan described in IRC section 401(a);

(iii) A qualified plan described in IRC section 403(a);

(iv) A qualified defined benefit plan described in IRC section 401(a); or

(v) An annuity contract described in IRC section 403(b), and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(c) An eligible retirement plan for a distributee is:

(i) An individual retirement account described in IRC section 408(a);

(ii) An individual retirement annuity described in IRC section 408(b);

(iii) An annuity plan described in IRC section 403(a);

(iv) A qualified trust described in IRC section 401(a), that accepts the distributee's eligible rollover distribution;

(v) An annuity contract described in IRC section 403(b);

(vi) An eligible plan under IRC section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; or

(vii) Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in IRC section 408A.

(d) The definition of eligible retirement plan in (c) of this subsection shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p).

(e) A distributee includes an employee or former employee. In addition, the employee's or former employee's

surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

(f) A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(g) Effective for distributions after December 31, 2006, if, with respect to any distribution from the account of a deceased PSERS member, a direct trustee-to-trustee transfer is made to an individual retirement plan (an individual retirement account or annuity described in IRC section 408 (a) or (b)) established to receive distributions for the designated beneficiary of the deceased PSERS member, and the designated beneficiary is not the surviving spouse, then:

(i) The transfer shall be treated as an eligible rollover distribution;

(ii) The individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of IRC 408 (d)(3)(C)); and

(iii) The distribution requirements of IRC section 401 (a)(9)(B) (other than clause (iv) thereof), as clarified by IRS Notice 2007-7 for this purpose, shall apply to the individual retirement plan.

To the extent provided in federal regulations, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-050, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-060 What are the IRS limitations on maximum benefits and maximum contributions?** (1) This section applies only to the public safety employees' retirement system (PSERS). Subject to the provisions of this section, benefits paid from, and employee contributions made to, the plan shall not exceed the maximum benefits and the maximum annual addition, respectively, as applicable under IRC section 415.

(2) A participant may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415 (b)(1)(A), subject to the applicable adjustments in IRC section 415. For purposes of applying IRC 415(b) when a participant retires before age sixty-two or after age sixty-five, the determination as to whether the benefit satisfies IRC section 415(b) limitations is made by comparing the equivalent annual benefit, determined in Step 1, (a) of this subsection, with the age-adjusted dollar limit, determined in Step 2, (b) of this subsection. The plan will satisfy IRC section 415(b) limitations only if the equivalent annual benefit determined in Step 1 is less than the age-adjusted dollar limit determined in Step 2.

(a) **Step 1:** Under IRC 415 (b)(2)(B), determine the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the plan benefit. In general, IRC 415 (b)(2)(E)(i) and (v) require that the equivalent annual benefit be the greater of (a)(i) or (ii) of this subsection. This step applies only to a benefit that is required to be converted to a straight life annuity under IRC section 415 (b)(2)(B), for example, a qualified joint and survivor annuity.

(i) The equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable (plan rate and plan mortality table, or plan tabular factor, respectively).

(ii) The equivalent annual benefit computed using a five percent interest rate assumption and the applicable mortality table.

(b) **Step 2:** Under IRC 415 (b)(2)(C) or (D), determine the IRC 415(b) dollar limitation that applies at the age the benefit is payable (age-adjusted dollar limit).

(i) If the age at which the benefit is payable is less than sixty-two, the age-adjusted dollar limit is determined by reducing the dollar limit on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the age-adjusted dollar amount be the lesser of (b)(i)(A) or (B) of this subsection.

(A) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(B) The amount computed using five percent interest and the applicable mortality table described in the Federal Internal Revenue Service's (IRS) Revenue Ruling 2001-62. (This is used only to the extent described in Q&A 6 of Revenue Ruling 98-1. Q&A 6 states that for purposes of adjusting any limitation under IRC 415 (b)(2)(C) or (D), if forfeiture does not occur upon death, the mortality decrement may be ignored prior to age sixty-two and must be ignored after the Federal Social Security Retirement Age.)

(ii) If the age at which the benefit is payable is greater than age sixty-five, the age-adjusted dollar limit is determined by increasing the IRC section 415(b) dollar limitation on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the increased age-adjusted dollar limit be the lesser of (b)(ii)(A) or (B) of this subsection.

(A) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(B) The equivalent amount computed using five percent interest and the applicable mortality table (used to the extent described in Q&A 6, as described in the prior paragraph).

The dollar limit will be reduced proportionally for less than ten years of participation. For example, if you have five years of service the IRC section 415(b) limit is reduced to 5/10 (fifty percent) of the limit.

(3) The maximum annual addition that may be contributed or allocated to a participant's account for any limitation year may not exceed the lesser of:

(a) Forty thousand dollars, which limit shall be adjusted for increases in the cost-of-living under IRC section 415(d); or

(b) One hundred percent of the member's compensation, within the meaning of IRC section 415 (c)(3), for the limitation year.

(4) Notwithstanding any other provision of law to the contrary, the department may modify a request by a participant to make a contribution to the retirement plan if the amount of the contributions would exceed the limits under IRC section 415(c) or 415(n).

(5) The definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with IRC section 415 includes the amount of any elective deferral, as defined in IRC section 402 (g)(3), or any contribution which is made or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC sections 125, 132 (f)(4), or 457, but excludes member contributions picked under IRC section 414 (h)(2).

(6) The annual compensation taken into account in calculating retiree benefits under this system must not exceed the limits imposed by IRC section 401 (a)(17) for qualified trusts. This limitation shall be adjusted for cost of living increases in accordance with IRC section 401 (a)(17)(B).

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-060, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-070 Assets for exclusive benefit of members and beneficiaries.** No assets of the public safety employees' retirement system may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-070, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-080 Actuarial tables, schedules, and factors.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances for PSERS members.

[Statutory Authority: RCW 41.50.050(5), chapters 41.37, 41.45, and 41.50 RCW. 08-02-046, § 415-106-080, filed 12/27/07, effective 1/27/08.]

## MEMBERSHIP

**WAC 415-106-100 Am I eligible for PSERS membership?** On or after July 1, 2006, you are eligible for PSERS membership according to the provisions in this section.

(1) Subject to the exceptions in subsection (2) of this section, you will be a PSERS member on the date you become employed in a full-time position for an employer as defined in WAC 415-106-010, provided one or more of the following applies:

(a) The position requires completion of a certified criminal justice training course and you are authorized by your employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job.

(b) Your primary responsibility is to ensure the custody and security of incarcerated or probationary individuals.

(c) You are a limited authority Washington peace officer, as defined in RCW 10.93.020.

(d) Your primary responsibility is to supervise members eligible under this section.

(2) You are exempt from PSERS membership if:

(a) One or more of the exemptions in RCW 41.37.020 apply to you;

(b) You are a retirement system retiree, estopped from membership under RCW 41.04.270;

(c) You are, or have been, a PERS Plan 1 member; or

(d) You were a PERS Plan 2 or 3 member on July 1, 2006, and are not required to join PSERS membership according to WAC 415-106-110.

[Statutory Authority: RCW 41.50.050(5), 10.93.020, 41.04.270, 41.37.010 (4) and (5), and 41.37.020. 08-02-046, § 415-106-100, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-105 May I join PSERS if my duties qualify for PSERS membership, but my employer is not specifically listed in WAC 415-106-010(2)?** You do not qualify for membership unless your department or agency is specifically listed in WAC 415-106-010(2), even if your employer employs one or more elected or appointed officials who are PSERS members.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(4). 08-02-046, § 415-106-105, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-110 If I am a member of PERS, may I change my membership to PSERS?** You may have the right to change your retirement system membership from PERS to PSERS according to the requirements in this section.

(1) You may change retirement system membership from PERS to PSERS if:

(a) You were a member of either PERS Plan 2 or Plan 3 prior to July 1, 2006; and

(b) On July 1, 2006, you meet the requirements for membership in WAC 415-106-100.

(2) If you meet the conditions in subsection (1) of this section and wish to change membership from PERS to PSERS, you must submit a properly completed election form to your employer during the election period that begins on July 1, 2006, and ends on September 30, 2006.

(3) Your change in membership is prospective only.

(a) You become a member of PSERS on the election date shown on your election form.

(b) You will become a dual member of PSERS and PERS. All service credit and compensation previously reported in PERS will remain in PERS. Your retirement benefits will be governed by the dual member "portability" provisions in chapters 41.54 RCW and 415-113 WAC.

(4) If you meet the conditions in subsection (1) of this section and do not change membership to PSERS on or before September 30, 2006, you may not become a member of PSERS while you continue employment with the same employer. However, if you terminate your employment with the employer with whom you were employed on July 1, 2006, and become employed in a PSERS eligible position with another employer after July 1, 2006, you will be mandated into PSERS membership.

[Statutory Authority: RCW 41.50.050(5), chapters 41.37 and 41.45 RCW, and RCW 41.40.113. 08-02-046, § 415-106-110, filed 12/27/07, effective 1/27/08.]

## REPORTABLE COMPENSATION

**WAC 415-106-200 Purpose and scope of reportable compensation rules.** WAC 415-106-205 through 415-106-330 codify the department's interpretation of statutes and administrative practice regarding classification of payments

received by members. The department applies these rules to all payments.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-046, § 415-106-200, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-205 What is reportable compensation?** Reportable compensation is subject to retirement system contributions and is used in the calculation of your retirement benefit.

(1) The department determines whether payments you receive are reportable compensation based on the nature of the payment, not the name of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of "compensation earnable" in RCW 41.37.010(6). It must:

(a) Be paid to you by an employer as a salary or wage for services you provided; or

(b) Qualify as reportable compensation under chapter 41.37 RCW or this chapter.

(2) Your employer must report all of your reportable compensation to the department. Your employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: Bill is paid in July for work performed during June. The employer must report his compensation to the department as "June earnings."

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-205, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-210 What types of payments are considered reportable compensation?** The following table indicates whether certain types of payments are reportable compensation under PSERS, and provides a cross-reference to the applicable WAC.

Type of Payment	PSERS Reportable Compensation?
Annual leave cash outs	No - WAC 415-106-255
Assault pay (state employees)	Yes - WAC 415-106-270
Base rate	Yes - WAC 415-106-215
Cafeteria plans	Yes - WAC 415-106-290
Deferred wages	Yes - WAC 415-106-300
Disability insurance payments	No - WAC 415-106-275
Disability: Salary imputed while on duty-disability leave	Yes - WAC 415-106-270
Employer provided vehicle	No - WAC 415-106-325
Employer taxes/contributions	No - WAC 415-106-300
Fringe benefits, including insurance	No - WAC 415-106-295
Illegal payments	No - WAC 415-106-305
Legislative leave	Yes - WAC 415-106-285
Longevity/education attainment pay	Yes - WAC 415-106-215
Nonmoney compensation	No - WAC 415-106-315
Optional payments	No - WAC 415-106-310
Overtime payments	Yes - WAC 415-106-220

(2009 Ed.)

Type of Payment	PSERS Reportable Compensation?
Performance pay	Yes - WAC 415-106-230
Paid leave	Yes - WAC 415-106-260
Reimbursements	No - WAC 415-106-320
Reinstatement payments	Yes - WAC 415-106-240
Retirement or termination bonus	No - WAC 415-106-235
Retroactive salary increase	Yes - WAC 415-106-245
Severance pay	No - WAC 415-106-250
Shared leave (state employees)	Yes - WAC 415-106-270
Sick leave cash outs	No - WAC 415-106-255
Standby pay	Yes - WAC 415-106-225
Time off with pay	Yes - WAC 415-106-255
Union leave <sup>1</sup>	Yes - WAC 415-106-265
Unpaid leave <sup>2</sup>	Yes - WAC 415-106-280
Vehicle allowances	No - WAC 415-106-330

<sup>1</sup>Only specific types of union leave are reportable. See WAC 415-106-265.

<sup>2</sup>Only the unpaid leave specified in WAC 415-106-280(2) will be used in the calculation of your AFC.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-210, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-215 Are salary increases based on longevity or educational attainment considered reportable compensation?** Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services you provide and qualifies as reportable compensation. Your rate of salary may be based in part 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 service due to greater experience or more education.

(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 compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-215, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-220 Are overtime payments reportable compensation?** Overtime is additional pay you earn for working time in excess of your regularly scheduled shift, and is reportable compensation. Some examples of overtime are:

(1) **Additional pay for working on a holiday.** If you receive an extra payment for working on a scheduled holiday, the payment is overtime. Your employer may make the additional payment when the holiday occurs or in a lump sum at some other time.

Example: Bill works on Christmas day. He is given the option of taking another day off with pay or receiving an extra day's pay. If he opts for the extra pay, the payment is overtime and is reportable compensation. If he takes another day off in

[Title 415 WAC—p. 119]

lieu of the extra pay, it is paid leave and also qualifies as reportable compensation.

(2) **Callback pay.** If your employer offers you a special rate of pay for returning to work when called after the end of your regular shift, it is overtime.

(3) **Court pay.** If you receive an additional payment for appearing in court or performing other duties outside your regularly scheduled shift, it is overtime.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-220, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-225 Is standby pay reportable compensation?** Standby means you are required by your employer to be prepared to report immediately for work if the need arises, although the need may not arise. According to RCW 41.37.010 (6)(b)(vi):

(1) The pay you receive for being on standby qualifies as reportable compensation; however

(2) The time you spend on standby is not counted toward service credit and is not reported to the department by your employer.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-225, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-230 Is performance pay reportable compensation?** Performance pay for meeting certain performance goals is reportable compensation because it is paid for services provided. Employers must document the dates over which the performance pay is earned, and provide that information if requested by the department.

**Example:** An employer offers each employee in a work group an additional \$100 if the work group has no work-related accidents during the upcoming year. Remaining accident free is a performance goal. Therefore the payment will be for services provided and will qualify as reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-230, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-235 Is a retirement bonus or incentive reportable compensation?** A payment made as a bonus or incentive to retire is not a payment for services provided, and 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 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(5) and 41.37.010(6). 08-02-046, § 415-106-235, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-240 Are payments for reinstatement or payment instead of reinstatement reportable compensation?** (1) Payments you receive upon reinstatement or instead of reinstatement are reportable compensation to the extent they are equivalent to the salary you would have

[Title 415 WAC—p. 120]

earned by working in your position. RCW 41.37.010 (6)(b)(i) defines these payments as reportable compensation even though they are not payments for services you provided to your employer. The payment will be prorated over the entire period you were suspended, terminated, or otherwise absent from work.

(2) For purposes of this section, "reinstatement" means that you are entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-240, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-245 Are retroactive salary increases reportable compensation?** A retroactive salary increase occurs when your rate of pay is increased and made retroactive to a prior date. You receive a lump sum payment to cover the increase earned during the earlier period.

(1) To qualify as reportable compensation under this section, the retroactive salary increase 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 a claim before a court or administrative agency for a retroactive salary increase;

(c) A collective bargaining agreement; or

(d) Action by a personnel resources board which expressly states the payments are retroactive.

(2) Your employer must report compensation for the month in which it was earned.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-245, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-250 Is severance pay reportable compensation?** Severance pay, whether or not it is earned over time, is not reportable compensation. See RCW 41.37.010 (6)(a).

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-250, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-255 Is sick leave or vacation leave, whether used or cashed out, reportable compensation?**

(1) **Sick and annual leave (used).** Most PSERS members earn a certain number of sick leave and annual leave hours per month. These leave hours are earned by providing service during the month in which the leave accrues. The payment you receive when you use an earned leave day is reportable compensation.

(2) **Sick and annual leave cash outs.** Under RCW 41.37.010 (6)(a), sick and annual leave cash outs are not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-255, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-260 Is paid leave, which is not earned over time, reportable compensation?** To the extent authorized by RCW 41.37.260, payment you receive from your

(2009 Ed.)



employer while on an authorized paid leave of absence is reportable compensation provided that:

(1) The payment does not exceed the salary for the position from which you are on leave; and

(2) The payment is received from the employer, not from a third party. Except as provided in WAC 415-106-265, if you receive the payment from your employer, but your employer is reimbursed for the payment by a third party, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.260. 08-02-046, § 415-106-260, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-265 Is the pay I receive from my employer when I am on union leave reportable compensation?** If you take an authorized leave of absence to serve as an elected official of a labor organization and you receive payment from your employer during your leave, the payment may be reportable compensation even if the union reimburses your employer. To qualify as reportable compensation, the payment must meet the specific conditions of RCW 41.37.-260(2).

[Statutory Authority: RCW 41.50.050(5) and 41.37.260. 08-02-046, § 415-106-265, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-270 Is compensation for periods of absence due to sickness or injury reportable compensation?** Compensation you receive for periods of absence due to sickness or injury, which is not covered by earned sick leave, qualifies as reportable compensation only as authorized by RCW 41.37.010(6) and this section.

(1) **Assault pay** qualifies as reportable compensation to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Duty disability.** You may make contributions and receive up to twelve consecutive months of service credit for periods of disability covered by Title 51 RCW or similar federal workers' compensation program as provided in RCW 41.37.060. In this case, the compensation you would have received but for the disability qualifies as reportable compensation to the extent authorized by RCW 41.37.060.

(3) **Shared leave.**

(a) If you are a state employee, as defined in RCW 41.04.655, the compensation you receive due to participation in a leave-sharing program qualifies as reportable compensation to the extent authorized by RCW 41.04.650 through 41.04.670.

(b) If you are not a state employee, shared leave payments are not specifically authorized by RCW 41.37.010(6) and do not qualify as reportable compensation.

[Statutory Authority: RCW 41.50.050(5), 27.04.100, 41.04.650 through 41.04.670, 41.37.010(6), 41.37.060, 72.01.045, and 72.09.240. 08-02-046, § 415-106-270, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-275 Are disability insurance or workers' compensation payments reportable compensation?**

(1) Disability insurance payments are not reportable compensation, whether the payments come directly from your employer or from an insurance company.

(2) Workers' compensation payments are not reportable compensation.

(2009 Ed.)

**Example:** Susan, an employee on unpaid disability leave, submits her workers' compensation payments to her employer. The employer then issues Susan a check for the same amount through the payroll system. Even though the payment may have the appearance of compensation from the employer, it is not a payment for services provided and is not reportable compensation.

(3) See WAC 415-106-270 for information about service credit and imputed compensation for periods of duty disability.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-275, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-280 Will the compensation that is imputed to periods of unpaid leave be used in the calculation of my AFC? (1) Authorized unpaid leave.** If you establish service credit under RCW 41.37.260 for periods of unpaid leave, the compensation imputed to the period of time you are on leave will not be included in your AFC. See WAC 415-02-175.

(2) **Military leave.** If you purchase service credit for a period of interruptive military service and that period falls in your AFC period, federal law entitles you to have the salary you would have earned during that time period used in the calculation of your AFC.

[Statutory Authority: RCW 41.50.050(5) and 41.37.260. 08-02-046, § 415-106-280, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-285 Is the pay I receive while on legislative leave reportable compensation?** If you take leave without pay from an eligible PSERS position to serve in the legislature, you may elect to participate in PSERS as a legislator.

For any year in which you serve in the legislature, you may choose that your reportable compensation be either:

(1) The reportable compensation you would have earned had you not served in the legislature; or

(2) The compensation you actually received for nonlegislative public employment and the legislative service combined.

If you choose the option in subsection (1) of this section, you must pay the additional employer and employee contributions to the extent the compensation reported is higher than it would have been under subsection (2) of this section.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-285, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-290 Is compensation applied toward cafeteria plans reportable compensation?** Compensation you receive and apply toward a benefit plan under Internal Revenue Code (IRC) section 125 is reportable compensation if you have an absolute right to receive cash or deferred cash payments instead of participating in the plan. If there is no cash option, the value of participating in the plan is not reportable compensation. See WAC 415-106-295.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-290, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-295 Are fringe benefits reportable compensation?** Fringe benefits provided by an employer are not a salary or wage, and are not reportable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; and
- (3) Any employer payments into a private fund to provide health or welfare benefits for you or your dependents, with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-106-290.

[Statutory Authority: RCW 41.50.050(5), chapter 41.37 RCW and IRS regulations. 08-02-046, § 415-106-295, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-300 Are payroll deductions reportable compensation?** Amounts withheld from your salary or wages are reportable compensation. Examples include:

- (1) Your member contributions to PSERS. Your employer's contributions are a fringe benefit and are not reportable compensation. See WAC 415-106-295.
- (2) Amounts withheld for federal income tax purposes; and
- (3) Other authorized voluntary deductions, such as deferred compensation or IRC section 457 plan contributions.

[Statutory Authority: RCW 41.50.050(5), 41.37.010(6) and IRS regulations. 08-02-046, § 415-106-300, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-305 Are payments, which are outside my employer's legal authority, reportable compensation?** Payments made by an employer that go beyond the employer's legal authority are not reportable.

[Statutory Authority: RCW 41.50.050(5). 08-02-046, § 415-106-305, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-310 Are optional payments reportable compensation?** If you receive an additional payment only on the condition of taking an action other than providing service to your employer, the payment is not reportable compensation.

**Example:** An employer offers to make a contribution to Joe's deferred compensation plan only if Joe agrees to have a portion of his salary deferred. Because Joe does not have a right to receive the contribution based solely on providing service, the payment is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5). 08-02-046, § 415-106-310, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-315 Are nonmoney payments from my employer reportable compensation?** Nonmoney compensation is compensation legally provided to you in a form other than money. Examples include: Living quarters, food, board, equipment, clothing, laundry, transportation, fuel and utilities. The value of nonmoney maintenance compensation you receive from your employer is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-046, § 415-106-315, filed 12/27/07, effective 1/27/08.]

[Title 415 WAC—p. 122]

**WAC 415-106-320 Are reimbursements for business expenses reportable compensation?** Reimbursements are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050(5). 08-02-046, § 415-106-320, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-325 Vehicles—Is the value of my use of an employer's vehicle reportable compensation?** The value of an employer-provided vehicle is not reportable compensation.

[Statutory Authority: RCW 41.50.050(5). 08-02-046, § 415-106-325, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-330 Are vehicle allowances reportable compensation?** (1)(a) A vehicle allowance is not reportable compensation if it is received in lieu of expenses you incur or expect to incur in using your own vehicle for business purposes.

(b) A vehicle allowance qualifies as reportable compensation to the extent that it exceeds your actual expenses. For instance, if you receive both a vehicle allowance and separate reimbursements for vehicle expenses each time you use a privately owned vehicle for business purposes, the vehicle allowance is reportable compensation.

(2) To prove that your vehicle allowance exceeded your actual expenses, your employer must maintain ongoing monthly records, documenting:

- (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;
- (c) Your itinerary for each of these trips; and
- (d) The amount of the allowance less the actual expenses, using IRS methodology. Under the IRS methodology, your actual expenses are the miles you drove multiplied by the IRS rate.

(i) The miles you drove are the number of miles you drove a privately owned vehicle for business purposes during the month.

(ii) "IRS rate" means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(3) If a vehicle allowance exceeds actual expenses, your employer must report the excess, calculated in subsection (2)(d) of this section.

(4) If any part of a vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150.

[Statutory Authority: RCW 41.50.050(5), 41.50.150 and IRS regulations. 08-02-046, § 415-106-330, filed 12/27/07, effective 1/27/08.]

## ELECTED AND APPOINTED OFFICIALS

**WAC 415-106-400 If I establish PSERS membership and now hold a state elective position, may I continue to accrue service credit in PSERS?** If you are an active PSERS member and are elected or appointed by the governor to a state elective position, you have the option to continue as

(2009 Ed.)

a contributing member of PSERS, as limited by the requirements in this section.

(1) You must submit a written application directly to the department.

(2) If you submit your application before your service in a state elective position starts:

(a) Your employee contributions will be deducted from your compensation for your elective service.

(b) Except as provided in WAC 415-106-285, your employer(s) will pay the required employer contributions.

(3) If you submit your application mid-term (after your service in a state elective position has started):

(a) You and your employer will begin making contributions according to subsection (2) of this section.

(b) You must establish service credit for the prior portion of your current term by paying the employee contributions plus interest. Your employer must pay the required employer contributions plus interest.

(4) If you submit your application after your service in a state elective position has been completed, you must pay the required employee and employer contributions for the service credit with interest as determined by the department. Your former employer, at its discretion, may pay the required employer contributions plus interest.

(5) If you work in a PSERS eligible position at the same time you accrue service credit in a state elective position:

(a) Employee contributions will be deducted from your compensation for your service in the PSERS position and in the state elective position; and

(b) Both employers will make employer contributions.

(6) You will earn one service credit month for each calendar month during which you provide service in a state elective position. If you provide concurrent service in a PSERS eligible position, you will not receive additional service credit for that service.

(7) Once you start to accrue service credit in PSERS for a state elective position you must remain an active PSERS member until:

(a) You separate from all eligible public employment. You are not separated from eligible public employment if:

(i) You are reelected or reappointed to a successive term or terms of office; or

(ii) You resign from your state elective position and later resume service in the same state elective position during the same term.

(b) You retire from PSERS, whether or not you continue to serve in your elective position. See WAC 415-106-405.

(8) A state elective position is any position held by any person:

(a) Elected or appointed to a statewide office; or

(b) Elected or appointed as a member of the legislature.

[Statutory Authority: RCW 41.50.050(5) and 41.37.020(2). 08-02-046, § 415-106-400, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-401 If I hold a state elective position before establishing PSERS membership, may I establish service credit for my prior service in the state elective position?** If you held a state elective position before you established PSERS membership, you have the option to establish service credit for the time you served in the state elective position as limited by the following requirements:

(1) You must be an active PSERS member at the time you submit your application.

(2) The term of office must have begun on or after July 1, 2006.

(3) You must submit a written application directly to the department.

(4) You must pay the required employee and employer contributions for the service credit with interest as determined by the department. Your former employer, at its discretion, may pay the employer contributions plus interest.

(5) You must establish service credit for a full term of office. You may not establish service for only a portion of your term in office. However, if you served multiple terms, you are not required to establish service credit for all of the terms served.

[Statutory Authority: RCW 41.50.050(5) and 41.37.020(2). 08-02-046, § 415-106-401, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-405 May I retire from PSERS while holding a state elective position?** (1) If you are holding a state elective position and accruing PSERS service credit for your service in that position, you may retire from PSERS and continue to work in your elective position provided:

(a) You are eligible to retire under RCW 41.37.210;

(b) You submit a written statement to the department, waiving the right to earn PSERS service credit for any future period of service in a state elective position; and

(c) Your compensation in the state elective position is fifteen thousand dollars or less per year, adjusted annually for inflation by the director. See subsection (2) of this section.

(2) The compensation threshold in subsection (1)(c) of this section is adjusted on April 1 of each year, based on the average consumer price index for Seattle for the previous calendar year. Effective April 2006, the threshold is \$21,551. You may contact the department for the threshold in effect for subsequent years.

[Statutory Authority: RCW 41.50.050(5), 41.37.020(2) and 41.37.210. 08-02-046, § 415-106-405, filed 12/27/07, effective 1/27/08.]

## DISABILITY BENEFITS

**WAC 415-106-500 PSERS disability benefits.** This section covers disability benefits provided for in RCW 41.37.230. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on-the-job or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for disability benefits if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other PSERS position for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation.

Vocational and/or occupational evidence may be required at the discretion of the department.

**(2) If eligible, what will I receive as a monthly disability allowance?**

(a) If you have at least ten years of service credit in PSERS, you will receive a monthly allowance equal to two percent of your AFC times your service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age **sixty**. Your monthly allowance may be further reduced to offset the cost of the benefit option you choose. See WAC 415-106-600.

(b) If you have less than ten years of service credit, you will receive a monthly allowance<sup>1</sup> equal to two percent of your AFC times your service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age **sixty-five**. Your monthly allowance may be further reduced to offset the cost of the benefit option you choose. See WAC 415-106-600.

<sup>1</sup>You may choose to receive a lump sum payment instead of a monthly allowance if your initial monthly allowance will be less than fifty dollars. See RCW 41.37.200.

See WAC 415-02-320 for early retirement factors and examples.

**(3) How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete and sign the application. If you are married, your spouse must sign consent to the benefit option you select. You, and your spouse if you are married, must have your signatures notarized.

(ii) **Part 2:** Employer's statement and report. Your employer must complete and sign Part 2, and return it directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return it directly to the department. You are responsible for all medical expenses related to your application for benefits. A copy of your job description must be provided to the physician at time of examination.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

**(4) What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

**(5) If I am eligible to retire, may I still apply for disability benefits?** Yes, however, you should request a benefit estimate from the department, as there may be a difference in the dollar amount of your monthly allowance.

**(6) Once my application is approved, when will my monthly allowance begin?**

(a) Your disability allowance will accrue from the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PSERS employment.

(i) If you are continuing to perform the duties of your position or another PSERS position, you may reapply for disability benefits according to subsection (3) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

**(7) What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PSERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

**(8) Are my disability benefits taxable?** You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

**(9) Are disability benefits subject to court or administrative orders?** Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.37.090(3) or contact the department.

**(10) Am I eligible for disability benefits if my disability is the result of my criminal conduct?** No. See RCW 41.37.100.

**(11) How is my disability benefit affected if I am a member of more than one retirement system?** If you are a member of more than one retirement system, your benefit is governed by portability law. See chapters 41.54 RCW and 415-113 WAC. You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

(12) **How long will I continue to receive a monthly disability allowance?** You may receive a monthly allowance throughout your lifetime, subject to the provisions of subsection (13) of this section.

(13) **Is it possible to lose my monthly disability allowance after I begin receiving it?**

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive a disability allowance if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.37.010(4), at a comparable compensation.

(b) If you return to employment and reenter PSERS membership, your benefits will cease.

(14) **If I take my disability benefit in a lump sum and return to work, may I restore my service credit?** Yes, you may restore your service credit if you take a lump sum benefit and return to PSERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165 and 41.37.200.

[Statutory Authority: RCW 41.50.050(5), 41.37.010(4), 41.37.090(3), 41.37.100, 41.37.200, 41.37.230, 41.50.165, and chapter 41.54 RCW. 08-02-046, § 415-106-500, filed 12/27/07, effective 1/27/08.]

## RETIREMENT

**WAC 415-106-600 What are my retirement benefit options?** Upon retirement for service under RCW 41.37.210 or retirement for disability under RCW 41.37.230, you must choose to have your retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly retirement allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the depart-

ment will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.37.170(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will accrue from the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example: John retires from PSERS in 2006. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2011. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2006	2,000.00	1,750.00		0.00
2007		1,750.00	.02	35.00
2008		1,785.00	.03	53.55
2009		1,838.55	.025	45.96

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2010		1,884.51	.03	56.54
2011	2,000.00	1,941.05	—	—
Original Option One Monthly Allowance \$2000		+ Total COLAs	= New Monthly Allowance	191.05
		+ \$191.05	= \$2,191.05	

**(6) May I change my benefit option after retirement?**

Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.37.050(3).

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

**(7) Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(ii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate. See RCW 41.37.170.

[Statutory Authority: RCW 41.37.170, 41.50.050(5), 41.37.050, 41.37.170, 41.37.210, 41.37.230, and 41.50.790. 08-02-046, § 415-106-600, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-610 How do I apply for retirement benefits?** You should apply for retirement benefits at least thirty days before your intended retirement date by submitting to the department:

(1) A completed, signed and notarized retirement application, including:

(a) Your selection of one of the benefit options described in WAC 415-106-600.

(b) Designation of a survivor beneficiary if you selected a benefit option with a survivor feature.

(c) If you are married, your spouse's notarized signature indicating consent to the retirement option you selected.

(i) If you are married and you do not provide spousal consent, the department will pay you a monthly retirement allowance based on WAC 415-106-600 (2)(c), option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.37.170 (2)(a).

(ii) Spousal consent is not required if a dissolution decree designating your survivor beneficiary under RCW 41.50.790 was filed with the department at least thirty days prior to your retirement date.

(2) Evidence of your birth date, such as a photocopy of your certified birth certificate, passport, naturalization certificate, certificate of armed services record U.S. DD 214, or other documentation acceptable to the department.

(3) If you selected a benefit option with a survivor feature, acceptable evidence of your designated survivor beneficiary's birth date.

[Statutory Authority: RCW 41.50.050(5), 41.37.170 and 41.50.790. 08-02-046, § 415-106-610, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-620 How does the department calculate my retirement allowance?** (1) When you apply for retirement, you will first receive a provisional retirement allowance.

(a) The department will calculate the provisional allowance based on:

(i) The data for service credit and reportable compensation in the department's system at the time it is calculated; and

(ii) Projections of your salary for periods that have not yet been reported by your employer.

(b) The department will pay you the provisional allowance until your actual retirement allowance has been calculated.

(2) To compute your actual allowance, the department must receive a final compensation report from your employer. The department may also require any of the following from your employer:

(a) Earnings history.

(b) Copies of your employment contract(s).

(c) Copies of your employer's compensation policies.

(3) The department will make a final calculation of your actual retirement allowance by making a final determination of your service credit and AFC and by applying the correct

formula to these values. Your actual retirement allowance may be higher or lower than your provisional allowance.

(4) If the amount of your actual allowance is different from your provisional allowance, the department will make the necessary adjustments.

(a) If you were underpaid, the department will pay you a lump sum payment equal to the difference of the total provisional payments you received and the total you would have received based on your actual allowance.

(b) If you were overpaid, the department will recover the overpayment either through a lump sum payment, monthly installment payments, or through an actuarial reduction of your actual allowance.

[Statutory Authority: RCW 41.50.050(5) and 41.37.190. 08-02-046, § 415-106-620, filed 12/27/07, effective 1/27/08.]

## POSTRETIREMENT EMPLOYMENT

**WAC 415-106-700 As a PSERS retiree, how will my retirement allowance be affected if I return to employment?** (1) You may work as many hours as you choose and continue to receive your retirement allowance if:

(a) You return to work as an employee for a private employer;

(b) You return to work as a bona fide independent contractor as defined in WAC 415-02-110;

(c) Your only employment is as an elected official of a city or town and you are not a PERS member;

(d) You work in an ineligible position; or

(e) You are a retiree returning as an active member of a higher education retirement plan.

(2) If you return to work in a **PERS, SERS, or TRS Plan 2 or 3 eligible position**, your retirement allowance will be affected as follows:

(a) If you return to work within thirty consecutive calendar days from your accrual date (effective retirement date):

(i) Your monthly retirement allowance will be reduced by five and one-half percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent from such employment for thirty calendar days.

(ii) The reduction provided in (a)(i) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any reduction over one hundred percent will be applied to the allowance you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(b) If you return to work after thirty consecutive calendar days have elapsed, you may work for eight hundred sixty-seven hours each calendar year before your retirement allowance is suspended.

(3) If you return to work in an eligible **PSERS position**, your retirement allowance will be affected as follows:

(a) If you return to an eligible PSERS position and elect to reenter membership, your retirement allowance will be suspended. If you make this election, your retirement allowance will be recalculated pursuant to WAC 415-106-710 when you rehire.

(b) If you return to an eligible PSERS position within thirty consecutive days of your accrual date (effective retirement date) and do not reenter membership, your monthly retirement allowance will be reduced by five and one-half

percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent from such employment for thirty calendar days. The reduction will accrue for a maximum of one hundred sixty hours per month. Any reduction over one hundred percent will be applied to the allowance you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(c) If you return to an eligible PSERS position after thirty consecutive days of your accrual date (effective retirement date) and do not reenter membership, your retirement allowance will be suspended.

### (4) What hours are counted toward the limits?

#### (a) Hours that count toward the limits are:

(i) All compensated hours that you work in an eligible position for any employer whose retirement plan is administered by the department;

(ii) Used earned sick leave and vacation days;

(iii) Paid holidays; and

(iv) Compensatory time, whether you use the time or cash it out.

(b) **Not counted toward the hour limits:** Unused sick and vacation leave you cash out.

(5) **What happens if I work over the annual hour limit?** The department will:

(a) Suspend your retirement allowance on the day following the day you exceed the limit, and prorate your payment for that month.

(b) Restart your retirement allowance the next calendar year or the day after you terminate all employment identified in subsection (2) of this section, whichever occurs first.

(c) Recover any overpayments made to you for the month(s) in which you exceeded the hour limit and received a retirement allowance. See RCW 41.50.130.

[Statutory Authority: RCW 41.50.050(5), 41.37.050, 41.50.130, chapters 41.32, 41.35, and 41.40 RCW. 08-02-046, § 415-106-700, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-710 How does the department calculate my retirement allowance if I reenter PSERS membership and then rehire?** If you return to work in an eligible PSERS position, you have the option of reentering membership. If you reenter membership, your retirement allowance will be calculated according to this section when you rehire.

(1) **If you previously retired before age sixty, the department will:**

(a) Calculate your retirement allowance pursuant to RCW 41.37.190 using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your AFC resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To account for any lump sum payment you took at the time of your previous retirement, plus interest, unless you choose to repay the entire amount before you rehire;

(iii) To reflect the difference in the number of years between your current age and the attainment of age sixty, if you are not yet age sixty; and

(iv) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-106-600.

(2) **If you previously retired at or after age sixty, the department will:**

(a) Calculate your retirement allowance pursuant to RCW 41.37.190 using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your AFC resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) To account for any lump sum payment you took at the time of your previous retirement, plus interest, unless you choose to repay the entire amount before you retire; and

(ii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-106-600.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

[Statutory Authority: RCW 41.50.050(5), 41.37.050, 41.37.180, and 41.37.190. 08-02-046, § 415-106-710, filed 12/27/07, effective 1/27/08.]

**WAC 415-106-900 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** (1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.37.250.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.37.250(2), but your spouse dies before

requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

EXAMPLE ONE.

**Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

**Result**

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.37.-250.

EXAMPLE TWO.

**Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

**Result**

Because John has created no trust, Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

**Facts**

When she became a PSERS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

**Result**

Unless required to do otherwise by a court order, the department will comply with RCW 41.37.250(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

**Facts**

John is a PSERS member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW



41.37.250(2). However, Mary died the following week before requesting a distribution from the department.

### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5) and 41.37.250. 08-02-046, § 415-106-900, filed 12/27/07, effective 1/27/08.]

## Chapter 415-108 WAC

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM

#### WAC

#### DEFINITIONS

415-108-010 Definitions in the public employees' retirement system.

#### ADMINISTRATION

415-108-020 Public records.  
415-108-030 Statewide cities retirement system.  
415-108-070 Excess contributions to employees' savings fund.  
415-108-170 Business hours.  
415-108-181 How does the department comply with Internal Revenue Code distribution rules?  
415-108-182 What are the IRS limitations on maximum benefits and maximum contributions?  
415-108-183 Assets for exclusive benefit of members and beneficiaries.

#### BENEFIT OPTIONS

415-108-315 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?  
415-108-324 I am married - do I need my spouse's consent on the retirement option I choose?  
415-108-326 What are my retirement benefit options?  
415-108-340 Actuarial tables, schedules, and factors.  
415-108-400 Purpose and scope.  
415-108-410 Definitions.  
415-108-420 Scope of authority.  
415-108-425 How do I determine if I have choice rights or transfer rights to PERS Plan 3?  
415-108-430 Procedure.  
415-108-436 PERS Plans 2 and 3 disability benefits.  
415-108-440 Revocability.

#### REPORTABLE COMPENSATION

415-108-441 Purpose and scope of compensation earnable rules.  
415-108-443 PERS reportable compensation table.  
415-108-445 What compensation can be reported?  
415-108-451 Salary or wages.  
415-108-453 Performance bonuses.  
415-108-455 Cafeteria plans.  
415-108-456 Leave payments earned over time.  
415-108-457 Retroactive salary increases.  
415-108-458 Severance pay earned over time.  
415-108-459 Payroll deductions.  
415-108-463 Payments not for services rendered.  
415-108-464 Legislative leave.  
415-108-465 Is paid leave not earned over time reportable compensation for PERS?  
415-108-466 Do I receive reportable compensation for union leave?  
415-108-467 Reinstatement or payment instead of reinstatement.  
415-108-468 Compensation authorized by statute for periods of absence due to sickness or injury.  
415-108-469 Standby pay.  
415-108-470 Nonmoney maintenance.  
415-108-475 Fringe benefits.  
415-108-477 Disability insurance.  
415-108-479 Workers' compensation.  
415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable?  
415-108-482 Illegal payments.  
415-108-483 Optional payments.  
415-108-484 Reimbursements for expenses.  
415-108-485 Vehicle allowances—Are vehicle allowances earnable compensation?  
415-108-487 Retirement bonus or incentive.

415-108-488 Severance pay not earned over time—Contract buy outs.  
415-108-491 Salary imputed to periods of unpaid leave.  
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.

#### MEMBERSHIP

415-108-520 Membership exceptions—Student and spouse of student.  
415-108-550 Elected officials—Eligibility and application for retirement service membership.  
415-108-560 Appointed officials—Eligibility and application for retirement service membership.  
415-108-570 As an elected or appointed official, what are my requirements for service credit?  
415-108-575 May I retire from PERS while holding an elective position?  
415-108-620 Requirements for a union to be a PERS I union employer.  
415-108-630 Calculation and verification of PERS membership requirement.  
415-108-640 Effect of meeting union verification requirements.  
415-108-650 Effect on union seeking to maintain union employer status if verification requirement is not met.  
415-108-660 Plan I union employer verification form.  
415-108-679 Purpose and scope of eligibility rules.  
415-108-680 Am I eligible for membership?  
415-108-690 How is my membership eligibility evaluated?  
415-108-700 Can I qualify for membership if I work in more than one ineligible position with the same employer?  
415-108-710 What are the PERS retiree return to work rules?  
415-108-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position?  
415-108-725 If I have retired from another retirement plan or am eligible to retire, am I excluded from participating in PERS?  
415-108-726 Can I earn service credit in PERS and another retirement plan at the same time?  
415-108-727 Can I transfer service credit earned as a cadet in the public employees' retirement system to the Washington state patrol retirement system Plans 1 or 2?  
415-108-728 If I work concurrently in a PERS position and TRS position, which system will I be in?  
415-108-730 Membership for city managers.  
415-108-800 When do I enter retirement status?  
415-108-805 What is the PERS Plan 1 minimum allowance?

#### SERVICE RETIREMENT

415-108-810 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure.  
415-108-815 What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?  
415-108-820 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors.  
415-108-830 How does the department calculate the retirement allowance of a PERS Plan 2 or Plan 3 member who retires, reenters PERS membership, and then retires again?  
415-108-980 Will I receive a transfer payment when I transfer to Plan 3?  
415-108-990 May I waive my Plan 3 one percent retirement benefit?

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

415-108-0101 Level of union organization—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0101, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.  
415-108-0102 Normally—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0102, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.  
415-108-0103 Project position—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0103, filed

	7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-130	11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). Location. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-130, filed 2/15/78.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-0104	Report—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0104, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-150	Meetings. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-150, filed 2/15/78. Formerly WAC 184-01-050.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-0105	Retirement plan—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0105, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-160	Office of chairman. [Statutory Authority: RCW 41.50.-050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-160, filed 2/15/78. Formerly WAC 184-01-060.] Repealed by 93-11-077, filed 5/18/93, effective 6/18/93. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a).
415-108-0106	Union—Definition. [Statutory Authority: RCW 41.50.-050. 95-16-053, § 415-108-0106, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.-050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-180	Correspondence. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-0107	Union employer—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0107, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-190	Nominations. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-0108	Year—Definition. [Statutory Authority: RCW 41.50.-050. 95-16-053, § 415-108-0108, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.-050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-195	Identification. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-0109	System acronyms—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-0109, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-108-0109, filed 7/25/95, effective 8/25/95.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.-010(4), chapter 41.40 RCW.	415-108-200	Disability and benefit claims. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-0110	Reportable compensation—Definition. [Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0110, filed 4/17/98, effective 5/18/98.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.-010(4), chapter 41.40 RCW.	415-108-210	Disability and benefit claims—Acknowledgment and forms. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-0111	Annual leave—Definition. [Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-0111, filed 4/17/98, effective 5/18/98.] Repealed by 01-21-090, filed 10/22/01, effective 11/22/01. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW.	415-108-220	Disability and benefit claims—Processing applications. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-040	Appeals—Disability cases. [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.] Repealed by 02-12-084, filed 6/4/02, effective 7/5/02. Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42. Later promulgation, see chapter 415-08 WAC.	415-108-230	Disability and benefit claims—Recording. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-050	Appeal to superior court—Notice. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.	415-108-240	Disability and benefit claims—Legal examination. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-108-060	Appeal to superior court—Certification of record. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.	415-108-250	Disability and benefit claims—Medical examination. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
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).	415-108-260	Disability and benefit claims—Medical recommendation. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
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).	415-108-270	Disability and benefit claims—Recommendation and conclusion. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
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-	415-108-280	Disability and benefit claims—Board decision on application. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.

filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.

- 415-108-290 Disability and benefit claims—Notification of member. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
- 415-108-300 Identification. [Statutory Authority: RCW 41.50.050(6) and 41.50.090. 78-03-023 (Order IV), § 415-108-300, filed 2/15/78. Formerly WAC 184-03-120.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-195.
- 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.
- 415-108-322 Definitions for purposes of WAC 415-108-320 through 415-108-326. [Statutory Authority: RCW 34.05.050 and 1990 c 249. 91-03-015, § 415-108-322, 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.
- 415-108-450 Compensation earnable for Plan I PERS members. [Statutory Authority: RCW 41.40.010(8). 88-11-030 (Order 88-11), § 415-108-450, filed 5/13/88.] Repealed by 98-09-059, filed 4/17/98, effective 5/18/98. Statutory Authority: RCW 41.50.050.
- 415-108-460 Compensation earnable for Plan II PERS members. [Statutory Authority: RCW 41.40.010(8). 88-11-030 (Order 88-11), § 415-108-460, filed 5/13/88.] Repealed by 98-09-059, filed 4/17/98, effective 5/18/98. Statutory Authority: RCW 41.50.050.
- 415-108-461 Standby pay—Location restricted compensation. [Statutory Authority: RCW 41.50.050 and 41.40.020. 94-16-086, § 415-108-461, 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.
- 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.
- 415-108-490 Back pay award or settlement—Definition—Allocated by the department for retirement system purposes. [Statutory Authority: RCW 41.40.010(8) and 41.40.-020. 87-17-061 (Order DRS 87-08), § 415-108-490, filed 8/19/87.] Repealed by 98-09-059, filed 4/17/98, effective 5/18/98. Statutory Authority: RCW 41.50.-050.
- 415-108-500 Public employees' retirement board. [Statutory Authority: RCW 41.40.120(17). 86-13-023 (Order 86-3), § 415-108-500, filed 6/10/86.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-730.
- 415-108-530 Calculation of retirement allowance pursuant to *Bowles v. Retirement Systems*—Eligibility—Procedure. [Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-530, filed 5/5/94, effective 6/5/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-810.
- 415-108-540 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. [Statutory Authority: RCW 41.50.050 and *Bowles v. Retirement Systems*, 121 Wn.2d 52 (1993). 94-11-009, § 415-108-540, filed 5/5/94, effective 6/5/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-820.
- 415-108-580 Actuarial recomputation of retirement allowance upon retirement following reemployment. [Statutory Authority: RCW 41.50.050. 94-09-040, § 415-108-580, filed 4/19/94, effective 5/20/94.] Decodified by 97-19-035, filed 9/9/97, effective 9/9/97. Recodified as WAC 415-108-830.
- 415-108-671 Administration of early retirement. [Statutory Authority: RCW 41.50.050. 93-20-020, § 415-108-671, filed 9/24/93, effective 10/25/93.] Repealed by 99-12-041,

## DEFINITIONS

**WAC 415-108-010 Definitions in the public employees' retirement system.** All definitions in RCW 41.40.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.40 RCW are defined in this chapter.

(1) **Annual leave** means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different from vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(2) **Level of union organization** means a union or a lodge or division of a union.

(3) **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.

(4) **Project position** means a position, established by an employer, which has a specific goal and end date.

(5) **Public corporation** means a public corporation created under RCW 35.21.730. A public corporation may be admitted as an "employer" under the definition in RCW 41.40.010(4).

(6) **Report** means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

(7) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.40.010(8).

(8) **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:

(a) The retirement systems listed under RCW 41.50.030;

(b) The retirement systems of the cities of Seattle, Spokane and Tacoma; or

(c) Any higher education plan authorized under RCW 28B.10.400.

(9) **System acronyms** used in this chapter are defined as follows:

(a) "PERS" means the public employees' retirement system.

(b) "TRS" means the teachers' retirement system.

(c) "SERS" means the school employees' retirement system.

(10) **Union** means a labor guild, labor association, and/or labor organization.

(11) **Union employer** means a union or a union lodge or other division of a union which has verified that it meets the definition of a Plan 1 employer in RCW 41.40.010.

(12) **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(5) and chapter 41.40 RCW. 02-18-046, § 415-108-010, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 35.21.730, 41.40.010(4), chapter 41.40 RCW. 01-21-090, § 415-108-010, filed 10/22/01, effective 11/22/01. 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.]

## 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 Statewide cities retirement system.** The former statewide 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 statewide 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 415-108-070 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.]

[Title 415 WAC—p. 132]

**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 415-108-181 How does the department comply with Internal Revenue Code distribution rules?** (1) This section applies only to the public employees' retirement system (PERS) Plans 2 and 3.

(2) All benefits paid from the PERS Plans 2 and 3 retirement plans shall be distributed in accordance with the requirements of section 401 (a)(9) of the Federal Internal Revenue Code and the regulations under that section. In order to meet these requirements, these retirement plans shall be administered in accordance with the following provisions:

(a) Distribution of a member's benefit must begin by the later of the April 1 following the calendar year in which a participant attains age 70 1/2 or the April 1 of the year following the calendar year in which the member retires;

(b) The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence;

(c) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died;

(d) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Federal Internal Revenue Code; and

(e) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death.

(3) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to section 401 (a)(31) of the Federal Internal Revenue Code.

[Statutory Authority: RCW 41.50.050(5), chapter 41.40 RCW and IRS regulations. 02-14-009, § 415-108-181, filed 6/20/02, effective 7/21/02.]

**WAC 415-108-182 What are the IRS limitations on maximum benefits and maximum contributions?** (1) This section applies only to the public employees' retirement system (PERS) Plans 2 and 3. Subject to the provisions of this section, benefits paid from, and employee contributions made to, these plans shall not exceed the maximum benefits and the maximum annual addition, respectively, as applicable under section 415 of the Federal Internal Revenue Code.

(2) A participant may not receive an annual benefit that exceeds the dollar amount specified in section 415 (b)(1)(A) of the Federal Internal Revenue Code, subject to the applicable adjustments in section 415 of the Federal Internal Revenue Code. For purposes of applying IRC 415(b) when a participant retires before age 62 or after age 65, the determination as to whether the benefit satisfies the IRC 415(b) limitations is made by comparing the equivalent annual benefit determined in Step 1 below with the age-adjusted dollar limit determined in Step 2 below.

Step 1: Under IRC 415 (b)(2)(B), determine the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the plan benefit. In general, IRC 415 (b)(2)(E)(i) and (v) require that the equivalent annual benefit be the greater of (a) or (b) below.

(a) The equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable (plan rate and plan mortality table, or plan tabular factor, respectively).

(b) The equivalent annual benefit computed using a 5 percent interest rate assumption and the applicable mortality table.

This step does not apply to a benefit that is not required to be converted to a straight life annuity under IRC 415 (b)(2)(B), for example, a qualified joint and survivor annuity.

Step 2: Under IRC 415 (b)(2)(C) or (D), determine the IRC 415(b) dollar limitation that applies at the age the benefit is payable (age-adjusted dollar limit).

If the age at which the benefit is payable is less than 62, the age-adjusted dollar limit is determined by reducing the dollar limit on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the age-adjusted dollar amount be the lesser of (a) or (b) below.

(a) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(b) The amount computed using 5 percent interest and the applicable mortality table described in Revenue Ruling 95-6. (This is used only to the extent described in Q&A 6 of Revenue Ruling 98-1, which provides that, for purposes of adjusting any limitation under IRC 415 (b)(2)(C) or (D), to the extent a forfeiture does not occur upon death, the mortality decrement may be ignored prior to age 62 and must be ignored after SSRA.)

If the age at which the benefit is payable is greater than age 65, the age-adjusted dollar limit is determined by increasing the IRC 415(b) dollar limitation on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the increased age-adjusted dollar limit be the lesser of (a) or (b) below.

(a) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(b) The equivalent amount computed using 5 percent interest and the applicable mortality table (used to the extent described in Q&A 6, as described in the prior paragraph).

The dollar limit will be reduced proportionally for less than ten years of participation.

The plan will satisfy the IRC 415(b) limitations only if the equivalent annual benefit determined in Step 1 is less than the age-adjusted dollar limit determined in Step 2.

(3) Effective for limitation years beginning after December 31, 2001, the maximum annual addition that may be contributed or allocated to a participant's account for any limitation year may not exceed the lesser of (a) \$40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Federal Internal Revenue Code, or (b) one hundred percent of the member's compensation, within the meaning of section 415 (c)(3) of the Federal Internal Revenue Code, for the limitation year.

(4) Notwithstanding any other provision of law to the contrary, the department may modify a request by a participant to make a contribution to the retirement plans if the amount of the contributions would exceed the limits under section 415(c) or 415(n) of the Federal Internal Revenue Code. An eligible participant in a retirement plan, as defined by section 1526 of the Federal Taxpayer Relief Act of 1997, may purchase service credit as provided by state law in effect on August 5, 1997, without regard to the limitations of section 415 (c)(1) of the Federal Internal Revenue Code.

(5) Prior to January 1, 1998, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code does not include the amount of any elective deferral, as defined in section 402 (g)(3) of the Federal Internal Revenue Code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457 of the Federal Internal Revenue Code.

(6) For limitation years beginning on and after January 1, 1998, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code does include the amount of any elective deferral, as defined in section 402 (g)(3) of the Federal Internal Revenue Code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457 of the Federal Internal Revenue Code.

(7) For limitation years beginning on and after January 1, 2001, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code shall also include elective amounts that are not includible in the gross income of the employee by reason of section 132 (f)(4).

[Statutory Authority: RCW 41.50.050(5), chapter 41.40 RCW and IRS regulations. 02-14-009, § 415-108-182, filed 6/20/02, effective 7/21/02.]

**WAC 415-108-183 Assets for exclusive benefit of members and beneficiaries.** No assets of the public employees' retirement system Plans 2 and 3 may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

[Statutory Authority: RCW 41.50.050(5), chapter 41.40 RCW and IRS regulations. 02-14-009, § 415-108-183, filed 6/20/02, effective 7/21/02.]

## BENEFIT OPTIONS

**WAC 415-108-315 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to the designation of beneficiaries for Plan 1 and Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts. RCW 41.40.835 governs the defined benefit portion of Plan 3.

(1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the depart-

ment's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making a distribution to any trust the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, and telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.40.270 for Plan 1 members;

(b) RCW 41.40.700 for Plan 2 members; and

(c) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.40.270(2) or 41.40.700(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

### Examples:

#### EXAMPLE ONE.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

##### Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW

41.40.270 for Plan 1 members, RCW 41.40.700 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

#### EXAMPLE TWO.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

##### Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

#### EXAMPLE THREE.

##### Facts

When she became a PERS 1 member, Joan was unmarried and named her mother as her beneficiary. Joan later married, but did not complete a new beneficiary form before she died with four years of service.

##### Result

Unless required to do otherwise by court order, the department will comply with RCW 41.40.270 (1)(b) and pay Joan's surviving spouse the accumulated contributions in her retirement account. In this case, Joan's mother will not receive a distribution.

#### EXAMPLE FOUR.

##### Facts

John is a PERS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.40.700(2). However, Mary died the following week before requesting a distribution from the department.

##### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5). 05-12-041, § 415-108-315, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 41.40.-270, 41.40.700, 41.40.835. 02-03-120, § 415-108-315, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-108-315, filed 4/21/00, effective 5/22/00.]

**WAC 415-108-324 I am married - do I need my spouse's consent on the retirement option I choose?** (1) If married, you must provide your spouse's written consent to the option you selected under WAC 415-108-326. If, as a married member, you do not provide spousal consent, the department will pay you as a retiree, a joint and one-half survivor benefit allowance and record your spouse as the survivor in compliance with RCW 41.40.188 (2)(a), 41.40.660 (2)(a), and 41.40.845 (2)(a).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "Spousal consent" means that your spouse consents to the retirement option you selected. Your spouse's notarized signature on a completed retirement application constitutes spousal consent.

[Statutory Authority: RCW 41.50.050(5), 41.40.188(2), 41.40.660(2), 41.40.845(2). 02-03-120, § 415-108-324, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-324, filed 6/24/99, effective 7/25/99. 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 What are my retirement benefit options?** Upon retirement for service under RCW 41.40.180, 41.40.630, or 41.40.820, or for disability under RCW 41.40.-210, 41.40.230, 41.40.670, or 41.40.825, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section. If you are a Plan 1 member, you may also select an optional supplemental cost of living adjustment (COLA).

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(2009 Ed.)

(d) **Option four: Joint and two-thirds allowance (available to members retiring on or after January 1, 1996).** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.40.188, 41.40.660 and 41.40.845. If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What is the supplemental COLA option for Plan 1 members?** If you are a Plan 1 member, in addition to choosing a retirement benefit option described in subsection (2) of this section, you may choose to receive a supplemental annual COLA. If you select this option, your monthly retirement allowance will be actuarially reduced to offset the cost of this benefit.

(6) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retired on or after January 1, 1996.** Your increased benefit will be:

(i) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(ii) Any COLAs you received prior to your survivor beneficiary's death, based on your original option selection.

**Example:**

Agnes retires from PERS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
1996	2,000.00	1,750.00		0.00
1997		1,750.00	.02	35.00
1998		1,785.00	.03	53.55
1999		1,838.55	.025	45.96

[Title 415 WAC—p. 135]

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2000		1,884.51	.03	56.54
2001	2,000.00	1,941.05	—	—
Original Monthly Allowance \$2000		+ Total COLA's + \$191.05	Total COLA's = New Monthly Allowance	191.05 = \$2,191.05*

\* In the future, Agnes' COLA will be based on her increased monthly allowance.

(b) **Members who retire before January 1, 1996.** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.40.188(3) (Plan 1) or RCW 41.40.660(3) (Plan 2).

(7) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.40.037.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(8) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) **Plan 1 and 2 members:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your

accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3 members:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(9) For more information, see RCW 41.40.188 (Plan 1), RCW 41.40.660 (Plan 2) and RCW 41.40.845 (Plan 3).

[Statutory Authority: RCW 41.50.050(5), 41.40.188, 41.40.660, 41.40.845, 05-23-062, § 415-108-326, filed 11/14/05, effective 12/15/05. Statutory Authority: RCW 41.50.050(5), 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.40.188, 41.40.660, 41.40.845, 01-10-045, § 415-108-326, filed 4/26/01, effective 6/1/01. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-108-326, filed 6/24/99, effective 7/25/99. 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.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances of members of the Washington state public employees' retirement system.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW, 02-18-048, § 415-108-340, filed 8/28/02, effective 9/1/02; 02-03-120, § 415-108-340, filed 1/23/02, effective 3/1/02. 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 415-108-425 How do I determine if I have choice rights or transfer rights to PERS Plan 3? (1) Definitions:**

(a) "**Concurrently employed**" means you are employed at the same time, in eligible positions, by a Phase 1 employer and by a Phase 2 employer.

(b) "**Exercising choice rights**" means choosing Plan 2 or Plan 3 or defaulting into Plan 3.

(c) "**Phase 1 employer**" means state agencies and institutes of higher education.

(d) "**Phase 2 employer**" means all other employers.

(e) "**Phase 1 transfer period**" is the period from March 1, 2002, through and including August 31, 2002.

(f) "**Phase 2 transfer period**" is the period from September 1, 2002, through and including May 31, 2003.

(2) **What determines if I have "choice rights" or "transfer rights"?** Your current employment status and your employment history will be used to determine if you have choice rights or transfer rights. If your employment status changes, your rights must be reevaluated. A change in your employment status, such as separating from employment or becoming reemployed, may change your rights.

(3) **What are "choice rights" and how are they applied?** "Choice rights" refers to your right, within a ninety-day period, to make an irrevocable choice to become a member of Plan 2 or Plan 3.

(a) You will be reported in Plan 2 until you exercise choice rights.

(b) You must make a choice within ninety days of your first day of employment in an eligible position.

(c) You will be defaulted into Plan 3 if you continue employment past the ninety-day choice period without making a choice.

(d) You may exercise choice rights only once.

(4) **Do I have "choice rights"?**

(a) You have choice rights if your initial PERS membership began on or after March 1, 2002, with a Phase 1 employer in an eligible position.

(i) If you separate from employment and did not exercise your choice rights, you retain choice rights if you are reemployed in an eligible position with a Phase 1 employer.

(ii) If you separate from employment and did not exercise your choice rights, and you are not employed by a Phase 2 employer during Phase 2, you retain choice rights if you begin another period of employment in an eligible position with a Phase 2 employer after May 31, 2003.

(b) You have choice rights if your initial PERS membership began on or after September 1, 2002, with a Phase 2 employer in an eligible position. If you separate from employment and did not exercise your choice rights, you retain choice rights if you begin another period of employment in an eligible position with a Phase 1 or Phase 2 employer.

(c) You have choice rights if you transferred from membership in PERS to membership in the school employees' retirement system and then became employed in an eligible PERS position on or after March 1, 2002, with a Phase 1 employer or on or after September 1, 2002, with a Phase 2 employer.

(5) **What are "transfer rights" and how are they applied?** "Transfer rights" refers to your right as a Plan 2 member to transfer into Plan 3 during an applicable transfer period to your employment type.

(a) You are not required to exercise transfer rights. If you have transfer rights, you will remain in Plan 2 unless you decide to transfer to Plan 3.

(b) If you do not transfer to Plan 3 during the Phase 1 or the Phase 2 transfer periods, you will not qualify to receive the additional transfer payment under RCW 41.40.795 or retroactive gainsharing payment under RCW 41.31A.040.

(6) **Do I have transfer rights?**

(a) You have transfer rights if you:

(i) Are a Plan 2 member;

(ii) Are employed in an eligible position by a Phase 1 employer during the Phase 1 transfer period; and

(iii) Were not eligible for choice rights under subsection (4)(a) or (c) of this section.

(b) You have transfer rights if you:

(i) Are a Plan 2 member;

(ii) Are employed in an eligible position by a Phase 2 employer during the Phase 2 transfer period; and

(iii) Were not eligible for choice rights under subsection (4)(b) or (c) of this section.

(7) **What are "January transfer rights" and how are they applied?** "January transfer rights" refers to a Plan 2 member's right to transfer to Plan 3 during any January after the close of a transfer period.

(a) If you are employed by a Phase 1 employer, in an eligible position, the first January you can transfer is January 2003.

(b) If you are employed by a Phase 2 employer, in an eligible position, the first January you can transfer is January 2004.

(c) You must earn service credit in the January in which you transfer.

**(8) Do I have January transfer rights?**

(a) You have January transfer rights if you were eligible for transfer rights and did not transfer to PERS Plan 3 **during** the transfer period that applied to you.

(b) You have January transfer rights if you:

(i) Were employed in an eligible position with a Phase 1 employer **before** the Phase 1 transfer period, or were employed in an eligible position by a Phase 2 employer **before** the Phase 2 transfer period;

(ii) Were not employed by a Phase 1 employer **during** the Phase 1 transfer period;

(iii) Were not employed by a Phase 2 employer **during** the Phase 2 transfer period; and

(iv) Are employed by a Phase 1 employer in an eligible position that you began **after** the Phase 1 transfer period ended, or are employed by a Phase 2 employer in an eligible position that you began **after** the Phase 2 transfer period ended.

**(9) What happens after I become a Plan 3 member?**

Once you choose Plan 3 or default to Plan 3 or transfer to Plan 3, you will remain a Plan 3 member. You will not have any additional transfer rights or choice rights to exercise.

**(10) What rules apply to me if I am concurrently employed?** If you are, or become concurrently employed during the Phase 1 transfer period in an eligible position, you will have transfer rights but must wait until the Phase 2 transfer period to transfer. If you separate from one of the employers, your membership rights must be reevaluated.

**Examples:** *The examples are written, for the most part, for a Phase 1 employer. Use the Phase 2 transfer period (September 1, 2002, through and including May 31, 2003) to apply the rules to a Phase 2 employer.*

Plan Choice Rights:
<b>Example 1:</b> Pat starts working for a state agency in an eligible position (Phase 1 employer) as of:
<b>A.</b> April 1, 2002. Since Pat has not previously been a member of PERS, Pat has ninety days to make a <b>plan choice</b> for Plan 2 or Plan 3. See subsection (3)(b) of this section.
<b>B.</b> After forty-five days, Pat leaves service without making a choice, and then returns in an eligible position one year later. Pat has a new ninety day period in which to make his <b>plan choice</b> . See subsection (4)(a)(i) of this section.
<b>C.</b> Pat chooses Plan 3 within his ninety days. Pat is now a Plan 3 member regardless of future employment. See subsection (9) of this section.

**D.** Instead of choosing Plan 3, Pat lets his ninety day plan choice period go by with out choosing Plan 2 or Plan 3. Pat is defaulted into Plan 3 and is now a Plan 3 member regardless of future employment. See subsections (3)(c) and (9) of this section.

Transfer Rights:
<b>Example 2:</b>
<b>A.</b> Chris has been a Plan 2 member since 1977. Chris is working at a state agency (Phase 1 employer) as of March 1, 2002. Since Chris was a member prior to the start of Plan 3, Chris has the right to <b>transfer</b> to Plan 3 in the transfer period (March 1, 2002, through August 31, 2002). See subsection (6)(a) of this section.
<b>B.</b> However, Chris <b>did not make a decision</b> to transfer prior to the close of the Phase 1 <b>transfer period</b> . If Chris remains employed for a Phase 1 employer, the right to transfer to Plan 3 is limited to January of each year. See subsection (8)(a) of this section.
<b>C.</b> In this variation, Chris was a Plan 2 member from March 1, 1987, through February 1, 2002. Chris returns on October 15, 2002, for a state agency (Phase 1 employer). Since Chris returned to service <b>after</b> the transfer period (March 1, 2002, through August 31, 2002), Chris only has the right to transfer to Plan 3 in January of each year. See subsection (8)(b) of this section.

Irrevocable Choice Rule:
<b>Example 3:</b> Mike starts working for a state agency (Phase 1 employer) as of April 1, 2002. Since Mike has not previously been a member of PERS, he has ninety days to make a <b>plan choice</b> for Plan 2 or Plan 3. Mike chooses Plan 3 within his ninety days. Mike is now a Plan 3 member regardless of future employment. See subsection (9) of this section.
<b>Example 4:</b> Pat starts working for a state agency (Phase 1 employer) as of April 1, 2002. Since Pat has not previously been a member of PERS, he has ninety days to make a <b>plan choice</b> for Plan 2 or Plan 3. Pat chooses Plan 2 within his ninety days. Pat is now a Plan 2 member who can no longer have a <b>plan choice</b> regardless of future employment. See subsection (3)(d) of this section.

Concurrent Employment in Phase 1 and 2:
<b>Example 5:</b> Using example 2A, Chris also accepts employment for a county (Phase 2 employer) on April 1, 2002, <b>prior to transferring</b> to Plan 3. Since Chris is concurrently employed at a Phase 1 and a Phase 2 employer, Chris must wait for the Phase 2 window before he can transfer to Plan 3. See subsection (10) of this section.

[Statutory Authority: RCW 41.50.050(5), 41.40.785, and 2000 c 247. 03-15-007, § 415-108-425, filed 7/3/03, effective 8/1/03. Statutory Authority: RCW 41.50.050(5) and 41.40.785. 02-03-120, § 415-108-425, filed 1/23/02, effective 3/1/02.]

**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 415-108-436 PERS Plans 2 and 3 disability benefits.** This section covers disability benefits provided for in RCW 41.40.670 and 41.40.825 for members of PERS Plans 2 and 3. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on- or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for a disability allowance if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other position for a PERS employer for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as my monthly disability benefits under the standard option?**

(a) If you are a Plan 2 member, you will receive two percent times average final compensation (AFC) times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(b) If you are a Plan 3 member, you will receive a defined benefit of one percent times average final compensation times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(c) The degree of your disability or impairment will not impact the amount of your disability benefit.

(3) **May I choose a benefit option that provides a monthly allowance to my survivor beneficiary?** You may choose to have your benefit paid according to any of the benefit options described in WAC 415-108-326. If you choose an option with a survivor feature, your monthly benefit will be actuarially reduced to offset the cost.

(4) **How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete, sign and have notarized. If you are married, your spouse must sign consent of the benefit option you choose.

(ii) **Part 2:** Employer's statement and report. Your employer must complete, sign and return directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the

form, attach supporting documentation, sign and return directly to the department. You are responsible for all medical expenses related to your application for benefits.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(5) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(6) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, there will be no difference in the dollar amount of your benefit.

(7) **Once my application is approved, when will my benefit begin?**

(a) You will start accruing disability benefits the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first benefit payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PERS employment.

(i) If you are continuing to perform the duties of your position or another PERS position, you may reapply for disability benefits according to subsection (4) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

(8) **What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(9) **What information must be provided to the department if I am receiving disability benefits?**

(a) You and your doctor must report any improvement in your condition; and

(b) You must report the name of your employer and monthly salary if you resume employment, regardless of the number of hours you work.

(10) **How long will my disability benefits last?** You may receive benefits throughout your lifetime, subject to the provisions of subsection (15) of this section.

(11) **Are my disability benefits taxable?** You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(12) **Are disability benefits subject to court or administrative orders?** Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.40.052(3) or contact the department.

(13) **Am I eligible for disability benefits if my disability is the result of my criminal conduct committed after April 21, 1997?** No. For more information, see RCW 41.40-054.

(14) **How is my disability benefit affected if I am a member of more than one retirement system?** If you are a member of more than one retirement system, your benefit is governed by portability law (see chapters 41.54 RCW and 415-113 WAC). You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

(15) **Is it possible to lose my disability benefits after I begin receiving them?**

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive disability benefits if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.40.010 (4)(b), at a comparable compensation.

(b) If you return to employment and reenter PERS membership, your benefits will cease.

(16) **If I take my disability benefit in a lump sum and return to work, may I restore my service credit?** Yes, you may restore your service credit if you take a lump sum benefit and return to PERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever

comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165.

(c) The provisions for restoring service credit vary according to retirement plan.

(i) If you are a member of PERS Plan 2, see RCW 41.40.625.

(ii) If you are a member of PERS Plan 3, see RCW 41.40.815.

[Statutory Authority: RCW 41.50.050(5), 41.40.670 and 41.40.825. 05-12-106, § 415-108-436, filed 5/27/05, effective 6/27/05.]

**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 interpretation of statutes and administrative practice regarding classification of payments as compensation earnable in PERS Plan 1, 2, or 3. These rules will be used to determine the proper characterization of payments occurring prior to and after the effective dates of these sections.

[Statutory Authority: RCW 41.50.050(5), 41.40.010(8), chapter 41.40 RCW. 02-03-120, § 415-108-441, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-441, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-443 PERS reportable compensation table.** The following table indicates whether certain types of payments are reportable compensation under PERS Plan 1, 2, or 3 and provides a cross-reference to the specific WAC.

Type of Payment	PERS 1 Reportable Compensation?	PERS 2 or 3 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 <sup>1</sup>
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, including insurance	No - WAC 415-108-475	No - WAC 415-108-475

Type of Payment	PERS 1 Reportable Compensation?	PERS 2 or 3 Reportable Compensation?
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 compensation. See WAC 415-108-485.

<sup>2</sup>A portion of the value of an employer provided vehicle may be reportable compensation in Plan 1 only. See WAC 415-108-480.

<sup>3</sup>A portion of the value of nonmoney maintenance provided may be reportable compensation in Plan 1 only. See WAC 415-108-470.

Type of Payment	PERS 1 Reportable Compensation?	PERS 2 or 3 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
Workers' Compensation	No - WAC 415-108-479	No - WAC 415-108-479

<sup>4</sup>Only specific types of union leave are reportable compensation. See WAC 415-108-466.

[Statutory Authority: RCW 41.40.020 and 41.50.050(5), 06-04-059, § 415-108-443, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW, 03-06-042, § 415-108-443, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050(5), 41.40.010(8), chapter 41.40 RCW, 02-03-120, § 415-108-443, filed 1/23/02, effective 3/1/02. 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? (1) Compensation earnable:**

(a) Compensation earnable must meet the definition in RCW 41.40.010(8) and:

(i) Be earned as a salary or wage for personal services provided during a payroll period and be paid by an employer to an employee; or

(ii) Qualify as compensation earnable under WAC 415-108-464 through 415-108-470.

(b) The department determines whether payments to an employee are compensation earnable based on the nature, not the name, of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of compensation earnable.

Example: "Longevity pay" conditioned on retirement is not for services provided and is therefore not compensation earnable.

(c) "Compensation earnable" is defined in very similar terms for all three PERS plans. Any differences among plans

are specifically noted in WAC 415-108-443 through 415-108-488.

### **(2) Reportable compensation:**

(a) Reportable compensation is the compensation paid by an employer to an employee that the employer must report to the department.

(b) An employer must report all of an employee's compensation earnable, as defined by RCW 41.40.010(8) and WAC 415-108-445(1), to the department.

(c) An employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: A member is paid in July for work performed during June. The employer must report the compensation to the department as "June earnings."

[Statutory Authority: RCW 41.50.050(5) and 41.40.010(8), 02-18-045, § 415-108-445, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 41.50.050(5) and 41.40.010, 02-03-120, § 415-108-445, filed 1/23/02, effective 3/1/02. 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.**

(a) Leave accrues at a prescribed rate, usually a certain number of hours per month.

(b) You earn a leave day by providing service during the month the leave accrued.

(c) Sick leave and annual leave are accumulated over time and paid to you during a period of excused absence.

[Title 415 WAC—p. 142]

(d) When you use your accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously provided.

(e) The payment is a salary or wage earned for services provided and is reportable.

(2) **Annual leave cash outs.** Annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously provided. Whether, and to what extent an annual leave cash out qualifies as reportable compensation depends upon the PERS plan to which you belong and the type of employer.

(a) **Plans 2 and 3:** Annual leave cash outs are not reportable compensation. Although the payments are for services provided, they are excluded from the definition of compensation earnable by statute. See RCW 41.40.010 (8)(b).

(b) **Plan 1, state government employees:** A cash out of up to thirty days of annual leave for state government employees is reportable compensation. See RCW 43.01.040. A cash out in excess of thirty days of annual leave:

(i) Qualifies as reportable compensation if the leave 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 the leave is earned between the date that you accrued thirty days of annual leave and your anniversary date under RCW 43.01.044.

(c) **Plan 1 employees not covered by (2)(b):** All annual leave cash outs received by PERS Plan 1 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 provided.

(a) Sick leave cash outs are excluded from the definition of compensation earnable for PERS Plan 2 or 3 members by statute. See RCW 41.40.010 (8)(b).

(b) Sick leave cash outs are reportable compensation for PERS Plan 1 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(5) and 41.40.010(8). 02-03-120, § 415-108-456, filed 1/23/02, effective 3/1/02. 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 payments 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) **PERS Plan 1:** Severance pay earned over time is reportable compensation. Conversely, severance pay not earned over time is not reportable compensation (see WAC 415-108-488). The difference is that severance pay earned over time is deferred compensation for services previously provided.

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 provided.

**Example:** Mr. Jones is a PERS Plan 1 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 1 retirement calculation.

To the extent that severance pay qualifies as reportable compensation and is earned within your average final compensation period, the severance pay is excess compensation. See RCW 41.50.150.

(2) **PERS Plans 2 and 3:** All forms of severance pay are excluded from earnable compensation. See RCW 41.40.010 (8)(b).

[Statutory Authority: RCW 41.50.050(5) and 41.40.010(8). 02-03-120, § 415-108-458, filed 1/23/02, effective 3/1/02. 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 contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-108-475.

(2009 Ed.)

(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 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 you take leave without pay from an eligible position to serve in the legislature, you may choose to participate in PERS as a legislator.

(1) **Plan 1:** Your reportable compensation is the salary you would have earned from your employer. You must pay employee contributions on this amount. Either you or your employer must pay employer contributions on the amount.

(2) **Plan 2 or 3:** You may choose your reportable compensation to be:

(a) The reportable compensation you would have earned from your employer; or

(b) Your actual reportable compensation for your legislative and nonlegislative service combined.

If you choose (2)(a) of this subsection and your reportable compensation is higher than it would have been under (2)(b) of this subsection, you must pay both employee and employer contributions on the excess amount.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010(8). 02-03-120, § 415-108-464, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-464, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-465 Is paid leave not earned over time reportable compensation for PERS?** 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 that you normally earn in your position; and**

[Title 415 WAC—p. 143]

(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 1), RCW 41.40.710 (Plan 2), RCW 41.40.805 (Plan 3), and WAC 415-108-466.

**Example:** Joe injures himself off the job and collects labor and industries payments instead of compensation from his employer. Because the payments are not from his employer, they are not reportable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.40.710. 02-03-120, § 415-108-465, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. 98-09-059, § 415-108-465, filed 4/17/98, effective 5/18/98.]

**WAC 415-108-466 Do I receive reportable compensation for union leave?** If you take an authorized leave of absence to serve as an elected official of a labor organization and your employer pays you while you are on leave subject to reimbursement from the union, your pay qualifies as reportable compensation provided that all the conditions of RCW 41.40.175 (Plan 1), RCW 41.40.710 (Plan 2), or RCW 41.40.805 (Plan 3) as appropriate, are met.

[Statutory Authority: RCW 41.50.050(5), 41.40.010, 41.40.175, 41.40.710, 41.40.805. 02-03-120, § 415-108-466, filed 1/23/02, effective 3/1/02. 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 instead of reinstatement.** (1) Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.40.010(8) specifically designates these 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. The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law following a hearing.

[Statutory Authority: RCW 41.50.050(5), 41.40.020, 41.35.010(6), 41.40.010(8). 01-08-057, § 415-108-467, filed 4/2/01, effective 5/3/01. 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 reportable compensation?**

(1) Nonmoney maintenance compensation, as defined in this section:

(a) Is reportable compensation to the extent authorized by this section, for Plan 1 members; and

(b) Is not reportable compensation for Plan 2 and 3 members.

(2) Nonmoney maintenance compensation is compensation legally provided to you in a form other than money. For example, nonmoney maintenance compensation may include the provision of materials such as living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities. To be considered nonmoney maintenance compensation, the materials must be provided for your personal use and/or the personal use of your dependents, not for a business use. The materials are not nonmoney maintenance compensation if:

(a) You use them solely in connection with your employer's business; or

(b) They are provided in lieu of reimbursement for your business expenses.



(3) To prove that the provision of materials constitutes nonmoney maintenance compensation:

(a) Your employer must substantiate by adequate records or other sufficient corroborating evidence that the materials were provided to you for your personal use as payment for your services to the employer.

(b) Your employer must substantiate that the fair market value of the materials provided is includable in your taxable income for federal income tax purposes.

(c) You may provide corroborating evidence to the department. Written documentation prepared at or near the time the materials were provided is generally preferred.

(d) In the absence of clear proof, the department will presume that employer-provided materials were not nonmoney maintenance compensation.

(4) Your employer must report nonmoney maintenance compensation to the department. The amount reported as compensation is the fair market value of materials legally provided by your employer. To substantiate the value of nonmoney maintenance compensation:

(a) Your employer must establish and regularly update a written schedule reflecting the monthly fair market value of the materials provided. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction. Your employer must be able to substantiate the accuracy of this schedule with adequate records.

(b) If you pay any amount to your employer in order to own or use the materials, your employer must report the amount by which the fair market value exceeds the amount of your payment.

**Example:** Your employer leases an apartment for \$700.00 per month and charges you \$300.00 per month to use the apartment for temporary living quarters. Because you use the apartment for personal, rather than business purposes, the amount by which the lease value exceeds your payment is nonmoney maintenance compensation. \$400.00 per month is reportable compensation.

[Statutory Authority: RCW 41.40.020 and 41.50.050(5). 06-04-059, § 415-108-470, filed 1/27/06, effective 2/27/06. 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.** Fringe benefits provided by an employer are not a salary or wage, and therefore are not reportable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or
- (3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-108-455.

[Statutory Authority: RCW 41.50.050(5). 05-12-109, § 415-108-475, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 03-06-042, § 415-108-475, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050. 99-14-008, § 415-108-475,

(2009 Ed.)

filed 6/24/99, effective 7/25/99; 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.]

**WAC 415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable?** (1) PERS Plan 1 members:

(a) Use of an employer vehicle for business purposes does not qualify as compensation earnable. If your employer's established policy prohibits the use of an employer vehicle for nonbusiness uses, all use of the vehicle will be deemed business use.

(b) Use of an employer vehicle for nonbusiness purposes qualifies as compensation earnable if:

- (i) Your employer reports your personal use of the vehicle to the IRS as taxable income under IRC Section 61 and Treas. Reg. Section 1.61-21; or
- (ii) Your employer maintains monthly records of your personal use. These records must contain:
  - (A) Your employer's authorization of your personal use;
  - (B) The distance normally commuted each day during the month, if you use the vehicle to commute;
  - (C) The dates, mileage, and itinerary of each personal trip other than a commute trip;
  - (D) Your total mileage for the month; and
  - (E) The ratio of personal mileage to total mileage, expressed as a percent.

[Title 415 WAC—p. 145]

(c) The department presumes that your use of an employer vehicle is solely for business purposes. If you used an employer vehicle for personal use, your employer must report the value of this use as compensation earnable on a monthly basis. Monthly compensation earnable is the lesser of the following:

- (i) Fair Market Lease Value x Percentage of Personal Use
- (ii) Miles of Personal Use x IRS Mileage Rate.

The IRS Mileage Rate is 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 2 and 3 members.** If you are a member of PERS Plan 2 or 3, you are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010. 02-03-120, § 415-108-480, filed 1/23/02, effective 3/1/02. 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.]

[Title 415 WAC—p. 146]

**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.

(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:

- (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 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 portion of your retirement allowance payment attributable to your vehicle allowance.

[Statutory Authority: RCW 41.50.050. 99-14-008, § 415-108-485, filed 6/24/99, effective 7/25/99; 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 choose 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) **Unpaid authorized leave of absence.** For information about purchasing service credit for periods of unpaid authorized leave of absence, see:

- (a) Plan 2: WAC 415-02-175 and RCW 41.40.710; and
- (b) Plan 3: WAC 415-02-175 and RCW 41.40.805.

(2) **Periods of disability.** See RCW 41.40.038 for information about establishing service credit for periods of disability covered by industrial insurance.

(3) **Military leave.** For Plan 2 and Plan 3, 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 chooses 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(5). 04-20-005, § 415-108-491, filed 9/23/04, effective 10/24/04. Statutory Authority: RCW 41.50.050(5), 41.40.038, 41.40.170, 41.40.710, 41.40.805. 02-03-120, § 415-108-491, filed 1/23/02, effective 3/1/02. 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 1 members subject to the provisions of RCW 41.40.010 (8)(a) and WAC 415-108-456. 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 *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 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, 99-14-008, § 415-108-510, filed 6/24/99, effective 7/25/99. 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 41.40.023(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, 99-14-008, § 415-108-520, filed 6/24/99, effective 7/25/99; 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) **Definition:** For the purposes of this section and WAC 415-108-570, and pursuant to RCW 41.40.010 (25)(b), 41.40.010 (9)(a), 41.40.023 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) **Voluntary application for membership:** Under RCW 41.40.023 (3)(a), elected officials are exempt from mandatory retirement system membership. You have the option to apply for membership during your current term of elected office. To apply for membership, submit a written application directly to the department. When the department approves your application, you will be entitled to establish membership effective the first day of your current term of elected service. Once membership is established, you will be required to pay the employee contributions from the first day of your current term of elected service with interest as determined by the department.

(3) If you are not currently a retiree and when the department approves your application, you may establish membership retroactive to the first day of any previous elected term or terms of office. Your plan membership that you established under subsection (2) of this section remains the same. To exercise this option, you must apply to the department pursuant to subsection (2) of this section. When the department approves the application, you must:

(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, in its discretion, pay the required employer contributions plus interest in lieu of your paying this amount.

(4)(a) If you are a retiree and you become an elected official, you may establish membership prospectively from the first day of the month following the date the department accepts your application.

(b) If you chose not to establish membership, the reemployment provisions of RCW 41.40.037 and WAC 415-108-710 will apply to you.

(5) **Multiple positions:** If you are employed in an eligible position at the time of election to office and will hold multiple positions concurrently, you may:

(a) Apply to the department to participate in membership pursuant to your elected position as provided in subsection (2) of this section; or

(b) Choose not to participate pursuant to your elected position while continuing membership through the non-elected position.

(6) **Membership length:** Except as provided under RCW 41.40.023 (3)(b), once you become a member of the retirement system you shall remain a member until you separate from all eligible public employment pursuant to RCW 41.40.150. It is not a separation if:

(a) Your term of office ends and you begin another term of office in the same or a different position for the same employer without a break in service; or

(b) You resign from your elected position and you are later reappointed to the same position during the same term.

(7) 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(5), 41.40.023, 41.40.037. 03-08-090, § 415-108-550, filed 4/2/03, effective 5/1/03. Statutory Authority: RCW 41.50.050. 94-12-014, § 415-108-550, filed 5/23/94, effective 6/23/94.]

(2009 Ed.)

**WAC 415-108-560 Appointed officials—Eligibility and application for retirement service membership.** (1) For the purposes of this section and WAC 415-108-570, an "appointed" official is a person who meets the criteria in RCW 41.40.010 (25)(b) and is not excluded by the criteria in RCW 41.40.035.

(2) **Voluntary application for membership:** Under RCW 41.40.023 (3)(a), appointed officials are exempt from mandatory retirement system membership. You have the option to apply for membership during your current term of appointed service. To apply for membership, submit a written application directly to the department. When the department approves your application you will be entitled to establish membership effective the first day of your current term of appointed service. Once membership is established, you will be required to pay the employee contributions for your current term of appointed service with interest as determined by the department.

(3) If you are not currently a retiree and when the department approves your application, you may establish membership retroactive to the first day of any previous appointed term or terms of office. Your plan membership that you established under subsection (2) of this section remains the same. To exercise this option, you must apply to the department pursuant to subsection (3) of this section. When the department approves the application you must:

(a) Pay the required employee contributions for such previous term or terms of appointed service with interest as determined by the department; and

(b) Pay the required employer contributions for such previous term or terms of appointed service with interest as determined by the department. The employer may, in its discretion, pay the required employer contributions plus interest in lieu of your paying this amount.

(c) "Current term of appointed service" includes an appointed official's entire current term of service. If you have not been appointed to a position with a set term of office, "current term of appointed service" includes all uninterrupted service in your current appointed position.

(4)(a) If you are a retiree and you become an appointed official, you may establish membership prospectively from the first day of the month following the date the department accepts your application.

(b) If you choose not to establish membership, the reemployment provisions of RCW 41.40.037 and WAC 415-108-710 will apply to you.

(5) **Multiple positions:** If you are employed in an eligible position at the time of appointment to office and will hold the two positions concurrently you may:

(a) Apply to the department to participate in membership pursuant to your appointed position as provided in subsection (2) of this section; or

(b) Choose not to participate pursuant to your appointed position while continuing membership through the nonappointed position.

(6) **Membership length:** Once you become a member of the retirement system you shall remain a member until you separate from all eligible public employment pursuant to RCW 41.40.150. It is not a separation if:

[Title 415 WAC—p. 149]

(a) Your term of office ends, and you begin another term of office in the same or a different position for the same employer without a break in service; or

(b) You resign from your appointed position and you are 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(5), 41.40.023, 41.40.037. 03-08-090, § 415-108-560, filed 4/2/03, effective 5/1/03. Statutory Authority: RCW 41.50.050. 94-12-014, § 415-108-560, filed 5/23/94, effective 6/23/94.]

**WAC 415-108-570 As an elected or appointed official, what are my requirements for service credit?** (1)(a)

As a Plan 1 elected or appointed official, you may receive one month of service credit for each month during which you earn compensation pursuant to your elected or appointed position.

(b) If you are a Plan 1 member who was appointed by the governor prior to July 1, 1976, to serve as a member of any committee, board or commission, you may receive one month of service credit for each month during which you earn compensation pursuant to your appointed positions.

(c) If you are a Plan 1 member who was appointed or reappointed by the governor on or after July 1, 1976, to serve as a member of any committee, board or commission, you may receive one month of service credit for each month during which you are compensated for at least seventy total hours of work.

(d) If you are a Plan 1 member who served in a governor-appointed position as a member of any committee, board or commission on or after September 1, 1991, you may receive one-quarter month of service credit for each month during which you are compensated for less than seventy total hours of work.

(2)(a) If you are a Plan 2 or Plan 3 member who was elected to office by statewide election, you may receive one month of service credit for each month during which you earn compensation pursuant to your elected position.

(b) Except for Plan 2 or Plan 3 elected officials covered under (a) of this subsection, if you are elected to office or appointed by the governor to a position prior to September 1, 1991, you may receive service credit only for months during which you are compensated:

(i) In excess of ninety times the state hourly minimum wage in effect at the time you provide the service; and

(ii) For ninety or more total hours of work.

(c) On or after September 1, 1991, except for Plan 2 or Plan 3 elected officials covered under (a) of this subsection, if you were elected to office or appointed by the governor to a position, you may earn:

(i) One month of service credit for each month during which you 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 you provide the service; or

(ii) One-half month of service credit for each month during which you 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 you provide the service; or

(iii) One-quarter month of service credit for each month during which you 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 you provide 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(5) and 41.40.023. 02-03-120, § 415-108-570, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.-050. 94-12-014, § 415-108-570, filed 5/23/94, effective 6/23/94.]

**WAC 415-108-575 May I retire from PERS while holding an elective position?** (1) If you are holding an elective position and accruing PERS service credit for your service in that position, you may retire from PERS and continue to work in your elective position provided:

(a) You are eligible to retire under RCW 41.40.180, 41.40.630, or 41.40.820;

(b) You submit a written statement to the department, waiving the right to earn PERS service credit for any future period of service in an elective position; and

(c) Your compensation in the elective position is fifteen thousand dollars or less per year, adjusted annually for inflation by the director. See subsection (2) of this section.

(2) The compensation threshold in subsection (1)(c) of this section is adjusted on April 1 of each year, based on the average consumer price index for Seattle for the previous calendar year. Effective April 2006, the threshold is \$21,551. You may contact the department for the threshold in effect for previous or subsequent years.

[Statutory Authority: RCW 41.50.050(5) and 41.40.023. 06-16-042, § 415-108-575, filed 7/26/06, effective 8/26/06. Statutory Authority: RCW 41.50.-050(5). 05-12-109, § 415-108-575, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5), 41.40.023, 41.40.037. 03-08-090, § 415-108-575, filed 4/2/03, effective 5/1/03.]

**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 union verification requirements.** (1) Plan 1 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 1 union employer.

(2) Plan 1 members who are employed by union employers shall have an irrevocable option to reenter membership. You lose this option if you do not reenter PERS Plan 1 when you begin working in an eligible position with the union employer. The union employer must notify you, as its new employee, of the option to reenter Plan 1. Failure of the union employer to notify you shall not prevent your loss of the right to participate in Plan 1 under this section. Union employers and their Plan 1 employees who choose to reenter membership will be subject to the same statutory and regulatory requirements as other Plan 1 nonstate agency employers and employees.

(3) Plan 1 union employers employing persons who have previously established Plan 1 membership must report you for participation in the retirement system if you choose to reenter membership under RCW 41.40.023.

(4) Union employers shall have all new employees state on a written form whether they have ever been a Plan 1 member.

(5)(a) Upon first establishing union employer status the union must pay the required retroactive contributions and interest as determined by the department under RCW 41.40.-363 or 41.40.057, as applicable for union elective officials and employees who choose to become a member under RCW 41.40.023 and are eligible for Plan 1.

(b) If employer and employee contributions have been submitted in error 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 valid to the extent that the periods of erroneous contributions coincide with periods for which the union has established union employer status.

(2009 Ed.)

(6) Notwithstanding any provisions of WAC 415-108-620 Plan 1 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).

(7) A union employer may not report employees for participation in Plan 2 or Plan 3.

[Statutory Authority: RCW 41.50.050(5), 41.40.010 (4)(a), 41.40.057, 41.40.363. 02-03-120, § 415-108-640, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050(5) and 41.40.010 (4)(a). 93-11-077, § 415-108-640, filed 5/18/93, effective 6/18/93.]

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

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

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

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

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

\_\_\_\_\_, verifies that on the date of \_\_\_\_\_, \_\_\_\_\_  
Name of Union

\_\_\_\_\_, the \_\_\_\_\_  
(Must be a Date in November or December) Identify Level of Union Organization (i.e. lodge) (hereinafter referred to as "organization")

- possessed the following membership characteristics:
- A. Total number of organization members \_\_\_\_\_
  - B. Total number of organization members who are employees of a public employee retirement system (PERS) employer other than this union \_\_\_\_\_
  - C. Percentage of organization members who are employees of a public employee retirement system employer other than this union  
(B ÷ 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 415-108-679 Purpose and scope of eligibility rules.** WAC 415-108-680 through 415-108-728 codify the department's existing interpretation of statutes regarding eligibility for membership in all three PERS plans.

[Statutory Authority: RCW 41.50.050(5) and 41.40.010. 02-03-120, § 415-108-679, filed 1/23/02, effective 3/1/02. 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. If you are a PERS Plan 1 member working in a SERS substitute position, the SERS substitute laws do not apply. If you are a Plan 2 or 3 member, hours worked as a SERS substitute are not counted when determining eligibility for membership.

**(2) If you leave an eligible position to serve in a project position, you may retain eligibility.**

(a) Project positions may use a twelve-month period other than a school year to evaluate eligibility. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

(b) 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:

(i) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

(ii) 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 415-108-010.

(f) "Project position" - WAC 415-108-010.

(g) "Year" - WAC 415-108-010.

[Statutory Authority: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033. 04-14-023, § 415-108-680, filed 6/28/04, effective 7/29/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-680, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50-050. 95-16-053, § 415-108-680, filed 7/25/95, effective 8/25/95.]

[Title 415 WAC—p. 152]

**WAC 415-108-690 How is my membership eligibility evaluated? (1) Your eligibility to participate as a member of PERS is based on your position.**

In evaluating whether your position is eligible for membership, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010(25) and WAC 415-108-680(1). 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.** This is normally a calendar year unless your employer has determined and supports a different twelve-month period for its 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 or ineligible position.**

(a) 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.



(b) If your employer has declared your position ineligible, the position must continue to fail to meet the requirements of an eligible position or reclassification of your position will occur as stated in subsection (3)(b) of this section.

(5) **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) "Project position" - WAC 415-108-010.
- (f) "Report" - WAC 415-108-010.
- (g) "Year" - WAC 415-108-010.

[Statutory Authority: RCW 41.50.050(5), 41.40.010, 41.40.023, 02-03-120, § 415-108-690, filed 1/23/02, effective 3/1/02. 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 415-108-010.
- (f) "Report" - WAC 415-108-010.
- (g) "Year" - WAC 415-108-010.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-700, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-700, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-710 What are the PERS retiree return to work rules?** (1) **How soon can I return to work after I retire?**

(a) There is no required waiting period to return to work if:

- (i) You go to work for a private employer;
- (ii) You are a bona fide independent contractor as defined in WAC 415-02-110;

(iii) Your only employment is as an elected official of a city or town and you end your PERS membership under RCW 41.40.023 (3)(b); or

(iv) You are a PERS Plan 1 retiree elected to office or appointed to office by the governor.

(b) If you return to work sooner than thirty consecutive calendar days from your accrual date (effective retirement date), your monthly retirement allowance will be reduced in accordance with RCW 41.40.037(1) until you separate for at least thirty consecutive calendar days.

(c) If you wait at least thirty consecutive calendar days from your accrual date, you may return to work in any position (eligible, ineligible, temporary, etc.) for any employer whose retirement plan is administered by the department of retirement systems (DRS).

(2) **What is the annual hour limit?** After you meet the thirty day waiting period described in subsection (1)(c) of this section, there are different annual hour limits that apply to you based on what kind of position you return to, the system from which you retired, and when you retired.

(a) **No limit.** You may work as many hours as you want without affecting your retirement allowance if you work:

- (i) In an ineligible position;
- (ii) As a retiree returning as an active member of a higher education retirement plan;
- (iii) As a bona fide independent contractor;
- (iv) For a private employer;
- (v) If you end your PERS membership as an elected official of a city or town under RCW 41.40.023 (3)(b); or
- (vi) As a PERS Plan 1 retiree elected to office or appointed to office by the governor.

(b) **Fifteen hundred hour limit.** You may work up to fifteen hundred hours in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or 41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4), in a calendar year subject to the nineteen hundred hour cumulative limit described in subsection (3) of this section before your retirement allowance is suspended if:

(i) You are a PERS Plan 1 retiree who retired prior to August 1, 2003; or

(ii) You are a PERS Plan 1 retiree who retired on or after August 1, 2003, you waited at least ninety consecutive calendar days from your accrual date, and you met the additional conditions described in RCW 41.40.037 (2)(b).

(c) **Eight hundred sixty-seven hour limit.** You may work up to eight hundred sixty-seven hours in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or

41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4), in a calendar year before your retirement allowance is suspended if:

(i) You are a PERS Plan 1 retiree who retired on or after August 1, 2003, and you do not meet the additional conditions described in RCW 41.40.037 (2)(b) or you have exceeded the nineteen hundred hour cumulative limit described in subsection (3) of this section; or

(ii) You are a PERS Plan 2 or 3 retiree and return to work in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or 41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4).

(d) If you are retired from PERS and another DRS retirement system, refer to the table below to determine the effect of returning to work:

Dual System Combination	Return to Work System	Outcome
PERS Plan 1 and LEOFF Plan 2	PERS	Your LEOFF Plan 2 benefit would be suspended and you could work up to the PERS Plan 1 limit (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.
	TRS	Your LEOFF Plan 2 benefit would be suspended and you could work up to the PERS Plan 1 limit (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.
	LEOFF Plan 2	Your LEOFF Plan 2 benefit would be suspended and you would be mandated back into LEOFF Plan 2 membership. Your PERS benefit would be suspended until you terminate from LEOFF Plan 2.
	WSPRS	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and LEOFF Plan 2 benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member of WSPRS. Your LEOFF Plan 2 benefit is suspended and you can work up to the PERS Plan 1 limit (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.
PERS Plan 1 and TRS Plan 1	PERS	If the position is at any educational institution in Washington state, then the TRS Plan 1 limits apply which allow you to work up to fifteen hundred hours during the fiscal year before your PERS and TRS benefits would be suspended. The one exception is if you return to work at a higher education employer and choose to join another retirement system (e.g., TIAA-CREF). In that case, the PERS Plan 1 rules would apply. By definition, the position is ineligible in PERS and therefore you can work unlimited hours without your PERS and TRS benefits being suspended. If the position is not at an educational institution in Washington state, the TRS Plan 1 limits would apply and you can work unlimited hours without your PERS and TRS benefits being suspended.
	TRS	The TRS Plan 1 limits would apply and you can work up to fifteen hundred hours during the fiscal year before your PERS and TRS benefits would be suspended.
	LEOFF Plan 2	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF Plan 2 and your PERS and TRS benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. The TRS Plan 1 limits would apply and you can work unlimited hours without your PERS and TRS benefits being suspended.

Dual System Combination	Return to Work System	Outcome
	WSPRS	<p>If you have less than fifteen years of service credit in either system you are retired from, then you are mandated into membership in WSPRS and your PERS and TRS benefits are suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS. The TRS Plan 1 limits would apply and you can work unlimited hours without your PERS and TRS benefits being suspended.</p>
PERS Plan 1 and TRS Plan 2 or 3	PERS	You can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
	TRS	You can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
	LEOFF Plan 2	<p>If you have less than fifteen years of service credit in either system you are retired from, then you are mandated into membership in LEOFF Plan 2 and your PERS and TRS benefits are suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</p>
	WSPRS	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and both your PERS and TRS benefits would be suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member WSPRS and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.</p>
PERS Plan 1 and WSPRS	PERS	Your WSPRS benefit would not be suspended and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.
	TRS	Your WSPRS benefit would not be suspended and you can work up to the PERS 1 Plan limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.
	LEOFF Plan 2	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF. Your WSPRS benefit would not be suspended and your PERS benefit would be immediately be suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2.</p> <p>Your WSPRS benefit would not be suspended and you can work up to the PERS Plan 1 limits (subsection (2)(a), (b) and (c) of this section) during the calendar year in an eligible position before your PERS benefit would be suspended.</p>
	WSPRS	<p>Your WSPRS benefit would be suspended and you would be mandated back into membership.</p> <p>Your PERS benefit would be suspended until you terminate from WSPRS.</p>

Dual System Combination	Return to Work System	Outcome
PERS Plan 2 or 3 and LEOFF Plan 2	SERS	Your LEOFF Plan 2 benefit would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.
	PERS	Your LEOFF Plan 2 benefit would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.
	TRS	Your LEOFF Plan 2 benefit would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.
	LEOFF	Your LEOFF Plan 2 benefit would be suspended and you are mandated back into LEOFF Plan 2 membership. Your PERS benefit would be suspended until you terminate from LEOFF Plan 2.
	WSPRS	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and LEOFF Plan 2 benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS. Your LEOFF Plan 2 benefit is suspended and you can work up to eight hundred sixty-seven hours during the calendar year before your PERS benefit would be suspended.
PERS Plan 2 or 3 and SERS Plan 2 or 3	SERS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.
	PERS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.
	TRS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.
	LEOFF Plan 2	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and PERS benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.
	WSPRS	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS benefits would be suspended. If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS benefits would be suspended.
PERS Plan 2 or 3 and TRS Plan 1	SERS	You can work up to fifteen hundred hours during the fiscal year in an eligible position before your PERS and TRS benefits would be suspended.
	PERS	If the position is at any educational institution in Washington state you can work up to fifteen hundred hours during the fiscal year before your PERS and TRS benefits would be suspended.

Dual System Combination	Return to Work System	Outcome
		If the position is not at an educational institution in Washington state, you can work unlimited hours without your PERS and TRS benefits being suspended.
	TRS	You can work up to fifteen hundred hours during the fiscal year in an eligible position before your PERS and TRS benefits would be suspended.
	LEOFF Plan 2	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your PERS and TRS benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work unlimited hours without your PERS and TRS benefits being suspended.
	WSPRS	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and TRS benefits would be suspended. If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work unlimited hours without your PERS and TRS benefits being suspended.
PERS Plan 2 or 3 and TRS Plan 2 or 3	SERS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
	PERS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
	TRS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
	LEOFF Plan 2	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your PERS and TRS benefits are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
	WSPRS	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your PERS and TRS benefits would be suspended. If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS and TRS benefits would be suspended.
PERS Plan 2 or 3 and WSPRS	SERS	Your WSPRS benefit would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.
	PERS	Your WSPRS benefit would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.

Dual System Combination	Return to Work System	Outcome
PERS Plan 2 or 3 and WSPRS	TRS	Your WSPRS benefit would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended.
	LEOFF Plan 2	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF. Your PERS benefit is suspended but your WSPRS benefit would not be suspended. If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your PERS benefit would be suspended. Your WSPRS benefit would not be suspended.
	WSPRS	Your WSPRS benefit would be suspended and you are mandated back into membership. Your PERS benefit would be suspended until you terminate from WSPRS.

**(3) What is the nineteen hundred hour cumulative hour limit?**

(a) This limit is applicable only to PERS Plan 1 retirees. It puts a lifetime limit on the number of hours that can be worked in an eligible position while still receiving a retirement allowance. This limit applies to all retirements in PERS Plan 1. Any hours reported by your employer as worked over eight hundred sixty-seven up to fifteen hundred in a calendar year while receiving a retirement allowance are counted toward the cumulative limit. Hours accumulated toward your lifetime post retirement employment limit from a previous retirement will continue to be counted in your new retirement.

(b) DRS will send out statements annually to any PERS Plan 1 retiree who accumulated any hours toward the nineteen hundred hour cumulative limit in the preceding calendar year. The statement will show the hours you have worked in the calendar year and the total hours you have worked since your retirement date. If there has been no activity in the calendar year, DRS will not issue a statement, even if there is an accumulated total from previous calendar years. See also WAC 415-02-130.

**(4) What hours are counted toward the limits?**

(a) **Counted toward the hour limits:** All compensated hours that are worked for any DRS-covered employer in an eligible position, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) **Not counted toward the hour limits:** Cashouts of unused sick and vacation leave.

**(5) What happens if I work over the annual or cumulative hour limit?**

(a) DRS will prorate your retirement allowance for the month in which you exceed the applicable hour limit. The suspension of your retirement allowance will be effective the day after the day in which you exceeded the applicable hour limit.

(b) If your retirement allowance is suspended for exceeding the nineteen hundred hour cumulative work limit, all sub-

sequent calendar years will be subject to the eight hundred sixty-seven hour annual limit.

(c) Your retirement allowance will be restarted beginning the next calendar year or the day after you terminate all eligible DRS-covered employment, whichever occurs first.

(d) DRS will recover any overpayments made to you for the month(s) in which you exceeded the work limit and received a retirement allowance. See RCW 41.50.130.

**(6) Can I return to PERS membership?**

(a) If you are a PERS retiree, you have the option to return to membership if you are employed by a PERS employer and meet eligibility criteria. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.40.023(12).

(b) If you reenter PERS membership and later choose to retire again, DRS will recalculate your retirement allowance under the applicable statutes and regulations. You will be subject to the return to work rules in place at the time of your reretirement. If you are a PERS Plan 1 member you will also be entitled to a new nineteen hundred hour cumulative hour limit. You will be subject to the return to work rules, including the nineteen hundred hour lifetime limit described in subsection (3) of this section, in place at the time of your retirement.

(c) If you are a retiree from another retirement system that DRS administers, you may choose to enter PERS membership if you are eligible. The option to enter membership is prospective from the first day of the month following the month in which you request membership. See RCW 41.40.-270 and 41.40.023.

**(7) Terms used.**

(a) Accrual date - RCW 41.40.193, 41.40.680, 41.40.-801.

(b) Acronyms used:

(i) LEOFF: Law enforcement officers' and fire fighters' retirement system.

(ii) PERS: Public employees' retirement system.

(iii) SERS: School employees' retirement system.

(iv) TRS: Teachers' retirement system.

- (v) WSPRS: Washington state patrol retirement system.
- (c) Calendar day - WAC 415-02-030.
- (d) Eligible position - RCW 41.40.010(25); WAC 415-108-680 through 415-108-700.
- (e) Ineligible position - RCW 41.40.010(26).
- (f) Law enforcement officer - RCW 41.26.030(3).
- (g) Membership - RCW 41.40.023.

[Statutory Authority: RCW 41.50.050(5), 41.40.010(42), 41.40.037, 04-04-037, § 415-108-710, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-710, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801, 02-02-060, § 415-108-710, filed 12/28/01, effective 1/1/02. 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, 41.40.690, and 41.40.850 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(5), 41.40.023, 41.40.150, 41.40.690, 02-03-120, § 415-108-720, filed 1/23/02, effective 3/1/02. 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 415-108-010.

- (c) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-725, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050, 95-16-053, § 415-108-725, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-726 Can I earn service credit in PERS and another retirement plan at the same time? (1)(a) Yes.** You may earn service credit in PERS and any of the following First Class City Retirement Systems (FCCRS) at the same time if:

(i) You work for a PERS employer and an employer covered by a retirement system of the city of Seattle, Spokane or Tacoma (FCCRS); and

(ii) You cannot report service for the FCCRS in PERS;

(b) The combined service credit under PERS and the retirement system listed in (a) of this subsection may not exceed one month of service for a calendar month of employment.

(c) To qualify for PERS service credit, it is up to the employee to initiate the process by applying under subsection (2) of this section.

**Example:** A member works part time for the City of Seattle and part time for the University of Washington (UW). She may receive partial service credit in PERS for the UW service since she cannot report the time she works for Seattle under PERS.

**Note:** The combined service credit under PERS and the City of Seattle Retirement System may not exceed one month of service for a calendar month of employment. To receive PERS service credit she must apply to the department.

## (2) How do I apply?

(a) To apply for membership and service credit under subsection (1) of this section you must send the department an application. The application is a statement that you want membership and/or service credit in PERS. Include:

- (i) Your name;
- (ii) Your SSN;
- (iii) All period(s) of service that you want to receive service credit for;

(iv) All PERS and non-PERS employer(s) that you worked for during the periods of service referenced in (a)(iii) of this subsection.

(b) After the department receives your application, it will contact your employer(s) to verify how much service credit you have earned. When the department receives the necessary information, it will determine how much service credit you will receive. At that time the department will send you a bill for member contributions and interest that must be paid in order to establish the service credit.

## (3) When should I submit my payment?

You should pay contributions and interest required under subsection (2)(b) of this section within twenty-four consecutive months from the last day of the calendar year for which you claim service credit. After that date, you must pay the actuarial cost of purchasing the service credit under RCW 41.40.104 and 41.50.165.

**(4) What if I worked before this WAC became effective?**

If you worked for a PERS employer and for one of the retirement systems listed in subsection (1) of this section, before this WAC became effective, you have until December 31, 2000, to apply in order to purchase service credit by paying member contributions plus interest. After December 31, 2000, you must pay the actuarial cost of purchasing the service credit under RCW 41.40.104 and 41.50.165.

(5) You may participate in PERS if you are concurrently employed, as described in WAC 415-113-200, in a SERS position.

(6) **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 415-108-010.
- (c) "Service" - RCW 41.40.010.
- (d) "Normally" - WAC 415-108-010.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-726, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-726, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-

043, § 415-108-726, filed 10/29/99, effective 11/29/99; 95-16-053, § 415-108-726, filed 7/25/95, effective 8/25/95.]

**WAC 415-108-727 Can I transfer service credit earned as a cadet in the public employees' retirement system to the Washington state patrol retirement system Plans 1 or 2?** (1) A PERS Plan 1 or Plan 2 member may transfer cadet service under RCW 41.40.092.

(2) A person who becomes a PERS Plan 3 member cannot transfer service credit earned as a cadet in PERS, regardless of when the credit was earned.

[Statutory Authority: RCW 41.50.050(5), 41.40.092, 43.43.120(6), 43.43.130. 02-23-037, § 415-108-727, filed 11/13/02, effective 1/1/03. Statutory Authority: RCW 41.50.050(5) and 41.40.092. 02-03-120, § 415-108-727, filed 1/23/02, effective 3/1/02.]

**WAC 415-108-728 If I work concurrently in a PERS position and TRS position, which system will I be in?** (1) If you work concurrently in a PERS and TRS position, 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 1 Members <sup>1/</sup> -**

Type of 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 1 Members**

Type of 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.



<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
	A TRS employer and non-TRS employer	You must elect either to: 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 PERS position.
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 2 Members**

<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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: 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.

**PERS Members**

<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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. Your TRS service will not be reported unless you have met the eligibility criteria for TRS membership and choose to either: 1. Have your TRS service reported in PERS for both positions <sup>4/</sup> ; or 2. Establish TRS membership and have your service in both positions reported in TRS. 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 have met the eligibility criteria for TRS membership and choose 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**

<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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.

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
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 1 member", as used here, means you terminate your membership by withdrawing your contributions.

<sup>2/</sup> Means during the same school year.

<sup>3/</sup> EXAMPLE: A TRS 2 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 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS 2.

EXAMPLE: A TRS 2 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 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS 2. 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.

<sup>4/</sup> This provision applies retroactively to July 1, 1996.

(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 415-108-010.

(g) "Service" - RCW 41.40.010.

[Statutory Authority: RCW 41.50.050(5) and chapters 41.32 and 41.40 RCW. 05-03-001, § 415-108-728, filed 1/5/05, effective 2/5/05. Statutory Authority: RCW 41.50.050(5) and chapter 41.40 RCW. 02-18-046, § 415-108-728, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-108-728, filed 12/12/00, effective 1/12/01. 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 by chapter 41.40 RCW unless within thirty days of employment in such position he/she shall submit in writing on a form, provided by the department, a waiver of his/her right to

be excluded and requesting his/her inclusion in the system. Such a person may not then subsequently withdraw from the system except as provided by RCW 41.40.260 or 41.40.730 as appropriate.

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

**WAC 415-108-800 When do I enter retirement status?** As a member of PERS, you enter retirement status when you:

(1) Have separated from service as defined in RCW 41.40.010(42);

(2) Have no written or oral agreement to return to employment; and

(3) Have applied for retirement, the accrual date has been determined under RCW 41.40.193, 41.40.680, or 41.40.801, and your benefit begins to accrue.

Example: Sally is eligible for retirement on July 1st. She submits an application on June 1st with a July 1st retirement date. Her last day of employment is June 30th and she does not have an agreement to return to work.

Sally's retirement date (accrual date) is July 1st and the benefit begins to accrue. The first retirement payment will be paid at the end of July. Sally entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.40.020 and 41.50.050(5). 06-04-059, § 415-108-800, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.-050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-108-800, filed 12/28/01, effective 1/1/02.]

**WAC 415-108-805 What is the PERS Plan 1 minimum allowance?** RCW 41.40.1984 entitles certain PERS Plan 1 retirees and beneficiaries to a minimum monthly allowance. Subsection (3) of this section provides the amount

of the minimum allowance and explains how it may be adjusted.

(1) **Do I qualify for the minimum allowance?** Except as provided in subsection (2) of this section:

(a) You qualify if your current monthly allowance, excluding any amount you receive for an additional (optional) annuity based on extra contributions, is less than the minimum allowance calculated under subsection (3) of this section, and:

(i) You have twenty-five or more years of PERS Plan 1 service credit and have been retired at least twenty years; or

(ii) You have twenty or more years of PERS Plan 1 service credit and have been retired at least twenty-five years.

(b) You qualify if you are a PERS Plan 1 member's survivor beneficiary under WAC 415-108-326 and your current monthly allowance is less than the minimum allowance calculated under subsection (3) of this section, provided:

(i) The member had twenty-five or more years of PERS Plan 1 service credit and retired at least twenty years ago; or

(ii) The member had twenty or more years of PERS Plan 1 service credit and retired at least twenty-five years ago.

(2) **Do I qualify if I receive a duty disability allowance?** You do not qualify to receive the minimum allowance provided by this rule if you are a:

(a) Retiree currently receiving a duty disability retirement allowance under RCW 41.40.220(1);

(b) Retiree currently receiving a statewide city employees' retirement system duty disability retirement allowance under RCW 41.44.170(3); or

(c) Beneficiary currently receiving an allowance under RCW 41.44.170(5).

(3) **How much is the minimum allowance in RCW 41.40.1984, and how is it adjusted?**

(a) **Minimum allowance.** The minimum allowance prior to July 1, 2006, was \$1000. On July 1, 2006, and each July 1 thereafter, the minimum allowance increases by three percent, rounded to the nearest cent.

(b) **Adjustment.** The minimum allowance in (a) of this subsection will be adjusted each July by the same factors that were otherwise used in the calculation of your monthly allowance, including, but not limited to:

(i) Early retirement;

(ii) Automatic cost-of-living (COLA) increases chosen at retirement;

(iii) Benefit option chosen at retirement (see WAC 415-108-326);

(iv) Survivor percentage. See Example 2 in this subsection.

Example 1: Bob retired in August 1986 with twenty-five years of service credit. Bob chose benefit option three, so that his wife, Betty, would receive a monthly allowance equal to 50% of his allowance after his death.

In August 2006, Bob became eligible for the minimum allowance, calculated as follows:

Minimum allowance in August 2006 =		\$1,030.00
<b>Minimum allowance, actuarially reduced for benefit option three</b>	$\$1,030 \times 0.87$ (benefit option factor based on the difference in age between Bob and Betty) =	<b>\$896.10</b>

Example 2: When Bob died in August 2009, Betty's allowance was calculated using the minimum allowance in effect on the date of Bob's death. The minimum allowance was adjusted by the same factors used to calculate Bob's allowance at retirement and also by the survivor percentage (50%) chosen when Bob retired.

Minimum allowance in August 2009	(includes a 3% per year increase)	\$1,125.51
Actuarially reduced for benefit option three =	$\$1,125.51 \times 0.87 =$	\$979.19
<b>Betty's adjusted minimum allowance</b>	(50% of the allowance Bob was receiving)	<b>\$489.60</b>

The tables, schedules, and factors the department currently uses to calculate benefits are located in WAC 415-02-300 through 415-02-380. However, factors have changed over time, and your minimum allowance will be adjusted using the same factors that were used to calculate your current monthly allowance.

(4) **If the minimum allowance is less than my current monthly allowance, will my monthly allowance be reduced?** The department will compare the amount of the minimum allowance calculated under subsection (3) of this section with your current monthly allowance. You will always receive the higher of the two benefits.

(5) **If I qualify for the minimum allowance, when will I begin to receive it?**

(a) If your eligibility is based on meeting the requirements of subsection (1)(a)(i) or (b)(i) of this section, and:

(i) You were eligible on July 1, 2004, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2004.

(ii) You become eligible after July 1, 2004, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

(b) If your eligibility is based on meeting the requirements of subsection (1)(a)(ii) or (b)(ii) of this section, and:

(i) You were eligible on July 1, 2006, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2006.

(ii) You become eligible after July 1, 2006, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

(6) **Will I receive cost-of-living adjustments (COLAs)?** You will not receive the uniform COLA (based on your years of service credit) while you are receiving the minimum allowance.

(7) **How long will I continue to receive the minimum allowance?** You will receive the minimum allowance calculated under subsection (3) of this section, for your lifetime or until your regular retirement allowance, plus COLAs and other eligible adjustments, exceeds the minimum allowance. At that time you will automatically start receiving the higher allowance.

Example:

	<b>Regular Allowance (including COLAs and other eligible adjustments)</b>	<b>Adjusted Minimum Allowance</b>	<b>Actual Amount Paid</b>
July 1, 2006	\$882.38 (allowance + COLAs)	<b>\$896.10</b> (\$1,030 x .87)	\$896.10
July 1, 2007	\$914.63 (\$882.38 + COLA)	<b>\$922.98</b> (\$1,060.90 x .87)	\$922.98
July 1, 2008	\$946.88 (\$914.63 + COLA)	<b>\$950.67</b> (\$1,092.73 x .87)	\$950.67
July 1, 2009	\$979.13 (\$946.88 + COLA)	<b>\$979.19</b> (\$1,125.51 x .87)	\$979.19
July 1, 2010	<b>\$1,011.38</b> (\$979.13 + COLA)	\$1,008.57 (\$1,159.28 x .87)	\$1,011.38 (reverts to regular allowance including COLAs)

[Statutory Authority: RCW 41.50.050(5), 07-10-013, § 415-108-805, filed 4/20/07, effective 5/21/07. Statutory Authority: RCW 41.50.050(5) and 41.40.1984. 04-20-004, § 415-108-805, filed 9/23/04, effective 10/24/04.]

## 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:

(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 415-108-815 What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?**

(1) The minimum dollar limit under RCW 41.40.815 for determining if a lump sum payment may be received instead of a monthly benefit is increased to \$119.41 as of March 1, 2002.

(2) The limit established in subsection (1) of this section will be increased each January 1st by three percent beginning January 1, 2003.

[Statutory Authority: RCW 41.50.050(5) and 41.40.815. 02-03-120, § 415-108-815, filed 1/23/02, effective 3/1/02.]

### **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 How does the department calculate the retirement allowance of a PERS Plan 2 or Plan 3 member who retires, reenters PERS membership, and then retires again?** This rule establishes a method to actuarially recompute your defined benefit retirement allowance if you are a Plan 2 or Plan 3 member who retires, reenters PERS membership causing your retirement allowance to stop, and then retires again.

(1) **If you previously retired before age sixty-five**, the department will:

(a) Recompute your retirement allowance pursuant to RCW 41.40.620 (Plan 2) or 41.40.790 (Plan 3) using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-108-326.

(2) **If you previously retired at or after age sixty-five**, the department will recompute your retirement allowance pursuant to RCW 41.40.620 (Plan 2) or 41.40.790 (Plan 3) and include any additional service credit you earned and any increase in your average final compensation resulting from your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-108-326.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

[Statutory Authority: RCW 41.50.050(5), 41.40.690, 41.40.850, 41.40.037. 05-12-043, § 415-108-830, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 41.40.620, 41.40.690. 02-03-120, § 415-108-830, filed 1/23/02, effective 3/1/02; 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.]

**WAC 415-108-980 Will I receive a transfer payment when I transfer to Plan 3? (1) PERS Plan 3 will be implemented on March 1, 2002.** If you transfer from PERS Plan 2 to PERS Plan 3 during the Phase 1 transfer period and establish service credit in June 2002, or transfer during the Phase 2 transfer period and establish service credit in either June 2002 or February 2003, you will receive a transfer payment to be added to your member account on or after June 1, 2003, once the department receives the transfer information from your employer. The transfer period and payment amount you will receive is based upon your employer type and your account balance as of March 1, 2002.

(a) You will receive a payment of one hundred and ten percent of your **transfer basis** if you are employed in an eligible position by a Phase 1 employer and you transfer to Plan 3 during the Phase 1 transfer period. State agencies and institutes of higher education are Phase 1 employers.

(b) You will receive a payment of one hundred and eleven percent of your **transfer basis** if you are employed in an eligible position by a Phase 2 employer and you transfer to Plan 3 during the Phase 2 transfer period. All other employers are Phase 2 employers.

(2) Your **transfer basis** is your total accumulated contributions (and interest) on March 1, 2002, less fifty percent of any contributions you made under RCW 41.50.165(2).

(3) If you request to transfer but die before payment is made, the transfer payment will be paid immediately to your defined contribution account. These moneys will be distributed when payment is made from your account to your estate, or the person or persons, trust or organization you nominated by the most recent written beneficiary designation filed with the department.

#### **Examples:**

##### **Phase 1 Employer (110%) (state agencies and institutes of higher education)**

- Al works for a Phase 1 employer and makes \$2,000 a month.
- On March 1, 2002, Al's defined benefit (DB) account balance is \$10,000.

- On June 1, 2002, Al transfers to PERS Plan 3 and chooses contribution rate option A (5%).
- On June 1, 2002, the department transfers approximately \$10,185 to Al's new defined contribution (DC) account. The transfer amount is the sum of:

- ◆ Al's \$10,000 account balance on March 1, 2002;
- ◆ Approximately \$50 in contributions between March 1st and June 1st; and
- ◆ Approximately \$135 in interest in Plan 2 at 5.5% annually, compounded quarterly.

- Al continues working for his Phase 1 employer through June 2003, including the month of June 2002.
- In June 2003, after he receives his transfer payment, Al will have approximately **\$22,385** in his DC account. Here is how:

- ◆ In June 2002, when Al transferred to Plan 3, he started with approximately \$10,185 in his DC account.
- ◆ He then made twelve monthly contributions of \$100 (5% of a \$2,000 salary, June 2002 through May 2003) for a total of \$1,200.
- ◆ In June 2003, he receives a transfer payment of \$11,000 (110% of \$10,000, his account balance on March 1, 2002).
- ◆ The total is approximate because it will depend on earnings or losses on the investments of the original amount transferred the previous year, and the contributions made to date.

#### **Phase 2 Employer (111%) (local government)**

- Peggy works for a Phase 2 employer and makes \$2,000 a month.
- On March 1, 2002, Peggy's defined benefit (DB) account balance is \$10,000.
- On November 1, 2002, Peggy transfers to PERS Plan 3 and chooses contribution rate option A (5%).
- On November 1, 2002, the department transfers approximately \$10,560 to Peggy's new defined contribution (DC) account. The transfer amount is the sum of:

- ◆ Peggy's \$10,000 account balance on March 1, 2002;
- ◆ Approximately \$140 in contributions between March 1st and November 1st;
- ◆ Approximately \$420 in interest in Plan 2 at 5.50% annually, compounded quarterly.

- Peggy continues working for her Phase 2 employer through June 2003, including the month of February 2003\*.

\* A Phase 2 employee can establish service credit in either June 2002 or February 2003.

- In June 2003, after she receives her transfer payment, Peggy will have approximately **\$22,360** in her DC account. Here is how:

- ◆ In November 2002, when Peggy transferred to Plan 3, she started with approximately \$10,560 in her DC account.
- ◆ She then made monthly contributions of \$100 (5% of a \$2,000 salary) for a total of \$700.
- ◆ In June 2003, she receives a transfer payment of \$11,100 (111% of \$10,000, her account balance on March 1, 2002).

- ◆ The total is approximate because it will depend on earnings or losses on the investments of the original amount transferred the previous year, and the contributions made to date.

#### **(4) Terms defined:**

Phase 1 employer: WAC 415-108-425.

Phase 2 employer: WAC 415-108-425.

Phase 1 transfer period: WAC 415-108-425.

Phase 2 transfer period: WAC 415-108-425.

Service: RCW 41.40.010 (9)(b).

Transfer basis: RCW 41.40.795 (1)(b).

Transfer period: RCW 41.40.795 (1)(a).

[Statutory Authority: RCW 41.50.050(5), 41.40.795. 02-12-085, § 415-108-980, filed 6/4/02, effective 6/13/02. Statutory Authority: RCW 41.50.-050(5), 41.32.8401, 41.35.630, 41.40.795. 02-03-120, § 415-108-980, filed 1/23/02, effective 3/1/02.]

**WAC 415-108-990 May I waive my Plan 3 one percent retirement benefit? (1) Why would I want to waive my Plan 3 one percent retirement benefit?** Some state retirement systems have provisions that allow members to purchase service credit earned elsewhere. If you are employed by one of these states and wish to purchase service credit for time worked in Washington, you may be required by that state to show proof that you have waived all of your rights to retirement benefits from Washington as a condition for purchasing the service credit.

**(2) Do I qualify to waive my Plan 3 one percent retirement benefit?** You may irrevocably waive your Plan 3 one percent retirement benefit if:

- (a) You are separated from all Plan 3 eligible employment;
- (b) You withdrew your funds in your Plan 3 member account or are receiving distributions from your Plan 3 member account;
- (c) Your spouse consents to the waiver if you are married;
- (d) There is not a court order or administrative order that affects your right to waive your benefits; and
- (e) You have not received, or are not receiving, a defined benefit payment.

**(3) How do I waive my one percent retirement benefit?** You may waive your right to this benefit by submitting a properly completed form, available through the department. The date of the waiver will be the date the department receives your form.

**(4) Will I get service credit for eligible time if it is discovered after I sign a waiver?** If periods of employment, prior to or within the waived time period, are discovered after you sign a waiver, you will not be credited for the service. However, your employer will be billed for employer contributions for any such period.

**(5) May I retract or withdraw my waiver in the future?** No. You irrevocably give up all rights to any retirement benefits when you submit your signed waiver.

**(6) What are my retirement options if I return to work in a (PERS/SERS/TRS) eligible position?** You will be a member of Plan 3 and will begin accumulating service credit from your new date of hire. You will not be entitled to purchase back any of the Plan 3 service credit you waived.

[Statutory Authority: RCW 41.50.050(5) and 41.40.787. 04-17-002, § 415-108-990, filed 8/4/04, effective 9/4/04.]

**Chapter 415-110 WAC**

**SCHOOL EMPLOYEES' RETIREMENT SYSTEM**

**WAC**

**DEFINITIONS**

415-110-010 Definitions.

**ADMINISTRATION**

- 415-110-020 Public records.
- 415-110-030 Statewide cities retirement system.
- 415-110-040 Appeals—Disability cases.
- 415-110-050 How does the department comply with Internal Revenue Code distribution rules?
- 415-110-060 What are the IRS limitations on maximum benefits and maximum contributions?
- 415-110-070 Assets for exclusive benefit of members and beneficiaries.
- 415-110-115 How is a position determined eligible?

**BENEFIT OPTIONS**

- 415-110-315 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?
- 415-110-324 Married member's benefit selection—Spousal consent required.
- 415-110-340 Actuarial tables, schedules, and factors.
- 415-110-400 Retirement allowance deduction for payment of insurance premiums.
- 415-110-436 SERS Plans 2 and 3 disability benefits.

**REPORTABLE COMPENSATION**

- 415-110-441 Purpose and scope of compensation earnable rules.
- 415-110-443 SERS reportable compensation table.
- 415-110-445 What compensation can be reported?
- 415-110-451 Salary or wages.
- 415-110-453 Performance bonuses.
- 415-110-455 Cafeteria plans.
- 415-110-456 Leave payments earned over time.
- 415-110-457 Retroactive salary increases.
- 415-110-458 Severance pay earned over time.
- 415-110-459 Payroll deductions.
- 415-110-463 Payments not for services rendered.
- 415-110-464 Legislative leave.
- 415-110-465 Paid leave not earned over time.
- 415-110-466 Union leave.
- 415-110-467 Reinstatement or payment instead of reinstatement.
- 415-110-468 Compensation authorized by statute for periods of absence due to sickness or injury.
- 415-110-469 Standby pay.
- 415-110-470 Nonmoney maintenance.
- 415-110-475 Fringe benefits.
- 415-110-477 Disability insurance.
- 415-110-479 Workers' compensation.
- 415-110-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable?
- 415-110-482 Illegal payments.
- 415-110-483 Optional payments.
- 415-110-484 Reimbursements for expenses.
- 415-110-485 Vehicle allowances—Are vehicle allowances earnable compensation?
- 415-110-487 Retirement bonus or incentive.
- 415-110-488 Severance pay not earned over time—Contract buy outs.
- 415-110-491 Salary imputed to periods of unpaid leave.

**MEMBERSHIP**

- 415-110-550 Elected officials—Eligibility for retirement service membership.
- 415-110-560 Appointed officials—Eligibility and application for retirement service membership.
- 415-110-570 Elected and appointed officials—Requirements for service credit.
- 415-110-575 How is the compensation adjustment for elected officials computed?
- 415-110-605 Do I qualify for retirement from Plan 3?
- 415-110-610 What are my retirement benefit options?
- 415-110-679 Purpose and scope of eligibility rules.
- 415-110-680 Am I eligible for membership?

- 415-110-685 Am I eligible for membership and service credit as a classified substitute?
  - 415-110-700 Can I qualify for membership if I work in more than one ineligible position with the same employer?
  - 415-110-710 What are the SERS retiree return to work rules?
  - 415-110-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position?
  - 415-110-725 If I have retired from another retirement plan or am eligible to retire, am I excluded from participating in SERS?
  - 415-110-728 If I work in both a SERS position and TRS position during the same school year, which system will I be in?
  - 415-110-800 When does a member of the school employees' retirement system (SERS) enter retirement status?
  - 415-110-815 What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?
  - 415-110-817 May I waive my Plan 3 one percent retirement benefit?
- SERVICE RETIREMENT**
- 415-110-820 Interim retirement allowance—Final computation of retirement allowance—Adjustment of retirement allowance for errors.
  - 415-110-830 How does the department calculate the retirement allowance of a SERS Plan 2 or Plan 3 member who retires, reenters SERS membership, and then retires again?
- MEMBERSHIP CONVERSION**
- 415-110-910 Conversion of service from PERS to SERS.

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

- 415-110-0102 Normally—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0102, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-0103 Project position—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0103, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-0104 Report—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0104, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-0108 Year—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0108, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-0109 System acronyms—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0109, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-0110 Reportable compensation—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0110, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-0111 Annual leave—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-0111, filed 12/12/00, effective 1/12/01.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW.
- 415-110-320 Determining SERS Plan 3 defined benefit retirement eligibility. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-320, filed 12/12/00, effective 1/12/01.] Repealed by 06-15-071, filed 7/13/06, effective 8/13/06. Statutory Authority: RCW 41.50.050(5) and 41.35.680.
- 415-110-326 Retirement benefit options. [Statutory Authority: RCW 41.50.050(5), 41.26.460, 41.32.530, 41.32.785, 41.32.-851, 41.35.220, 41.40.188, 41.40.660, 41.40.845. 01-10-045, § 415-110-326, filed 4/26/01, effective 6/1/01. Statutory Authority: Chapters 41.32, 41.34, 41.35,

415-110-690 41.50 RCW. 01-01-059, § 415-110-326, filed 12/12/00, effective 1/12/01.] Repealed by 05-23-062, filed 11/14/05, effective 12/15/05. Statutory Authority: RCW 41.50.050(5).  
 How is my eligibility evaluated? [Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-690, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-690, filed 12/12/00, effective 1/12/01.] Repealed by 05-22-108, filed 11/2/05, effective 12/3/05. Statutory Authority: RCW 41.50.-050(5), 41.35.020, and 41.35.010(2). Later promulgation, see WAC 415-110-115.

## DEFINITIONS

**WAC 415-110-010 Definitions.** All definitions in RCW 41.35.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.35 RCW are defined in this chapter.

(1) **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. However, 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.

(2) **Normally** as used in the definition of eligible position under RCW 41.35.010 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.

(3) **Project position** means a position, established by an employer, that has a specific goal and end date.

(4) **Report** means an employer's reporting of an employee's hours of service, compensation and contributions to the department on the monthly transmittal report.

(5) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.35.010(6).

(6) **System acronyms** used in this chapter are defined as follows:

(a) "PERS" means the public employees' retirement system.

(b) "SERS" means the school employees' retirement system. (c) "TRS" means the teachers' retirement system.

(7) **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 September 1 to August 31 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 September 1 through August 31 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.

(8) **School year** for Plan 2 and 3 members means the twelve-month period from September 1 of one year to August 31 of the following year.

(9) **Substitute employee** includes any classified employee who is employed as a substitute for an absent employee or working in an ineligible position.

[Statutory Authority: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033, 04-04-041, § 415-110-010, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-010, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-010, filed 12/12/00, effective 1/12/01.]

## ADMINISTRATION

**WAC 415-110-020 Public records.** See chapter 415-06 WAC.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-020, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-030 Statewide cities retirement system.** Pursuant to RCW 41.35.130, the statutes and rules applying to the school employees' retirement system and the department of retirement systems (as provided in chapters 41.35 and 41.50 RCW and Title 415 WAC) govern the administration and operation of the former statewide cities retirement system.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-030, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-040 Appeals—Disability cases.** Appeals will be governed by the provisions of chapter 415-08 WAC as now existing or hereafter amended.

Any person aggrieved by any final decision must, before he/she appeals to a superior court, file a notice of appeal with the director personally or by mail, within sixty days from the date such decision was communicated to such person. The notice of appeal must contain the information required by WAC 415-08-020 as now existing or hereafter amended.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-040, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-050 How does the department comply with Internal Revenue Code distribution rules?** (1) This section applies only to the school employees' retirement system (SERS) Plans 2 and 3.

(2) All benefits paid from the SERS Plans 2 and 3 retirement plans shall be distributed in accordance with the requirements of section 401 (a)(9) of the Federal Internal Revenue Code and the regulations under that section. In order to meet these requirements, these retirement plans shall be administered in accordance with the following provisions:

(a) Distribution of a member's benefit must begin by the later of the April 1 following the calendar year in which a participant attains age 70 1/2 or the April 1 of the year following the calendar year in which the member retires;



(b) The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence;

(c) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died;

(d) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Federal Internal Revenue Code; and

(e) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death.

(3) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to section 401 (a)(31) of the Federal Internal Revenue Code.

[Statutory Authority: RCW 41.50.050(5), chapter 41.35 RCW and IRS regulations. 02-14-009, § 415-110-050, filed 6/20/02, effective 7/21/02.]

**WAC 415-110-060 What are the IRS limitations on maximum benefits and maximum contributions?** (1) This section applies only to the school employees' retirement system (SERS) Plans 2 and 3. Subject to the provisions of this section, benefits paid from, and employee contributions made to, these plans shall not exceed the maximum benefits and the maximum annual addition, respectively, as applicable under section 415 of the Federal Internal Revenue Code.

(2) A participant may not receive an annual benefit that exceeds the dollar amount specified in section 415 (b)(1)(A) of the Federal Internal Revenue Code, subject to the applicable adjustments in section 415 of the Federal Internal Revenue Code. For purposes of applying IRC 415(b) when a participant retires before age 62 or after age 65, the determination as to whether the benefit satisfies the IRC 415(b) limitations is made by comparing the equivalent annual benefit determined in Step 1 below with the age-adjusted dollar limit determined in Step 2 below.

Step 1: Under IRC 415 (b)(2)(B), determine the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the plan benefit. In general, IRC 415 (b)(2)(E)(i) and (v) require that the equivalent annual benefit be the greater of (a) or (b) below.

(a) The equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable (plan rate and plan mortality table, or plan tabular factor, respectively).

(b) The equivalent annual benefit computed using a 5 percent interest rate assumption and the applicable mortality table.

This step does not apply to a benefit that is not required to be converted to a straight life annuity under IRC 415 (b)(2)(B), for example, a qualified joint and survivor annuity.

Step 2: Under IRC 415 (b)(2)(C) or (D), determine the IRC 415(b) dollar limitation that applies at the age the benefit is payable (age-adjusted dollar limit).

(2009 Ed.)

If the age at which the benefit is payable is less than 62, the age-adjusted dollar limit is determined by reducing the dollar limit on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the age-adjusted dollar amount be the lesser of (a) or (b) below.

(a) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(b) The amount computed using 5 percent interest and the applicable mortality table described in Revenue Ruling 95-6. (This is used only to the extent described in Q&A 6 of Revenue Ruling 98-1, which provides that, for purposes of adjusting any limitation under IRC 415 (b)(2)(C) or (D), to the extent a forfeiture does not occur upon death, the mortality decrement may be ignored prior to age 62 and must be ignored after SSRA.)

If the age at which the benefit is payable is greater than age 65, the age-adjusted dollar limit is determined by increasing the IRC 415(b) dollar limitation on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the increased age-adjusted dollar limit be the lesser of (a) or (b) below.

(a) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(b) The equivalent amount computed using 5 percent interest and the applicable mortality table (used to the extent described in Q&A 6, as described in the prior paragraph).

The dollar limit will be reduced proportionally for less than ten years of participation.

The plan will satisfy the IRC 415(b) limitations only if the equivalent annual benefit determined in Step 1 is less than the age-adjusted dollar limit determined in Step 2.

(3) Effective for limitation years beginning after December 31, 2001, the maximum annual addition that may be contributed or allocated to a participant's account for any limitation year may not exceed the lesser of (a) \$40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Federal Internal Revenue Code, or (b) one hundred percent of the member's compensation, within the meaning of section 415 (c)(3) of the Federal Internal Revenue Code, for the limitation year.

(4) Notwithstanding any other provision of law to the contrary, the department may modify a request by a participant to make a contribution to the retirement plans if the amount of the contributions would exceed the limits under section 415(c) or 415(n) of the Federal Internal Revenue Code. An eligible participant in a retirement plan, as defined by section 1526 of the Federal Taxpayer Relief Act of 1997, may purchase service credit as provided by state law in effect on August 5, 1997, without regard to the limitations of section 415 (c)(1) of the Federal Internal Revenue Code.

(5) Prior to January 1, 1998, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code does not include the amount of any elective deferral, as defined in section 402 (g)(3) of the Federal Internal Revenue Code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includable in the

[Title 415 WAC—p. 169]

gross income of the employee by reason of section 125 or 457 of the Federal Internal Revenue Code.

(6) For limitation years beginning on and after January 1, 1998, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code does include the amount of any elective deferral, as defined in section 402 (g)(3) of the Federal Internal Revenue Code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457 of the Federal Internal Revenue Code.

(7) For limitation years beginning on and after January 1, 2001, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code shall also include elective amounts that are not includible in the gross income of the employee by reason of section 132 (f)(4).

[Statutory Authority: RCW 41.50.050(5), chapter 41.35 RCW and IRS regulations. 02-14-009, § 415-110-060, filed 6/20/02, effective 7/21/02.]

**WAC 415-110-070 Assets for exclusive benefit of members and beneficiaries.** No assets of the school employees' retirement system Plans 2 and 3 may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

[Statutory Authority: RCW 41.50.050(5), chapter 41.35 RCW and IRS regulations. 02-14-009, § 415-110-070, filed 6/20/02, effective 7/21/02.]

**WAC 415-110-115 How is a position determined eligible?** (1) A position is eligible if it meets the criteria of an eligible position under RCW 41.35.010.

(2) Your employer will evaluate your position's eligibility for a particular year at the beginning of the year unless you are working as an on-call substitute.

(3) Your employer may reclassify a position's eligibility based upon its work history.

(a) If your employer declares a position to be ineligible at the beginning of a year, and by the end of the year it has actually required five or more months of seventy or more hours of compensated service, your employer will review the position's eligibility. If at the end of the first year:

(i) Your employer believes the position meets the requirements for an eligible position and declares the position as eligible, your employer will report your hours and compensation to the department effective prospectively from the date your employer makes the determination that the position is eligible; or

(ii) 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 it as ineligible. However, if during the next year, the position actually requires five or more months of seventy or more hours of compensated service, your employer will declare the position as eligible. Once the position is reclassified as eligible, your employer will report your hours and compensation to the department retroactively from the first month of the first year

that the position required seventy or more hours of compensated service.

(b) If the position has been classified as eligible, but does not require five or more months of seventy or more hours of compensated service during at least one year in any two-year period, your employer will reclassify it as ineligible.

(4) The department may reclassify a position's eligibility if the history of the position shows it has required five or more months of seventy or more hours of compensated service for a period of two consecutive years. Once the position is reclassified as eligible, your employer will report your hours and compensation to the department retroactively from the first month of the first year that the position required seventy or more hours of compensated service.

[Statutory Authority: RCW 41.50.050(5), 41.35.020, and 41.35.010(2). 05-22-108, § 415-110-115, filed 11/2/05, effective 12/3/05.]

## BENEFIT OPTIONS

**WAC 415-110-315 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to the designation of beneficiaries for Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts. RCW 41.35.710 governs the defined benefit portion of Plan 3.

(1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.35.460 for Plan 2 members; and

(b) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.35.460(2), but your spouse dies before

requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

- (a) Your accumulated contributions; or
- (b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

#### Examples:

##### EXAMPLE ONE.

#### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

#### Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.35.460 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

##### EXAMPLE TWO.

#### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

#### Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

##### EXAMPLE THREE.

#### Facts

When she became a SERS Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

#### Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.35.460(2) and pay Joan's surviving spouse either a retirement allowance or lump

sum. In this case, Joan's mother will not receive a distribution.

##### EXAMPLE FOUR.

#### Facts

John is a SERS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.35.460(2). However, Mary died the following week before requesting a distribution from the department.

#### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5), 05-12-041, § 415-110-315, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-315, filed 12/12/00, effective 1/12/01.]

#### WAC 415-110-324 Married member's benefit selection—Spousal consent required.

(1) The member, if married, must provide the spouse's written consent to the option selected under WAC 415-110-326. 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 41.35 RCW and RCW 41.35.220(2).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "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: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-324, filed 12/12/00, effective 1/12/01.]

#### WAC 415-110-340 Actuarial tables, schedules, and factors.

See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances of members of the Washington state school employees' retirement system.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW, 02-18-048, § 415-110-340, filed 8/28/02, effective 9/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-340, filed 12/12/00, effective 1/12/01.]

#### WAC 415-110-400 Retirement allowance deduction for payment of insurance premiums.

(1) **Definitions.** 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.

(2) **Scope.** Any beneficiary of a retirement allowance payable for service or disability under the provisions of chapter 41.35 RCW may authorize the director to deduct from his or her retirement allowance, on a monthly basis only, the premiums on any group life or disability insurance policy or plan currently covering the beneficiary, issued to the employer by which the retiree was employed prior to retirement. 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.

(3) **Procedure.** Any beneficiary, who desires to authorize a retirement allowance deduction as provided by this section, shall notify the department of his or her intention in writing at least thirty days prior to the date that the first deduction is to be made and shall file with the department a formal authorization on such form as may be provided by the department.

(4) **Revocability.** You must submit to the department an express written statement of revocation to revoke an authorization for a retirement allowance deduction for payment of insurance premiums under this section. Such a revocation shall be applicable to the first retirement allowance deduction which would otherwise be made at the end of the calendar month following the month in which the statement of revocation is filed.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-400, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-436 SERS Plans 2 and 3 disability benefits.** This section covers disability benefits provided for in RCW 41.35.440 and 41.35.690 for members of SERS Plans 2 and 3. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on- or off-the-job injuries and/or illnesses. Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for a disability allowance if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other position for a SERS employer for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as my monthly disability benefits under the standard option?**

(a) If you are a Plan 2 member, you will receive two percent times average final compensation (AFC) times service credit years, permanently actuarially reduced to reflect the

difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(b) If you are a Plan 3 member, you will receive a defined benefit of one percent times average final compensation times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(c) The degree of your disability or impairment will not impact the amount of your disability benefit.

(3) **May I choose a benefit option that provides a monthly allowance to my survivor beneficiary?** You may choose to have your benefit paid according to any of the benefit options described in WAC 415-110-326. If you choose an option with a survivor feature, your monthly benefit will be actuarially reduced to offset the cost.

(4) **How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete, sign and have notarized. If you are married, your spouse must sign consent of the benefit option you choose.

(ii) **Part 2:** Employer's statement and report. Your employer must complete, sign and return directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return directly to the department. You are responsible for all medical expenses related to your application for benefits.

(b) When the department receives part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(5) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(6) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, there will be no difference in the dollar amount of your benefit.

(7) **Once my application is approved, when will my benefit begin?**

(a) You will start accruing disability benefits the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first benefit payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from SERS employment.

(i) If you are continuing to perform the duties of your position or another SERS position, you may reapply for dis-

ability benefits according to subsection (4) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

**(8) What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a SERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

**(9) What information must be provided to the department if I am receiving disability benefits?**

(a) You and your doctor must report any improvement in your condition; and

(b) You must report the name of your employer and monthly salary if you resume employment, regardless of the number of hours you work.

**(10) How long will my disability benefits last?** You may receive benefits throughout your lifetime, subject to the provisions of subsection (15) of this section.

**(11) Are my disability benefits taxable?** You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

**(12) Are disability benefits subject to court or administrative orders?** Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.35.100(3) or contact the department.

**(13) Am I eligible for disability benefits if my disability is the result of my criminal conduct committed after April 21, 1997?** No. For more information, see RCW 41.35.-110.

**(14) How is my disability benefit affected if I am a member of more than one retirement system?** If you are a member of more than one retirement system, your benefit is governed by portability law (see chapters 41.54 RCW and 415-113 WAC). You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

**(15) Is it possible to lose my disability benefits after I begin receiving them?**

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility

for disability benefits. You will no longer be eligible to receive disability benefits if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.35.010(4), at a comparable compensation.

(b) If you return to employment and reenter SERS membership, your benefits will cease.

**(16) If I take my disability benefit in a lump sum and return to work, may I restore my service credit?** Yes, you may restore your service credit if you take a lump sum benefit and return to SERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165.

(c) The provisions for restoring service credit vary according to retirement plan.

(i) If you are a member of SERS Plan 2, see RCW 41.35.410.

(ii) If you are a member of SERS Plan 3, see RCW 41.35.670.

[Statutory Authority: RCW 41.50.050(5), 41.35.020, 41.35.440, and 41.35.690. 05-19-014, § 415-110-436, filed 9/9/05, effective 10/10/05.]

**REPORTABLE COMPENSATION**

**WAC 415-110-441 Purpose and scope of compensation earnable rules.** WAC 415-110-443 through 415-110-488 codify the department's existing interpretation of statutes and existing administrative practice regarding classification of payments as compensation earnable in SERS Plan 2 and SERS Plan 3. 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-441, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-443 SERS reportable compensation table.** The following table will help you determine whether certain types of payments are reportable compensation under SERS Plan 2 or 3. Be sure to read the referenced rule to ensure that you have correctly identified the payment in question. The department determines reportable compensation based upon the nature of the payment, not the name applied to it. See WAC 415-110-445.

Type of Payment	SERS Plan 2 and Plan 3 Reportable Compensation?
Annual Leave Cash Outs	No - WAC 415-110-456
Assault Pay	No - WAC 415-110-468
Base Rate	Yes - WAC 415-110-451
Car Allowances	No - WAC 415-110-485
Cafeteria Plans	Yes - WAC 415-110-455

Type of Payment	SERS Plan 2 and Plan 3 Reportable Compensation?
Deferred Wages	Yes - WAC 415-110-459
Disability Payments	No - WAC 415-110-477
Disability Retirees	No - RCW 41.35.440/ RCW 41.35.690 (until requirements are met)
Disability: Salary lost while on disability leave	Yes - WAC 415-110-468 RCW 41.35.070
Employer Provided Vehicle	No - WAC 415-110-480
Employer Contributions	No - WAC 415-110-459
Fringe Benefits, including insurance	No - WAC 415-110-475
Illegal Payments	No - WAC 415-110-482
Legislative Leave	Yes - WAC 415-110-464
Longevity/Education Attainment Pay	Yes - WAC 415-110-451
Nonmoney Maintenance	No - WAC 415-110-470
Optional Payments	No - WAC 415-110-483
Payments in Lieu of Excluded Items	No - WAC 415-110-463
Performance Bonuses	Yes - WAC 415-110-453
Retroactive Salary Increase	Yes - WAC 415-110-457
Reimbursements	No - WAC 415-110-484
Reinstatement Payments	Yes - WAC 415-110-467
Retirement or Termination Bonuses	No - WAC 415-110-487
Severance Pay - Earned Over Time	No - WAC 415-110-458
Severance Pay - Not Earned Over Time	No - WAC 415-110-488
Shared Leave - School/ ESD Employees	Yes - WAC 415-110-468
Sick Leave Cash Outs - School/ESD Employees	No - WAC 415-110-456
Standby Pay	Yes - WAC 415-110-469
Time Off With Pay	Yes - WAC 415-110-456 WAC 415-110-465
Union Leave	Yes - WAC 415-110-466 <sup>1/</sup>
Workers' Compensation	No - WAC 415-110-479

<sup>1/</sup> Only specific types of union leave are reportable. See WAC 415-110-466.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 03-06-042, § 415-110-443, filed 2/27/03, effective 4/1/03. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-443, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-445 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 41.35.010.

(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).

[Title 415 WAC—p. 174]

(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 415-110-464 through 415-110-469.)

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

Example: If a member works during September but does not receive payment for the work until October, the reportable compensation was earned during September and must be reported to the department as September 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 415-110-445 through 415-110-488 define reportable compensation for each of the two SERS plans. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-110-455 through 415-110-488 is the same for both SERS Plan 2 and SERS Plan 3.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-445, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-451 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

(2009 Ed.)

upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-451, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-453 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-453, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-455 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 415-110-475.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-455, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-456 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 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 are not reportable compensation for SERS Plan 2 and SERS Plan 3 members. Although annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered, they are excluded from the definition of compensation earnable by statute, see RCW 41.35.010 (6)(a).

(3) **Sick leave cash outs.** Sick leave cash outs are excluded from the definition of compensation earnable for SERS Plan 2 and SERS Plan 3 members by statute.

Sick leave cash outs are excluded from reportable compensation for:

- (i) School district employees by RCW 28A.400.210; and

(2009 Ed.)

(ii) Educational service district employees by RCW 28A.310.490. See RCW 41.35.010 (6)(a).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-456, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-457 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 payments for periods where services were not rendered, see WAC 415-110-467.

(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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-457, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-458 Severance pay earned over time.** All forms of severance pay are excluded from earnable compensation and are not reportable for Plan 2 or Plan 3 by RCW 41.35.010 (6)(a).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-458, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-459 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 contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-110-475.

(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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-459, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-463 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

[Title 415 WAC—p. 175]

which are reportable even though they are not for services rendered.

(1) WAC 415-110-464 through 415-110-469 discuss all payments that are not for services rendered that nonetheless qualify as reportable compensation.

(2) WAC 415-110-475 through 415-110-488 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 415-110-464 through 415-110-469 is not reportable compensation even if it is not listed in WAC 415-110-475 through 415-110-488.

(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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-463, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-464 Legislative leave.** If a SERS member takes a leave without pay from an eligible position to serve in the legislature, the member may elect to participate in SERS as a legislator.

(1) 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.

(2) 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-464, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-465 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 previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.35.470 and 41.35.650 identify payments received from the employer while on paid leave as reportable for SERS. 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 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) and WAC 415-110-466.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-465, filed 12/12/00, effective 1/12/01.]

[Title 415 WAC—p. 176]

**WAC 415-110-466 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 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) as appropriate, are met.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-466, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-467 Reinstatement or payment instead of reinstatement.** (1) Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.35.010(6) specifically designates these 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. The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either:

(a) The employer; or

(b) A personnel board, personnel appeals board or court of law following a hearing.

[Statutory Authority: RCW 41.50.050(5), 41.40.020, 41.35.010(6), 41.40.-010(8), 01-08-057, § 415-110-467, filed 4/2/01, effective 5/3/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-467, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-468 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 415-110-456. 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 41.35.070.

(3) **Shared leave.**

(a) Compensation that an employee, as defined in RCW 41.04.655, 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-468, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-469 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 41.35.010(6) 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 41.35.010(7).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-469, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-470 Nonmoney maintenance. Are payments from my employer in any form other than money considered compensation earnable?** If you are a SERS Plan 2 or Plan 3 member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as compensation earnable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-470, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-475 Fringe benefits.** Fringe benefits provided by an employer are not a salary or wage, and therefore are not reportable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or
- (3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-110-455.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 03-06-042, § 415-110-475, filed 2/27/03, effective 4/1/03. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-475, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-477 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-477, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-479 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.

(2009 Ed.)

**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 41.35.070.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-479, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable?** You are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-480, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-482 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-482, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-483 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-483, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-484 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 415-110-485, or meal and lodging reimbursements for business trips.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-484, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-485 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.

(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:

- (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 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 portion of your retirement allowance payment attributable to your vehicle allowance.

[Title 415 WAC—p. 178]

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-485, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-487 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 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 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-487, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-488 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 415-110-458.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-488, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-491 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) Unpaid authorized leave of absence. For information about purchasing service credit for periods of unpaid authorized leave of absence, see:

- (a) Plan 2: WAC 415-02-175 and RCW 41.35.470; and
- (b) Plan 3: WAC 415-02-175 and RCW 41.35.650.

(2) Periods of disability. See RCW 41.35.070 for information about establishing service credit for periods of disability covered by industrial insurance.

(3) 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

(2009 Ed.)

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(5), 04-20-005, § 415-110-491, filed 9/23/04, effective 10/24/04. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-491, filed 12/12/00, effective 1/12/01.]

## MEMBERSHIP

**WAC 415-110-550 Elected officials—Eligibility for retirement service membership.** (1) For purposes of this section and WAC 415-110-570, and pursuant to RCW 41.35.030 and 41.35.010, "elected" officials means:

(a) Individuals who are elected or appointed to any vacant elective office at a school district or educational service district; or

(b) Active SERS members who become elected or appointed to any state elective position.

(2) An active member of SERS who is elected to a state elective position may elect to continue membership in SERS or apply for membership in PERS pursuant to RCW 41.40-023(3).

(3) An active member of SERS who is elected or appointed to a nonstate elective position for an employer other than a school district or educational service district, does not have the option to continue membership in SERS pursuant to such elected service. However, the member may apply for membership in PERS pursuant to RCW 41.40-023(3).

(4) Pursuant to RCW 41.35.030 (2)(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.

(5) 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. The official will be required to establish membership for all consecutive terms of office. To exercise this option, the official shall apply to the department pursuant to subsection (4) 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.

(6) 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 (4) of this section; or

(b) Choose not to participate pursuant to the official's elected position while continuing membership through the nonelected position.

(7) Except as provided under RCW 41.35.030, 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. 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.

(8) The department will apply this section to service by elected officials which occurred prior to the effective date of this section.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-110-550, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-560 Appointed officials—Eligibility and application for retirement service membership.** (1)

For purposes of this section and WAC 415-110-570, and pursuant to RCW 41.35.030 and 41.35.010, "appointed" officials means only those individuals who are active SERS members or were previously active SERS members and are 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 41.35.010 in order to be eligible for membership and service credit.

(3) Pursuant to RCW 41.35.030, 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. 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 official resigns from the appointed position and is later reappointed to the position during the same term.

(7) The department will apply this section to service by appointed officials which occurred prior to the effective date of this section.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-560, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-570 Elected and appointed officials—Requirements for service credit.** (1) SERS members who were elected to office by statewide election and elect membership in SERS pursuant to WAC 415-110-550, may receive one month of service credit for each month during which they earn compensation pursuant to their elected positions.

(2) Except for officials covered under subsection (1) of this section, members who were elected to office or appointed by the governor to positions and elect membership in SERS pursuant to WAC 415-110-550 or 415-110-560, may receive service credit only for months during which they are compensated:

(a) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; and

(b) For ninety or more total hours of work.

(3) On or after September 1, 1991, except for officials covered under subsection (1) of this section, members who were elected to office or appointed by the governor to positions and elect membership in SERS pursuant to WAC 415-110-550 or 415-110-560, may earn:

(a) One month of service credit for each month during which they are compensated:

(i) For ninety or more total hours of work; and

(ii) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(b) One-half month of service credit for each month during which they are compensated:

(i) For less than ninety hours but equal to or more than seventy total hours of work; and

(ii) In excess of ninety times the state hourly minimum wage in effect at the time they render the service; or

(c) One-quarter month of service credit for each month during which they are compensated:

(i) For less than seventy total hours of work; and

(ii) In excess of ninety times the state hourly minimum wage in effect at the time they render the service.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-570, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-575 How is the compensation adjustment for elected officials computed?** (1) This section provides the department's inflation adjustment under RCW 41.35.030 (2)(b) regarding elected officials.

(2) The department uses the criteria in RCW 41.26.240<sup>1</sup> in making annual inflation adjustments to the fifteen thousand dollar compensation threshold stated in RCW 41.35.030 (2)(b).

(3) The department adjusts the compensation threshold on April 1st of each year.<sup>2</sup>

(4) The department makes this information available upon request. For further information, please contact the department. Please see WAC 415-06-100 for contact information.

Footnotes to section:

<sup>1</sup> The department uses this LEOFF statute because the statute explains how to use the Consumer Price Index for Seattle in making these annual adjustments.

<sup>2</sup> In 2001 the threshold was \$19,263. In 2002 the threshold was \$19,948.

[Statutory Authority: RCW 41.50.050(5), 41.40.023, 41.40.037. 03-08-090, § 415-110-575, filed 4/2/03, effective 5/1/03.]

**WAC 415-110-605 Do I qualify for retirement from Plan 3?** (1) You may retire from Plan 3:

(a) At age sixty-five with an unreduced defined benefit with the following amounts of service credit:

(i) Ten years of service credit;

(ii) Five years of service credit, including at least twelve service credit months after attaining age forty-four; or

(iii) Five years of Plan 2 service credit earned prior to September 1, 2000, before transferring to Plan 3 under RCW 41.35.510;

(b) At age fifty-five with a minimum of ten years of service credit; however, your defined benefit will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five; or

(c) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year for each year between your age at retirement and age sixty-five.

(2) Under RCW 41.35.010 (7)(c), you may use up to forty-five days of unused sick leave to meet service credit requirements.

(a) Forty-five days of unused sick leave is equal to two service credit months. Less than forty-five days is creditable as specified in RCW 41.35.010 (7)(c).

(b) Unused sick leave may not be used to meet age requirements.

(c) The sick leave used is forfeited, and may not be cashed out.

(d) The value of the sick leave will not be included in your AFC or used to determine the amount of your retirement benefit.

Example: On December 31, 2005, John is age sixty-five and has four years and ten months of service credit. John has forty-five days of sick leave. John may use the forty-five days of sick leave to qualify for retirement effective January 1, 2006.

(3) See RCW 41.35.680.

[Statutory Authority: RCW 41.50.050(5) and 41.35.680. 06-15-071, § 415-110-605, filed 7/13/06, effective 8/13/06.]

**WAC 415-110-610 What are my retirement benefit options?** Upon retirement for service under RCW 41.35.420 or 41.35.680, or for disability under RCW 41.35.440 or 41.35.690, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) **What are my benefit options?**

(a) **Option one: Standard allowance (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly retirement allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(2009 Ed.)

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.35.220. If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

**Example:**

Agnes retires from SERS Plan 2 in 2006. Agnes chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2011. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2006	2,000.00	1,750.00		0.00
2007		1,750.00	.02	35.00
2008		1,785.00	.03	53.55
2009		1,838.55	.025	45.96
2010		1,884.51	.03	56.54
2011	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Monthly Allowance \$2000		+ Total COLA's + \$191.05	= New Monthly Allowance	= \$2,191.05*

\* In the future, Agnes' COLAs will be based on her increased monthly allowance.

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service,

you may choose a different retirement option upon your subsequent retirement. See RCW 41.35.060.

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-01-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

**(7) Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) **Plan 2 members:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3 members:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.35.220.

[Statutory Authority: RCW 41.50.050(5), 41.35.220, 05-23-062, § 415-110-610, filed 11/14/05, effective 12/15/05.]

[Title 415 WAC—p. 182]

**WAC 415-110-679 Purpose and scope of eligibility rules.** WAC 415-110-680 through 415-110-728 codify the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in Plan 2 and Plan 3. The department has applied and will apply these rules to determine eligibility for service occurring prior to effective dates of these sections.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-679, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-680 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 41.35.010 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. If you are a PERS Plan 1 member working in a SERS substitute position, the SERS substitute laws do not apply. If you are a Plan 2 or 3 member, hours worked as a SERS substitute are not counted when determining eligibility for membership.

**(2) If you leave an eligible position to serve in a project position, you may retain eligibility.**

(a) Project positions may use a twelve-month period other than a school year to evaluate eligibility. The employer must consistently apply this twelve-month period to evaluate the eligibility of this position.

(b) 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:

(i) The position, as defined by the employer, normally requires at least five months of seventy or more hours of compensated service each month; or

(ii) 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 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Member" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

(e) "Normally" - WAC 415-110-010.

(f) "Project position" - WAC 415-110-010.

(g) "Year" - WAC 415-110-010.

[Statutory Authority: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033, 04-04-041, § 415-110-680, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-680, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-680, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-685 Am I eligible for membership and service credit as a classified substitute? (1) You may establish or reestablish membership by purchasing service credit in SERS as a classified substitute if you meet eligibility criteria.**

(a) **SERS Plan 2.**

You may apply to the department for membership in Plan 2 if you work at least seventy hours for five or more months during a school year and:

(i) Were previously a member of SERS Plan 2 and withdrew; or  
 (ii) Are or were a member of PERS Plan 2.

**(b) SERS Plan 3.**

You may apply to the department for membership in Plan 3 if you work at least seventy hours for five or more months during a school year and:

(i) You have never been a member of SERS Plan 2;  
 (ii) You have never been a member of PERS Plan 2; or  
 (iii) You were a member of PERS Plan 2 who transferred to PERS Plan 3.

**(2) As an established member you may purchase any amount of service credit as a classified substitute.**

**SERS Plan 2 or 3.**

(a) You must purchase all of the service you rendered during the school year.

(b) You do not have a minimum amount of service you must have worked.

**(3) To apply, you must submit your application to the department at the end of the school year.**

To apply for membership and service credit as a classified substitute, you must submit the correct application form (Plan 2 or Plan 3) and your employer's quarterly reports to the department, if applicable, no earlier than August 31 of the school year for which you are applying for service credit.

**(4) You must make payments within six months of the end of the school year to avoid recovery interest charges.**

(a) You have six months following the end of the school year in which the service was provided to purchase the service credit by paying the appropriate member contributions in full to avoid interest charges.

(b) After the six-month period, recovery interest shall be charged prospectively (March 1 forward) on the contributions due.

(i) **SERS Plan 2 members:** Interest is charged on both employer and member contributions.

(ii) **SERS Plan 3 members:** Interest is charged on employer contributions only.

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

(a) "Classified employee" - RCW 41.35.010(37).

(b) "Member" - RCW 41.35.010(5).

(c) "Service" - RCW 41.35.010(7).

(d) "Substitute employee" - RCW 41.35.010(38).

[Statutory Authority: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033, 04-04-041, § 415-110-685, filed 1/29/04, effective 3/1/04.]

**WAC 415-110-700 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 415-110-728.

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

(a) "Eligible position" - RCW 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Ineligible position" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

(e) "Normally" - WAC 415-110-010.

(f) "Report" - WAC 415-110-010.

(g) "Year" - WAC 415-110-010.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-700, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-700, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-710 What are the SERS retiree return to work rules? (1) How soon can I return to work after I retire?**

(a) There is no required waiting period to return to work if:

(i) You go to work for a private employer;

(ii) You are a bona fide independent contractor as defined in WAC 415-02-110; or

(iii) Your only employment is as an elected official of a city or town and you end your SERS membership under RCW 41.35.030 (2)(b).

(b) If you return to work sooner than thirty consecutive calendar days from your accrual date (effective retirement date), your monthly retirement allowance will be reduced in accordance with RCW 41.35.060(1) until you separate for at least thirty consecutive calendar days.

(c) If you wait at least thirty consecutive calendar days from your accrual date, you may return to work in any position (eligible, ineligible, temporary, etc.) for any employer whose retirement plan is administered by the department of retirement systems (DRS).

**(2) What is the annual hour limit?** After you meet the thirty-day waiting period described in subsection (1)(c) of this section, there are different annual hour limits that apply to you based on what kind of position you return to.

(a) **No limit.** You can work as many hours as you want without affecting your retirement allowance if you work:

- (i) In an ineligible position;
- (ii) As a retiree returning as an active member of a higher education retirement plan;
- (iii) As a bona fide independent contractor;
- (iv) For a private employer; or
- (v) If you end your SERS membership as an elected official of a city or town under RCW 41.35.030 (2)(b).

(b) **Eight hundred sixty-seven-hour limit.** You may work up to eight hundred sixty-seven hours in an eligible position as defined in RCW 41.32.010(37), 41.35.010(22), or 41.40.010(25), or as a fire fighter or law enforcement officer, as defined in RCW 41.26.030 (3) and (4), in a calendar year before your retirement allowance is suspended.

(c) If you are retired from SERS and another DRS retirement system, refer to the table below to determine the effect of returning to work:

Dual System Combination	Return to Work System	Outcome
SERS Plan 2 or 3 and LEOFF Plan 2	SERS	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	PERS	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before their SERS monthly retirement allowance would be suspended.
	TRS	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	LEOFF Plan 2	Your LEOFF Plan 2 monthly retirement allowance would be suspended and you would be mandated back into LEOFF Plan 2 membership. Your SERS monthly retirement allowance would be suspended until you terminate from LEOFF Plan 2.
	WSPRS	If you have less than fifteen years of service credit in either system you are retired from, then you are mandated into membership in WSPRS and your SERS and LEOFF Plan 2 monthly retirement allowances are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS. Your LEOFF Plan 2 monthly retirement allowance is suspended and you can work up to eight hundred sixty-seven hours during the calendar year before your SERS monthly retirement allowance would be suspended.
SERS Plan 2 or 3 and PERS Plan 2 or 3	SERS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.



Dual System Combination	Return to Work System	Outcome
	PERS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.
	TRS	You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.
	LEOFF Plan 2	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and PERS monthly retirement allowances are suspended. If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.
	WSPRS	If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS monthly retirement allowances would be suspended. If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowance would be suspended.
SERS Plan 2 or 3 and TRS Plan 1	SERS	You can work up to fifteen hundred hours during the fiscal year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.
	PERS	If the position is at any educational institution in Washington state you can work up to fifteen hundred hours during the fiscal year before your SERS and TRS monthly retirement allowances would be suspended. If the position is not at an educational institution in Washington state, you can work unlimited hours without your SERS or TRS monthly retirement allowance being suspended.
	TRS	You can work up to fifteen hundred hours during the fiscal year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.

Dual System Combination	Return to Work System	Outcome
	LEOFF Plan 2	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and TRS monthly retirement allowances are suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work unlimited hours without your SERS and TRS monthly retirement allowances being suspended.</p>
	WSPRS	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS monthly retirement allowances would be suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before their SERS and PERS monthly retirement allowance would be suspended.</p>
SERS Plan 2 or 3 and TRS Plan 2 or 3	SERS	<p>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</p>
	PERS	<p>You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</p>
	TRS	<p>The retiree can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before their SERS and TRS monthly retirement allowances would be suspended.</p>
	LEOFF Plan 2	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF and your SERS and TRS monthly retirement allowances are suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2 and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and TRS monthly retirement allowances would be suspended.</p>

Dual System Combination	Return to Work System	Outcome
	WSPRS	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in WSPRS and your SERS and PERS monthly retirement allowances would be suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in WSPRS and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS and PERS monthly retirement allowances would be suspended.</p>
SERS Plan 2 or 3 and WSPRS	SERS	Your WSPRS monthly retirement allowance would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	PERS	Your WSPRS monthly retirement allowance would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	TRS	Your WSPRS monthly retirement allowance would not be suspended and you can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.
	LEOFF Plan 2	<p>If you have less than fifteen years of service credit in either system you retired from, then you are mandated into membership in LEOFF. Your SERS monthly retirement allowance is suspended but your WSPRS monthly retirement allowance would not be suspended.</p> <p>If you have fifteen or more years of service credit in either system then you may not become a member in LEOFF Plan 2. You can work up to eight hundred sixty-seven hours during the calendar year in an eligible position before your SERS monthly retirement allowance would be suspended.</p>
	WSPRS	Your WSPRS monthly retirement allowance would be suspended and you are mandated back into membership. Your SERS monthly retirement allowance would be suspended until you terminate from WSPRS.

**(3) What hours are counted toward the limits?**

(a) **Counted toward the hour limits:** All compensated hours that are worked for any DRS-covered employer in an

eligible position, including the use of earned sick leave, vacation days, paid holidays, compensatory time, and cashouts of compensatory time.

(b) **Not counted toward the hour limits:** Cashouts of unused sick and vacation leave.

(4) **What happens if I work over the annual hour limit?**

(a) DRS will prorate your retirement allowance for the month in which you exceed the limit. The suspension will be effective the day after the day in which you exceeded the hour limit.

(b) Your retirement allowance will be restarted beginning with the next calendar year or the day after you terminate all eligible DRS-covered employment, whichever occurs first.

(c) DRS will recover any overpayments made to you for the month(s) in which you exceeded the hour limit and received a retirement allowance. See RCW 41.50.130.

(5) **Can I return to SERS membership?**

(a) If you are a SERS retiree, you have the option to return to membership if you are employed by a SERS employer and meet eligibility criteria. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.35.030(3).

(b) If you reenter membership and later choose to retire again, DRS will recalculate your retirement allowance under the applicable statutes and regulations. You will be subject to the return to work rules in place at the time of your retirement.

(c) If you are a retiree from another retirement system that DRS administers, you may choose to enter SERS membership if you are eligible. The option to return to membership is prospective from the first day of the month following the month in which you request to return to membership. See RCW 41.04.270 and 41.35.030.

(6) **Terms used.**

(a) Accrual date - RCW 41.35.450, 41.35.640.

(b) Acronyms used:

(i) LEOFF: Law enforcement officers' and fire fighters' retirement system.

(ii) PERS: Public employees' retirement system.

(iii) SERS: School employees' retirement system.

(iv) TRS: Teachers' retirement system.

(v) WSPRS: Washington state patrol retirement system.

(c) Calendar day - WAC 415-02-030.

(d) Eligible position - RCW 41.35.060(2).

(e) Ineligible position - RCW 41.35.010(23).

(f) Law enforcement officer - RCW 41.26.030(3).

(g) Member - RCW 41.35.010(5).

[Statutory Authority: RCW 41.50.050(5), 41.40.010(42), 41.40.037. 04-04-037, § 415-110-710, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-110-710, filed 12/28/01,

effective 1/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-710, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-720 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 SERS if your individual circumstances qualify you for one of the exceptions to membership under RCW 41.35.030.

(2) **If you work for a SERS employer after you retire, you are subject to postretirement 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 postretirement employment restrictions under RCW 41.35.230 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 41.35.010.

(b) "Employer" - RCW 41.35.010.

(c) "Ineligible position" - RCW 41.35.010.

(d) "Membership" - RCW 41.35.030.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-720, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-725 If I have retired from another retirement plan or am eligible to retire, am I excluded from participating in SERS?** (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 SERS membership unless 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 cannot participate in SERS.

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

(a) "Membership" - RCW 41.35.030.

(b) "Retirement plan" - WAC 415-110-010.

(c) "Service" - RCW 41.35.010.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-725, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-725, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-728 If I work in both a SERS position and TRS position during the same school year, which system will I be in?** (1) If you work in both a SERS 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 SERS or TRS according to the following table:

**Former TRS Plan 1 Members <sup>1/</sup>**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a full-time teaching position	Same SERS employer	TRS regular reporting for both positions.
	Separate SERS employers	TRS regular reporting for both positions.

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a less than full-time teaching position	Same SERS employer	<b>SERS</b> regular reporting for both positions.
	Separate SERS employers	<b>SERS</b> regular reporting for SERS position. <b>TRS</b> substitute reporting for TRS position. If the service qualifies you to reestablish membership under RCW 41.32.240 and you choose to purchase the service, then any previously reported SERS service for that same fiscal year will be transferred to TRS.
A SERS substitute or ineligible position and a full-time teaching position	Same SERS employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for TRS position. <b>SERS</b> substitute reporting for SERS position. If you choose to purchase the service, it will be billed in TRS.
A SERS substitute or ineligible position and a less than full-time teaching position	Same SERS employer	<b>TRS</b> regular reporting if combined, the position would qualify as a full-time teaching position. Otherwise report all of the time as TRS substitute reporting.
	Separate SERS employers	<b>SERS</b> substitute reporting for SERS position. <b>TRS</b> substitute reporting for TRS position. If the TRS service qualifies you to reestablish membership and you choose to purchase the service credit, then any time for that same fiscal year must be purchased as TRS service credit. If the SERS service qualifies you for membership and you choose to purchase only the SERS service, it will be billed in SERS.

**TRS Plan 1 Members**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a full-time teaching position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for both positions.
A SERS-eligible position and a less than full-time teaching position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for both positions.
A SERS substitute or ineligible position and a full-time teaching position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for TRS position. <b>SERS</b> substitute reporting for SERS position. If you purchase the SERS service, it will be billed into TRS.
A SERS substitute or ineligible position and less than full-time teaching position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for TRS position. <b>SERS</b> substitute reporting for SERS position. If you purchase the SERS service, it will be billed into TRS.

**TRS Plan 2 or 3 Members**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a TRS-eligible position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for both positions.
A SERS-eligible position and a TRS-ineligible or substitute position	Same employer	<b>SERS</b> regular reporting for both positions.
	Separate SERS employers	<b>SERS</b> regular reporting for SERS position.  <b>TRS</b> substitute reporting for TRS position. If you choose to purchase the service, then any previously reported SERS service for that same school year will be transferred to TRS.
A SERS-ineligible or substitute position and a TRS-eligible position	Same employer	<b>TRS</b> regular reporting for both positions.

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
	Separate SERS employers	<b>TRS</b> regular reporting for TRS position. <b>SERS</b> substitute reporting for the SERS position. If the SERS service qualifies for membership, then it would be billed into TRS.
A SERS-ineligible or substitute position and a TRS-ineligible or substitute position	Same employer	<b>TRS</b> regular reporting if combined, the position would qualify as an eligible teaching position. Otherwise report all of the time as TRS substitute reporting.
	Separate SERS employers	<b>TRS</b> substitute reporting for TRS position. If you choose to purchase the service credit, then any time for that same fiscal year must be purchased as TRS service credit. <b>SERS</b> substitute reporting for SERS position. If the SERS service qualifies you for membership and you choose to purchase only the SERS service, it will be billed in SERS.

**SERS Members**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a TRS-eligible position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for both positions.
A SERS-eligible position and a TRS-ineligible or substitute position	Same employer	<b>SERS</b> regular reporting for both positions.
	Separate SERS employers	<b>SERS</b> regular reporting for SERS position. <b>TRS</b> substitute reporting for TRS position. If the service qualifies you to establish membership and you choose to purchase the service, then any previously reported SERS service for that same school year will be transferred to TRS.
A SERS-ineligible or substitute position and a TRS-eligible position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for TRS position. <b>SERS</b> substitute reporting for the SERS position. If you purchase the SERS service, it would be billed into TRS.
A SERS-ineligible or substitute position and a TRS-ineligible or substitute position	Same employer	<b>TRS</b> regular reporting if combined, the position would qualify as an eligible teaching position. Otherwise report all of the time as TRS substitute reporting.
	Separate SERS employers	<b>TRS</b> substitute reporting for TRS position. If the TRS service qualifies you to establish membership and you choose to purchase the service credit, then any time for that same fiscal year must be purchased as TRS service credit. <b>SERS</b> substitute reporting for SERS position. If you choose to purchase only the SERS service, it will be billed in SERS.

**Neither TRS Nor SERS Member**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible position and a TRS-eligible position	Same employer	<b>TRS</b> regular reporting for both positions.
	Separate SERS employers	<b>TRS</b> regular reporting for both positions.
A SERS-eligible position and a TRS-ineligible or substitute position	Same employer	<b>SERS</b> regular reporting for both positions.
	Separate SERS employers	<b>SERS</b> regular reporting for SERS position.  <b>TRS</b> substitute reporting for TRS position. If the service qualifies you to establish membership and you choose to purchase the service, then any previously reported SERS service for that same school year will be transferred to TRS.

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
A SERS-eligible or substitute position and a TRS-eligible position	Same employer	TRS regular reporting for both positions.
	Separate SERS employers	TRS regular reporting for TRS position. SERS substitute reporting for the SERS position. If the SERS service qualifies for membership, and you choose to purchase the service, then it would be billed into TRS.
A SERS-eligible or substitute position and a TRS-eligible or substitute position	Same employer	TRS regular reporting if combined, the position would qualify as an eligible teaching position. Otherwise report all of the time as TRS substitute reporting.
	Separate SERS employers	TRS substitute reporting for TRS position. If the TRS service qualifies you to establish membership and you choose to purchase the service credit, then any time for that same school year must be purchased as TRS service credit. SERS substitute reporting for SERS position. If the SERS service qualifies you for membership and you choose to purchase only the SERS service, it will be billed in SERS.

<sup>1/</sup> "Former TRS 1 member," as used here, means you terminate your membership by withdrawing your contributions.  
<sup>2/</sup> Means during the same school year.

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

- (a) "Eligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).
- (b) "Employer" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).
- (c) "Ineligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).
- (d) "Member" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).
- (e) "Membership" - RCW 41.35.030 (SERS).
- (f) "Report" - WAC 415-110-010.
- (g) "Service" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

[Statutory Authority: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033, 04-04-041, § 415-110-728, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.35 RCW. 02-18-046, § 415-110-728, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-728, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-800 When does a member of the school employees' retirement system (SERS) enter retirement status?** A member of the SERS enters retirement status when he or she:

- (1) Has separated from service as defined in RCW 41.35.010(36);
- (2) Has no written agreement to return to public employment prior to entering "retiree status"; and
- (3) Has applied for retirement, the accrual date has been determined under RCW 41.35.450 or 41.35.640, and the benefit begins to accrue.

Example: Doug is eligible for retirement on July 1st. He submits an application on June 1st with a July 1st retirement date. His last day of employment is June 30th and he does not have an agreement to return to work.  
 Doug's retirement date (accrual date) is July 1st, and the benefit begins to accrue. The first retire-

- (c) Your spouse consents to the waiver if you are mar-

ment payment will be paid at the end of July. Doug entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801, 02-02-060, § 415-110-800, filed 12/28/01, effective 1/1/02.]

**WAC 415-110-815 What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?**

(1) The minimum dollar limit under RCW 41.35.670 for determining if a lump sum payment may be received instead of a monthly benefit is increased to \$119.41 as of March 1, 2002.

(2) The limit established in subsection (1) of this section will be increased each January 1st by three percent beginning January 1, 2003.

[Statutory Authority: RCW 41.50.050(5) and 41.35.670. 02-03-120, § 415-110-815, filed 1/23/02, effective 3/1/02.]

**WAC 415-110-817 May I waive my Plan 3 one percent retirement benefit? (1) Why would I want to waive my Plan 3 one percent retirement benefit?** Some state retirement systems have provisions that allow members to purchase service credit earned elsewhere. If you are employed by one of these states and wish to purchase service credit for time worked in Washington, you may be required by that state to show proof that you have waived all of your rights to retirement benefits from Washington as a condition for purchasing the service credit.

(2) **Do I qualify to waive my Plan 3 one percent retirement benefit?** You may irrevocably waive your Plan 3 one percent retirement benefit if:

- (a) You are separated from all Plan 3 eligible employment;
- (b) You withdrew your funds in your Plan 3 member account or are receiving distributions from your Plan 3 member account;

(d) There is not a court order or administrative order that affects your right to waive your benefits; and

(e) You have not received, or are not receiving, a defined benefit payment.

(3) **How do I waive my one percent retirement benefit?** You may waive your right to this benefit by submitting a properly completed form, available through the department. The date of the waiver will be the date the department receives your form.

(4) **Will I get service credit for eligible time if it is discovered after I sign a waiver?** If periods of employment, prior to or within the waived time period, are discovered after you sign a waiver, you will not be credited for the service. However, your employer will be billed for employer contributions for any such period.

(5) **May I retract or withdraw my waiver in the future?** No. You irrevocably give up all rights to any retirement benefits when you submit your signed waiver.

(6) **What are my retirement options if I return to work in a (PERS/SERS/TRS) eligible position?** You will be a member of Plan 3 and will begin accumulating service credit from your new date of hire. You will not be entitled to purchase back any of the Plan 3 service credit you waived.

[Statutory Authority: RCW 41.50.050(5) and 41.35.612, 04-17-002, § 415-110-817, filed 8/4/04, effective 9/4/04.]

## SERVICE RETIREMENT

**WAC 415-110-820 Interim retirement allowance—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) Following the department's computation of the interim benefit and receipt earnings history, 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.

(4) Pursuant to RCW 41.50.130, following the department's final computation of the member's retirement allowance as provided in subsection (3) of this section, the department may subsequently adjust a member's retirement allow-

ance 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-820, filed 12/12/00, effective 1/12/01.]

**WAC 415-110-830 How does the department calculate the retirement allowance of a SERS Plan 2 or Plan 3 member who retires, reenters SERS membership, and then retires again?** This rule establishes a method to actuarially recompute your defined benefit retirement allowance if you are a Plan 2 or Plan 3 member who retires, reenters SERS membership causing your retirement allowance to stop, and then retires again.

(1) **If you previously retired before age sixty-five**, the department will:

(a) Recompute your retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-110-326.

(2) **If you previously retired at or after age sixty-five**, the department will recompute your retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) and include any additional service credit you earned and any increase in your average final compensation resulting from your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-110-326.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

[Statutory Authority: RCW 41.50.050(5), 41.35.230, 41.35.060, 05-12-043, § 415-110-830, filed 5/25/05, effective 6/25/05. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-830, filed 12/12/00, effective 1/12/01.]



**MEMBERSHIP CONVERSION**

**WAC 415-110-910 Conversion of service from PERS to SERS.** (1) You will be converted from the public employees' retirement system (PERS) to the school employees' retirement system (SERS) if:

(a) You were employed with a school district or educational service district in an eligible position as of September 1, 2000;

(b) You participated and then separated in PERS prior to September 1, 2000, and became reemployed in an eligible position at a school district or educational service district after September 1, 2000;

(c) You are a participating member in PERS and move to a SERS employer in an eligible position after September 1, 2000;

(d) You were or are a participating member of PERS Plan 2 and establish membership in SERS through the substitute process. (See WAC 415-110-680.)

(e) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS member; and

(ii) Were a member as of September 1, 2000, at a school district or educational service district; or

(f) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS member;

(ii) Separated from your PERS position; and

(iii) Become employed in an eligible SERS position prior to applying for reretirement in PERS.

(2) **What happens to my existing PERS service and account history when I am converted from PERS to SERS membership?** All of your PERS service and account history with any PERS employer will be moved to SERS.

(3) **How many times will my PERS service be moved to SERS?** Your PERS service shall be moved to SERS only once pursuant to subsection (1) of this section. After you have been converted from PERS to SERS, subsequent reenrollment(s) into SERS shall not cause any additional conversions of any PERS service. Any future eligible employment in PERS shall be reported into PERS and any future eligible employment in SERS shall be reported into SERS.

Example: **Employed in PERS prior to conversion.** Joe has 15 years of service in PERS. He has been employed by a school district for the last 5 years. Joe previously was employed by a county for 10 years.

**Conversion from PERS to SERS.** Since Joe is employed with the school district on September 1, 2000, his PERS service is moved to SERS service. Both his 5 years of service with the school district and his 10 years of service with the county are moved to SERS. Joe's PERS account now has zero service credit and contributions; Joe's SERS account now has 15 years of service credit and contributions.

**Return to PERS service.** After another year of service with the school district, Joe separates employment with 16 years of credit in SERS and returns to employment with the county. Joe's 16 years of service remains in SERS and he begins

to accrue service in PERS, starting from zero, for his new employment with the county.

**Return to SERS employment.** Joe works for the county for 5 years. He now has 5 years of service credit in PERS and he still has 16 years of service credit in SERS. Joe separates employment from the county and goes back to work in a SERS covered position with an educational service district. Joe's PERS employer will stop reporting him and the educational service district will begin reporting Joe into SERS. He will begin accumulating service in SERS starting at 16 years. The 5 years of service that Joe rendered at the county stays in PERS.

(4) **If I am a PERS Plan 2 retiree and become employed in an eligible SERS position, will my service be converted from PERS to SERS?** Except as allowed in subsection (1)(e) and (f) of this section, a PERS Plan 2 retiree will not have any of his or her service, account or retirement history converted to SERS.

[Statutory Authority: RCW 41.50.050(5), 41.35.010, 41.35.030, 41.35.033, 04-04-041, § 415-110-910, filed 1/29/04, effective 3/1/04. Statutory Authority: RCW 41.50.050(5), 41.35.005-[41.35.1030, 41.40.070, 02-03-120, § 415-110-910, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-110-910, filed 12/12/00, effective 1/12/01.]

**Chapter 415-111 WAC**

**PLAN 3—DEFINED CONTRIBUTION PLANS**

**WAC**

**ADMINISTRATION**

- 415-111-100 To whom does this chapter apply?
- 415-111-110 Member and employer responsibility.
- 415-111-111 Monitoring deferral limits.

**INVESTMENT OPTIONS**

- 415-111-210 Investment program election.
- 415-111-220 How do I choose a defined contribution rate?
- 415-111-230 Self-directed investment program allocation.
- 415-111-310 Defined contribution account distribution (withdrawal).
- 415-111-320 May I purchase a life annuity with my Plan 3 defined contribution account?
- 415-111-400 Optional service credit purchase rules.
- 415-111-410 Submitting a beneficiary designation for Plan 3 members.
- 415-111-440 Gainsharing.

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

- 415-111-450 How does a court-ordered division of property affect my Plan 3 account? [Statutory Authority: RCW 41.50.-050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42, 02-12-084, § 415-111-450, filed 6/4/02, effective 7/5/02. Statutory Authority: RCW 41.50.050(5), 41.50.670 through 41.50.720, 02-03-120, § 415-111-450, filed 1/23/02, effective 3/1/02.] Repealed by 03-12-014, filed 5/27/03, effective 7/1/03. Statutory Authority: RCW 41.50.050(5) and 41.50.670.

**ADMINISTRATION**

**WAC 415-111-100 To whom does this chapter apply?** This chapter applies only to members of Plan 3 retirement systems created under chapters 41.32 (TRS), 41.35 (SERS) and 41.40 (PERS) RCW.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.34 RCW. 02-03-120, § 415-111-100, filed 1/23/02, effective 3/1/02. Statutory Authority:

Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-100, filed 12/12/00, effective 1/12/01.]

**WAC 415-111-110 Member and employer responsibility.** (1) **What am I responsible for as a Plan 3 member?** As a Plan 3 member your responsibilities include, but are not limited to:

- (a) Adhering to time frames;
- (b) Making investment decisions for your defined contribution account;
- (c) Reviewing account information provided on statements, such as quarterly statements, and notifying the correct organization of any errors;
- (d) Filling out the correct form for a requested action;
- (e) Correctly completing the appropriate form for a requested action and submitting the form to the correct organization as directed on each form; and
- (f) Monitoring to ensure contributions do not exceed Internal Revenue Code limits (see WAC 415-111-111).

(2) **What can happen if I do not fulfill my Plan 3 responsibilities?** If you do not fulfill your responsibilities, the consequences may include, but are not limited to:

- (a) You may not qualify for certain benefits, such as the transfer payment;
- (b) You may have a delay in the correction of errors on your account;
- (c) You may have a delay in the processing of your request for a defined contribution withdrawal; or
- (d) You may have a delay in the investment of your account as directed.

(3) **What responsibilities do employers have?** Employers' responsibilities include, but are not limited to:

- (a) Adhering to Plan 3 administrative requirements, including the respective roles of employers and employees, communicated to employers by the department in written materials and formal training;
- (b) Maintaining a supply of Plan 3 forms;
- (c) Reporting an employee's Plan 3 transfer decision as soon as possible after receipt of the appropriate form from the employee;
- (d) Submitting to DRS the form on which the member made the Plan 3 transfer decision as soon as possible after receipt of the appropriate form;
- (e) Reporting an employee's contribution rate decision as soon as possible after receipt of the appropriate form from the employee;
- (f) Reporting an employee's investment program as soon as possible after receipt of the appropriate form from the employee;
- (g) Monitoring to ensure that a member's contributions do not exceed Internal Revenue Code limits (see WAC 415-111-111); and
- (h) Submitting contributions to the department as soon as reasonable and at least in accordance with RCW 41.50.120, "reasonableness" will be based on the facts and circumstances.

Example

Assume the following:

- An employer has one payroll system;
- Payroll checks are issued semimonthly;

- At the same time checks are cut, the payroll department produces a data tape of employee contributions that has to be checked for accuracy, and checking the tape takes four days;

- Once the accuracy of the data tape is confirmed, a check for the aggregate amount of employee contributions is sent by the employer to DRS; and

- The entire process, from the cutting of payroll checks to the cutting of the aggregate employee contribution check takes eight days.

In this situation, eight days is a "reasonable" period of time.

(4) **What can happen if my employer does not fulfill its responsibilities?**

(a) If your employer does not fulfill its responsibilities, the consequences may include, but are not limited to:

- (i) Your employer may have to make your member account whole;
- (ii) Your employer may be subject to penalties assessed by the department; or
- (iii) Your employer may be subject to penalties assessed by the Internal Revenue Service.

(b) If the department determines that an employer has erred in its administrative role, such that an employee incurs an investment loss, the department will determine the amount of loss and bill the employer.

[Statutory Authority: RCW 41.50.050(5), 41.50.112, 41.50.145, chapter 41.34 RCW. 02-03-120, § 415-111-110, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-110, filed 12/12/00, effective 1/12/01.]

**WAC 415-111-111 Monitoring deferral limits.** (1) **Can contributions in Plan 3 affect my deferral limits in other tax-deferred plans?** Yes. Contributions to Plan 3 reduce your taxable income; this may affect your deferral limits if you participate in another tax deferred program that has a maximum contribution based on a percentage of your taxable income. You should consult with the Internal Revenue Service, a tax advisor, or a financial advisor regarding all questions of federal or state tax implications arising from participation in Plan 3.

(2) **Who is responsible for ensuring that I do not exceed my tax deferral limits?** Both your employer and you are responsible for ensuring that you do not exceed your tax deferral limits:

(a) Employers are responsible for monitoring to ensure that the contributions you make to your employer-sponsored tax deferred plan(s) do not exceed the limits under the Internal Revenue Code.

(b) You are responsible for monitoring to ensure that the total contributions you make to all of your tax deferred plan(s) do not exceed the limits under the Internal Revenue Code if you participate in a tax deferred program(s) outside of your employer sponsored plan(s).

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-111, filed 12/12/00, effective 1/12/01.]

## INVESTMENT OPTIONS

**WAC 415-111-210 Investment program election.** You must choose between two investment programs: The

total allocation portfolio, managed by the Washington state investment board, and a self-directed investment program. You may contribute to only one of these programs at a time. However, you may maintain accounts in both investment programs and transfer money between investment programs.

Pursuant to WAC 415-111-110, you bear the responsibility for completing the correct form for making an investment program election and submitting it to your employer as directed on the form.

**(1) Where do I get the form to make my election?** Your employer must provide the appropriate form to elect an investment program if you are enrolling into Plan 3, transferring from Plan 2 to Plan 3, or changing your investment program.

**(2) When do I have to choose an investment program?** If you are a new member or are reenrolling, you must select one of the investment programs (the total allocation portfolio or the self-directed investment program) within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must select an investment program when you transfer. The ninety-day period does not apply to a member transferring from Plan 2 to Plan 3.

If it is determined you should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date it is discovered, as determined by the department, that you should have been reported.

**(3) What happens if I do not make an investment program election?** You will be assigned to the default investment program described in subsection (4) of this section, if:

(a) You are a new employee or changing your employer and do not make an investment program election within the ninety-day election period described in subsection (2) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not make an investment program election at the time of transfer.

**(4) What is the default investment program?** The default investment program is the total allocation portfolio of the Washington state investment board.

**(5) Can I change my investment program?** Once you have made an initial investment election or been directed into the default program, you may change your investment program at any time by submitting the appropriate form to your employer.

[Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-210, filed 12/12/00, effective 1/12/01.]

**WAC 415-111-220 How do I choose a defined contribution rate?** (1) **Contribution rates:** If you are a member of the Teachers' Retirement System (TRS) Plan 3, the School Employees' Retirement System (SERS) Plan 3, or the Public Employees' Retirement System (PERS) Plan 3, you are required to contribute from your compensation according to one of the following rate structures:

	Base Rate	Additional Rate	Total Contribution Rate
<b>Option A</b>			
All ages	5.0%	0.0%	5.0%
<b>Option B</b>			

	Base Rate	Additional Rate	Total Contribution Rate
Up to age 35	5.0%	0.0%	5.0%
Age 35 to 44	5.0%	1.0%	6.0%
Age 45 and above	5.0%	2.5%	7.5%
<b>Option C</b>			
Up to age 35	5.0%	1.0%	6.0%
Age 35 to 44	5.0%	2.5%	7.5%
Age 45 and above	5.0%	3.5%	8.5%
<b>Option D</b>			
All ages	5.0%	2.0%	7.0%
<b>Option E</b>			
All ages	5.0%	5.0%	10.0%
<b>Option F</b>			
All ages	5.0%	10.0%	15.0%

**(2) How do I make the choice?** Under WAC 415-111-110, it is your responsibility to complete the correct form for choosing a contribution rate and submitting the form in a timely manner to your employer as directed on the form.

**(3) Where do I get the form to make my choice?** Your employer must provide the appropriate form to choose a contribution rate if you are enrolling in Plan 3 or transferring from Plan 2 to Plan 3.

**(4) When do I have to choose?** You must choose a contribution rate within ninety calendar days from your date of hire in an eligible position. However, if you are transferring from Plan 2 to Plan 3, you must choose a contribution rate at the same time you transfer. The ninety-day period does not apply to a member transferring from Plan 2 to Plan 3.

**(5) When do contributions begin?**

(a) Once you choose a contribution rate, contributions will begin the first day of the pay cycle in which you make the choice.

(b) If the employer advises the department that you should be reported into Plan 3 membership retroactively, the ninety-day period starts from the date it is discovered that you should have been reported. The department will decide which date to use.

**(6) What if I work for more than one employer?** If you are a Plan 3 member working in eligible positions for more than one employer, you may select a different contribution rate with each employer.

**(7) What happens if I do not make a choice?** Under RCW 41.34.040, you will be assigned a base rate of 5% (Option A) if:

(a) You are a new employee or changing your employer, and do not choose a contribution rate within the ninety-day election period described in subsection (4) of this section; or

(b) You are transferring from Plan 2 to Plan 3 and do not choose a contribution rate at the time of transfer. Contributions required under subsection (a) or (b) will begin the first day of the pay cycle in which you are assigned to Option A.

**(8) Can I change my contribution rate?**

(a) If you are a PERS 3 or SERS 3 member, once you choose a contribution rate or are assigned the base rate of 5% (Option A), you cannot change that contribution rate unless you change employers. This rule is required by an IRS deci-

sion on the tax qualified status of PERS 2 and 3 and SERS 2 and 3.

(b) Each time you change employers, you must choose a new contribution rate within ninety days or you will be assigned a base rate of 5% (Option A). No contributions will be taken until you choose a rate or until the ninety-day period has elapsed, whichever occurs first.

(c) Each January, TRS Plan 3 members may change their contribution rate option by providing written notification to their employer as described in WAC 415-111-110(1).

[Statutory Authority: RCW 41.50.050(5) and 41.34.090, 06-03-097, § 415-111-220, filed 1/17/06, effective 2/17/06. Statutory Authority: RCW 41.50-050(5) and 41.34.040, 04-02-004, § 415-111-220, filed 12/24/03, effective 1/1/04; 01-15-038, § 415-111-220, filed 7/13/01, effective 7/26/01. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-220, filed 12/12/00, effective 1/12/01.]

**WAC 415-111-230 Self-directed investment program allocation.** This section applies only to members who elect the self-directed investment program pursuant to WAC 415-111-210.

(1) **What is an allocation?** An allocation is a set of instructions identifying your choice of investment program funds and the percentage of your money you want to invest in each fund. The amount you allocate to each fund must be designated as a whole percentage, and the total must equal one-hundred percent.

Example: Martha has elected the self-directed investment program and is contributing \$150 per month. Martha decides to invest in three different funds with the following amounts: \$30 invested in fund #1, \$45 invested in fund #2 and \$75 invested in fund #3. To accomplish this she must establish the following allocation:

Allocation to fund #1	20%
Allocation to fund #2	30%
Allocation to fund #3	50%
Total Allocation	100%

(2) **How do I establish an allocation?** You must establish your allocation by contacting the department's designated recordkeeper. Once established, you may change your allocation according to the provisions in subsection (5) of this section.

(3) **What happens if I do not establish an allocation?** If you do not provide an allocation before the department's designated recordkeeper begins receiving your investment money, or if you provide an allocation but the sum of the allocated portions does not equal one-hundred percent, your investment money will be invested as follows:

(a) If the total of the percentages you have allocated is less than one-hundred percent, the department will determine the percentage that is unallocated, and invest the unallocated percentage in the default fund.

Example: Ralph designates the following allocation: 33% fund #1, 33% fund #2, and 33% fund #3. Since the total allocation equals 99%, the unallocated 1% will be invested in the default fund.

(b) If the total of the percentages you have allocated is greater than one-hundred percent, all of your investment money will be invested in the default fund.

Example: Chris designates the following allocations: 38% into fund #1, 40% into fund #2, 10% into fund #3, and 15% into fund #4. Since the total allocation equals 103%, all of Chris' investment money will be invested in the default fund.

(c) If you do not provide an allocation, your money will be invested as follows:

(i) If you previously participated in the self-directed investment program, your most recent allocation will be used. However, if your allocation includes a fund or funds that are no longer available, the portion of your investment money allocated to the unavailable fund(s) will be invested in the default fund.

(ii) If you do not meet the conditions in (c)(i) of this subsection, all of your investment money will be invested in the default fund.

Example: Lew is a new member and elects the self-directed investment program, but does not establish an allocation. All of Lew's investment money will be invested in the default fund.

Example: Linda becomes reemployed in an eligible position and elects to participate in the self-directed investment program again, but does not provide an allocation.

Linda previously participated in the self-directed investment program and had the following allocation:

10% in Fund #1
10% in Fund #2
30% in Fund #3
25% in Fund #4
25% in Fund #5

Because she did not establish a new allocation, her previous allocation will be used. However, fund #2 is no longer available, so that portion of her money will be invested in the default fund. A new allocation will be established for Linda as follows:

10% in Fund #1
10% in Default Fund
30% in Fund #3
25% in Fund #4
25% in Fund #5

(4) **What is the default fund?** The default fund for the self-directed investment program is the Target Date Fund that assumes your current age is 65.

(5) **May I change my allocation?** Once you have established an allocation or been directed into the default fund, you may change your allocation by contacting the department's designated recordkeeper. However, changes must be consistent with any restrictions on trading imposed by the funds involved, and, if necessary to protect the performance results of the investment program funds, the department may:

- Limit the number of times you change allocations;
- Limit the frequency of the changes;
- Limit the manner of making changes; or
- Impose other restrictions.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.34 RCW. 08-18-058, § 415-111-230, filed 9/2/08, effective 10/3/08; 06-03-098, § 415-111-

230, filed 1/17/06, effective 2/17/06. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-230, filed 12/12/00, effective 1/12/01.]

**WAC 415-111-310 Defined contribution account distribution (withdrawal). (1) How do I request a distribution (withdrawal) of funds from my defined contribution account?**

(a) You must separate from all eligible employment;  
 (b) The department must receive the notice of separation from your employer(s) through the retirement transmittal system; and

(c) You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form. See WAC 415-111-110.

**(2) Can I receive an expedited distribution?**

(a) If you are terminally ill and eligible, the department will arrange for payment to you within ten workdays. To be eligible for an expedited payment:

- (i) You must separate from all eligible employment;
- (ii) The department must receive the notice of separation from your employer(s);
- (iii) You or your beneficiaries must submit documentation to the department verifying your terminal illness; and
- (iv) You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form (see WAC 415-111-110).

(b) If you have an emergency, the department will consider your request for expedited payment and arrange for expedited payment to you whenever possible. To be eligible for consideration:

- (i) You must separate from all eligible employment;
- (ii) The department must receive the notice of separation from your employer(s);
- (iii) You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form (see WAC 415-111-110); and

(iv) You or your beneficiaries must submit documentation to the department verifying and explaining your emergency. The department will consider only unforeseeable emergencies or serious illnesses or death of you or a close family or household member.

(c) If you are invested in a self-directed option, the Plan 3 recordkeeper will distribute your entire self-directed account balance, less any applicable tax withholding.

(d) If you are invested in the Total Asset Portfolio (TAP), the Plan 3 recordkeeper will distribute 80% of your estimated TAP account balance, less any applicable tax withholding. You will be paid the balance of your account after the final valuation has been made.

**(3) Can I still receive my defined contribution distribution if I have returned to work before receiving my funds?** If you return to work in an eligible position after all the criteria in subsection (1) of this section are met, you may receive distribution from your defined contribution account.

**(4) What are my options for distributing my defined contribution funds?** You have the following options for distributions from your Plan 3 defined contribution account.

Options for both the WSIB and the self-directed investment programs are combined where applicable.

(a) **Lump sum cash distribution. In either program,** you may request the entire amount of your funds in a single lump-sum payment.

(b) **Direct rollover. In either program,** you may have some or all of your funds rolled over to an eligible retirement plan or individual retirement account (IRA). If you choose a partial rollover, the remaining funds that were not rolled over will be distributed to you as a lump sum, unless you create a personal payment schedule under (d) of this subsection.

(c) **Scheduled payments. In either program,** subject to the distribution requirements of IRC section 401 (a)(9), you may request that your funds be distributed in equal payments over a specified period of time, or that a specific dollar amount be paid on a monthly basis until the account is exhausted. You may also request equal payments over your lifetime or the lifetimes of you and your beneficiary. Scheduled payments for the WSIB program are made monthly only. Scheduled payments for the self-directed program may be made monthly, quarterly, semiannually or annually. Both programs have a minimum payment requirement of one hundred dollars per month.

(d) **Personalized payment plan. In either program,** you may create a personalized payment plan using any part of one or more of the distribution options provided in (a), (b), and (c) of this subsection (see examples below).

(e) **Annuity purchase. In either program,** you may request to have your funds used to purchase an annuity that pays a benefit for your lifetime or the lifetimes of you and your joint annuitant. See WAC 415-111-320 for information about purchasing an annuity and descriptions of the various annuity contracts.

(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses will be used to adjust the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than anticipated due to market losses.

**EXAMPLE (WSIB - Partial rollover with payments until account exhausted):**

Pat has \$10,000 in the WSIB investment program. Pat wants to rollover \$2,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Pat selects the personalized payment schedule option and requests to do a partial rollover of \$2,000 and receive the remaining \$8,000 in equal monthly payments of \$125 until the account is exhausted (approximately 64 months).

**EXAMPLE (Self - Partial rollover with payments for fixed period):**

Chris has \$10,000 in the self-directed investment program. Chris wants to rollover \$3,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Chris selects the personalized payment schedule option and requests to do a partial rollover of \$3,000 and receive the remaining \$7,000 in quarterly payments of \$250 over the next 7 years (28 quarters).

<b>Summary of Distribution Options</b>	
<b>SELF</b>	<b>WSIB</b>
<b>Lump Sum Cash Distribution or Direct Rollover</b>	<b>Lump Sum Cash Distribution or Direct Rollover</b>
<ul style="list-style-type: none"> <li>– entire account</li> <li>– partial amount</li> <li>– remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).</li> </ul>	<ul style="list-style-type: none"> <li>– entire account</li> <li>– partial amount</li> <li>– remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).</li> </ul>
<b>Scheduled Payments</b>	<b>Scheduled Payments</b>
<ul style="list-style-type: none"> <li>– equal payments</li> <li>– monthly, quarterly, semi-annual or annual</li> <li>– specified period of time, <b>or</b></li> <li>– until the account is exhausted</li> <li>– payments can be combined life expectancy of you and a beneficiary.</li> </ul>	<ul style="list-style-type: none"> <li>– equal payments</li> <li>– monthly payments only</li> <li>– specified period of time, <b>or</b></li> <li>– until the account is exhausted</li> <li>– payments can be combined life expectancy of you and a beneficiary.</li> </ul>
<b>Annuity Purchase</b>	<b>Annuity Purchase</b>
<ul style="list-style-type: none"> <li>– purchase an annuity from an insurance company</li> <li>– set up to pay benefits for</li> <li>– your lifetime, or</li> <li>– lifetimes of you and your joint annuitant.</li> </ul>	<ul style="list-style-type: none"> <li>– purchase an annuity, administered by the state of Washington</li> <li>– set up to pay benefits for</li> <li>– your lifetime, <b>or</b></li> <li>– lifetimes of you and your joint annuitant.</li> </ul>
<b>In addition to the above, you may set up:</b>	<b>In addition to the above, you may set up:</b>
<b>Personalized Payment Plan</b>	<b>Personalized Payment Plan</b>
<ul style="list-style-type: none"> <li>– customized for your needs</li> <li>– available for options above.</li> </ul>	<ul style="list-style-type: none"> <li>– customized for your needs</li> <li>– available for options above.</li> </ul>

(6) **Minimum required distribution.** Beginning on April 1 of the calendar year following the year in which you turn age 70 1/2, you are required to withdraw a minimum amount from your defined contributions annually. If you are still working at age 70 1/2, distribution is required to begin immediately upon retirement.

(7) See RCW 41.34.070 for additional information.

[Statutory Authority: RCW 41.50.050(5) and 41.50.088. 05-24-050, § 415-111-310, filed 12/1/05, effective 1/1/06. Statutory Authority: RCW 41.50.-050(5), 41.34.070(3). 03-19-120, § 415-111-310, filed 9/17/03, effective 11/1/03. Statutory Authority: RCW 41.50.050(5) and 41.34.070. 02-03-120, § 415-111-310, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-111-310, filed 12/12/00, effective 1/12/01.]

**WAC 415-111-320 May I purchase a life annuity with my Plan 3 defined contribution account?** Any time after you become eligible to withdraw funds from your Plan 3 account, you may use part or all of your funds to purchase a life annuity according to this section. To purchase a Total Allocation Portfolio (TAP) Annuity that is administered by the state of Washington you must use funds that are in the Washington state investment board (WSIB) investment program. To purchase an annuity through an insurance company

that is offered by the self-directed investment program, you must use funds that are in the self-directed investment program.

(1) **What is a life annuity?** A life annuity is a contract that provides a guaranteed income for the rest of your life in exchange for a lump-sum dollar amount you pay up front. The contract specifies the amount you pay to purchase the annuity, the amount you will receive each month, and any other terms and conditions.

(a) **A single life annuity** is based on your lifetime. It provides guaranteed payments for as long as you live. The payments stop upon your death.

(b) **A joint life annuity** is based on two lifetimes, yours and another person that you choose (referred to as your joint annuitant). It provides guaranteed payments for as long as you live, and then for as long as your joint annuitant lives. The payments stop when both you and your joint annuitant die.

(c) **A term certain—Single life annuity** is based on your lifetime. It provides you with regular payments for as long as you live. It also guarantees the payments for a specific, predetermined period of time (term certain). If you die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.

(d) **A term certain—Joint life annuity** is based on two lifetimes, yours and your joint annuitant's. It provides regular payments for as long as you or your joint annuitant live. It also guarantees those payments for a specific, predetermined period of time (term certain). If you and your joint annuitant should both die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.

**Example (Term certain—Joint life annuity):**

John purchased a 20-year term certain joint life annuity. He received monthly payments until his death 10 years later. Upon John's death, Mary, John's joint annuitant, will receive payments for the duration of her life.

- If Mary lives for 5 years after John's death, upon her death the annuity will make payments to John's beneficiary for 5 years, the remainder of the 20-year term.
- If Mary lives for 15 years after John's death, upon her death the annuity will cease. The annuity will have paid benefits for 25 years, five years beyond the 20-year guaranteed period.

(2) **Are the life annuities offered by each investment program different?** The life annuities offered through the WSIB investment program and the self-directed investment program have distinct features and options. Each program may offer some or all of the annuities described in subsection (1) of this section. Minimum purchase price, payment frequency, survivorship percentages, length of term certain annuities, and other optional features differ between programs as well.

(3) **How are the annuity payments calculated?** Your annuity payment amount is based on:

- (a) The original purchase price;
- (b) Your age;
- (c) The age of your joint annuitant, if any;
- (d) Assumptions about life expectancy;

(e) The survivorship percentage you select on a joint annuity;

(f) Anticipated investment returns; and

(g) The specific features of the annuity you select, such as, but not limited to, COLAs or refunds of any undistributed balance upon death.

(4) **May I change my mind after I purchase an annuity?** Your contract will specify a period of time in which you can rescind your decision to purchase the annuity. Once the rescission period expires, your decision is irrevocable.

(5) **May I change the terms of the annuity after the rescission period expires?** You may not make any changes after the rescission period unless your annuity contract explicitly states otherwise. Some policies allow you to make changes in specific circumstances. For instance, you may make changes to an annuity purchased through the Washington state investment board investment program only as follows:

(a) If you name someone other than your spouse as the joint annuitant, you may convert to a single life annuity at any time after your payments begin. This option may only be used once and is irrevocable.

(b) If you marry after purchasing a single life annuity, you may convert to a joint life annuity and name your new spouse as survivor, provided that:

(i) Your monthly benefit is not subject to a property settlement agreement from a court decree of dissolution or legal separation;

(ii) The selection is made during a one-year window on or after the date of the first anniversary and before the second anniversary of your marriage; and

(iii) You provide satisfactory proof of your new marriage and your new spouse's birth date. This option may only be used once and is irrevocable.

(6) **What are the tax consequences of a life annuity?**

(a) You, your joint annuitant or your beneficiary may be liable for federal and/or state taxes on payments from your annuity in the year in which they are received. You will receive an annual statement indicating the taxable portion of your annuity payments.

(b) If you do not submit a tax withholding Form W-4P to the department before your first payment, taxes will be withheld according to Internal Revenue Service requirements, using a filing status of married with three exemptions.

(c) The department does not:

(i) Guarantee that payments should or should not be designated as exempt from federal income tax;

(ii) Guarantee that it was correct in withholding or not withholding taxes from benefit payments to you;

(iii) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(iv) Assume any liability for your compliance with the Internal Revenue Code.

(7) **How do I purchase a life annuity?**

(a) The forms required to purchase an annuity and the applicable directions are available on the department's web site or upon request from the department, and include:

(i) Plan 3 Request for Payment of Defined Contributions Forms Form;

(ii) Plan 3 Annuity Payment Request Form;

(iii) Spousal consent form, if married;

(iv) Proof of your birth date;

(v) Proof of your joint annuitant's birth date, if applicable; and

(vi) Tax withholding Form W-4P.

(b) You may transfer funds from one investment program to the other in order to have sufficient funds in the appropriate investment program to cover the cost of the annuity purchase.

(8) **What if there is an error in my contract?** Carefully examine your contract upon receipt. If there is an error or omission, you must report the error or omission immediately according to the instructions in your contract.

[Statutory Authority: RCW 41.50.050(5) and 41.50.088. 05-24-050, § 415-111-320, filed 12/1/05, effective 1/1/06.]

**WAC 415-111-400 Optional service credit purchase rules. (1) Statutory deadline dates.**

(a) When you are purchasing service credit available from participation as a former member of Plan 2, you will be subject to the statutory deadline date as if you were in Plan 2. The transfer of membership from Plan 2 to Plan 3 will not change a statutory deadline date for purchasing service credit while you were a member of Plan 2.

(b) When you are a Plan 3 member purchasing Plan 3 service credit, you are not subject to a statutory deadline date.

(2) **Interest on purchase cost.** When purchasing service credit as a Plan 3 member, you will not be required to pay interest on member contributions. When paying employer contributions, you will be required to pay interest on those contributions.

(3) **Allocation of purchase money.**

(a) Member contributions will be applied to your defined contribution account when paid. Paid member contributions are not refundable, except as a withdrawal of defined contributions under RCW 41.34.070 and WAC 415-111-310.

(b) Employer contributions and interest on employer contributions that you pay will be allocated to the fund described in RCW 41.50.075(3) and shall not be refundable.

[Statutory Authority: RCW 41.50.050(5), 41.32.810, 41.32.865, 41.35.470, 41.35.650, 41.40.710, 41.40.805. 02-03-120, § 415-111-400, filed 1/23/02, effective 3/1/02.]

**WAC 415-111-410 Submitting a beneficiary designation for Plan 3 members. (1) You may designate or change a beneficiary for your defined contribution account at any time.**

When received by the department, the most recent beneficiary designation supersedes all prior beneficiaries and will be used for your Plan 3 defined contribution account.

(2) If you designate a beneficiary as a Plan 2 member and move to Plan 3, the Plan 2 beneficiary designation will be used as your Plan 3 defined contribution account beneficiary.

(3) The beneficiary you designate for your defined contribution account can be different from the beneficiary you designate when you apply for your defined benefit retirement.

[Statutory Authority: RCW 41.50.050(5), 41.40.835, 41.40.845. 02-03-120, § 415-111-410, filed 1/23/02, effective 3/1/02.]

**WAC 415-111-440 Gainsharing. (1) What is gain-sharing?**

(a) When the average of investment returns on the net assets held in the Plan 2 and 3 pension funds exceeds ten percent over a four-year period, the amount in excess of ten percent is called extraordinary gains.

(b) A portion of the extraordinary gains is paid to qualified Plan 3 members, retirees and designated survivors and is called gainsharing. The amount a person receives is calculated based on total service credit.

(c) Gainsharing payments are made in January of even-numbered years.

(d) Gainsharing is based on fiscal years (July 1 - June 30). If the retirement fund does not earn in excess of ten percent over the four-year period, there is no gainsharing payment.

(e) A gainsharing payment is credited to an investment program according to the investment allocations that you have on file. Gainsharing payments appear on your first quarter statement in even-numbered years.

**(2) Are my survivors eligible for my gainshare payments if I die?**

(a) If you die in-service and your surviving spouse or eligible child or children choose to receive a monthly retirement allowance, they will be eligible to receive gainsharing payments. If you do not have a surviving spouse or minor child or children, your account will no longer receive gainsharing payments.

(b) If you die as the beneficiary receiving a survivorship benefit from a death-in-service member with gainsharing payments, your gainsharing payments will continue to your minor child or children until they reach the age of majority or die. If you do not have any minor children, your account will no longer receive gainsharing payments.

(c) If you die after retirement and you chose a survivorship benefit, the gainsharing payment will continue to your survivor. If you did not choose a survivorship benefit, your account will no longer receive gainsharing payments.

**(3) What happens if I die before the first payment is made?** If you have qualified for a gainsharing payment, but die prior to the payment being made, the payment will be paid to your estate, or the person or persons, trust, or organization you nominated by the most recent written designation filed with the department.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.31A RCW. 02-03-120, § 415-111-440, filed 1/23/02, effective 3/1/02.]

**Chapter 415-112 WAC****TEACHERS' RETIREMENT SYSTEM****WAC**

415-112-015	Definitions.
415-112-040	Actuarial tables, schedules, and factors.
415-112-050	How does the department comply with Internal Revenue Code distribution rules?
415-112-060	What are the IRS limitations on maximum benefits and maximum contributions?
415-112-070	Assets for exclusive benefit of members and beneficiaries.

**MEMBERSHIP**

415-112-119	Purpose and scope of eligibility rules.
415-112-120	What is the definition of a "teacher"?

415-112-122	Am I eligible for TRS membership if I am an educational staff associate?
415-112-125	If I am eligible, how can I establish membership?
415-112-130	If I separate from, and then reenter employment, do I continue to participate in TRS?
415-112-140	Am I eligible for membership and service credit as a substitute teacher?
415-112-145	When does my status as a TRS member terminate?
415-112-150	May I waive my Plan 3 one percent retirement benefit?
415-112-155	If I work concurrently in a TRS position and PERS position, which system will I be in?
415-112-156	If I work concurrently in a TRS position and SERS position, which system will I be in?

**SERVICE CREDIT**

415-112-240	In TRS Plan 1, do I receive service credit for my first ninety days of service?
415-112-250	Will I receive service credit for leave with pay?
415-112-255	How do I purchase or restore Plan 1 service credit?
415-112-256	How do I purchase or restore Plan 2 or 3 service credit?
415-112-270	In TRS Plan 1, may I receive service credit for professional preparation?
415-112-280	Credit for teaching United States military personnel.
415-112-290	May I purchase service credit for out-of-state teaching?
415-112-295	May I use "unpurchased" out-of-state teaching service credit to determine eligibility for retirement?
415-112-300	What types of service do not qualify for TRS service credit?
415-112-330	How does the department calculate service credit for TRS Plan 1 employees?
415-112-332	How does the department calculate service credit for Plan 2 and 3 members?
415-112-335	Calculating service credit for part-time community and technical college employees.

**EARNABLE COMPENSATION—MEMBER CONTRIBUTIONS**

415-112-400	Purpose and scope of TRS earnable compensation rules.
415-112-401	What types of payments are considered earnable compensation?
415-112-402	What is earnable compensation?
415-112-412	Are nonmoney payments from my employer earnable compensation?
415-112-413	Vehicles—Does the value of my use of an employer vehicle qualify as earnable compensation?
415-112-41301	Are vehicle allowances earnable compensation?
415-112-415	Are cash-outs for annual leave and personal leave included in earnable compensation and/or average final compensation?
415-112-417	Are cash-outs for sick leave included in earnable compensation and/or average final compensation?
415-112-430	How is average final compensation calculated?
415-112-432	Do I qualify for the alternate computation of earnable compensation in RCW 41.32.345?
415-112-434	How is my earnable compensation adjusted if I meet the requirements in WAC 415-112-432 for two consecutive fiscal years?
415-112-435	How is earnable compensation adjusted for TRS Plan 1 members in extended school year programs?
415-112-440	May I withdraw my employee contributions?
415-112-4601	Are contract salary payments earnable compensation?
415-112-4602	Are bonuses for National Board for Professional Teaching Standards certification earnable compensation?
415-112-4603	Are performance bonuses earnable compensation?
415-112-4604	Is compensation applied toward cafeteria plans earnable compensation?
415-112-4607	Are retroactive salary increases earnable compensation?
415-112-4608	Is severance pay earnable compensation?
415-112-4609	Are payroll deductions earnable compensation?
415-112-471	Is compensation reported for legislative leave?
415-112-473	Is paid leave, which is not earned over time, earnable compensation?
415-112-474	Is compensation from shared leave earnable compensation?
415-112-475	Is the pay I receive from my employer when I am on union leave earnable compensation?
415-112-477	Are payments for reinstatement or payment instead of reinstatement earnable compensation?
415-112-480	Are fringe benefits earnable compensation?
415-112-482	Are disability insurance or workers' compensation payments earnable compensation?
415-112-485	Are payments that are outside my employer's legal authority earnable compensation?
415-112-487	Are optional payments considered earnable compensation?



415-112-489	Are reimbursements for business expenses earnable compensation?	415-112-0158	Public school—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0158, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-490	Is a retirement bonus or incentive earnable compensation?		
	<b>SERVICE RETIREMENT</b>		
415-112-500	Do I qualify for retirement from Plan 1?	415-112-0159	Qualified to teach—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0159, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-501	Do I qualify for retirement from Plan 2?		
415-112-502	Do I qualify for retirement from Plan 3?		
415-112-504	What are the benefit options for Plan 1 members?	415-112-0160	Reportable compensation—Definition. [Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-0160, filed 1/6/97, effective 2/6/97.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-505	What are the benefit options for Plan 2 and 3 members?		
415-112-507	How do I apply for retirement benefits?		
415-112-509	When will the department approve my application for service retirement?		
415-112-515	When does a member of the teachers' retirement system (TRS) enter retirement status?	415-112-0161	School year—Definition. [Statutory Authority: RCW 41.50.050(5), 41.32.010, 41.32.498. 01-23-053, § 415-112-0161, filed 11/20/01, effective 12/21/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0161, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-520	When do my monthly retirement payments begin?		
415-112-523	How does the department calculate my retirement allowance?		
415-112-525	How soon can I return to work as a retiree?		
415-112-541	How will returning to work affect my TRS Plan 1 monthly pension?	415-112-0162	Service in an administrative or supervisory capacity—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0162, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-542	How will returning to work affect my TRS Plan 2 or Plan 3 monthly retirement allowance?		
415-112-544	How does the department calculate the retirement allowance of a TRS Plan 2 or Plan 3 member who retires, reenters TRS membership, and then retires again?	415-112-0163	Service in an instructional capacity—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0163, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-555	What is the TRS Plan 1 minimum allowance?		
	<b>DISABILITY BENEFITS</b>		
415-112-600	Am I eligible for temporary disability benefits?	415-112-0165	Spousal consent—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0165, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-610	What temporary disability benefits are due upon death of a member?		
415-112-620	When will my disability retirement allowances begin to accrue?	415-112-0167	System acronyms—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-0167, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0167, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.
415-112-630	How will returning to work affect my Plan 1 disability retirement benefits?		
	<b>SURVIVOR BENEFITS</b>		
415-112-700	How is "dependent" defined for determining Plan 1 beneficiary rights?	415-112-020	Public records. [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.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).
415-112-705	How do I designate a beneficiary, and who will receive a distribution if I die before retirement?		
415-112-715	Who gets the balance of my monthly retirement allowance if I die partway through a month?	415-112-030	Appeals—Forms and procedures. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
	<b>DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER</b>		
415-112-010	Description of teachers' retirement system. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.	415-112-100	Minimum requirement for membership. [Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-100, filed 6/24/99, effective 7/25/99. 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.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).
415-112-0151	Contract period—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0151, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.	415-112-110	Teachers' retirement system employees eligible for membership. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.
415-112-0152	Day—Definition. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.	415-112-135	Can I be a member if I work as an educational staff associate? [Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-135, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-135, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-135, filed 7/25/95, effective 8/25/95.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).
415-112-0154	Ineligible position—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0154, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.	415-112-200	Establishing credit for previous service. [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.] Repealed by 06-18-006, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5).
415-112-0156	Pension benefit—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0156, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.		
415-112-0157	Public educational institution—Definition. [Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-0157, filed 7/25/95, effective 8/25/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW.		

415-112-210	Withdrawal before final date for establishing additional credit. [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.] Repealed by 06-18-006, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5).	415-112-460	Payments for services rendered. [Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-460, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-460, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).
415-112-220	Withdrawal before making final payment to establish additional credit. [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.] Repealed by 06-18-006, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5).	415-112-4605	Leave payments earned over time. [Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-4605, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-4605, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-108, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5).
415-112-230	Failure to make final payment to establish credit. [Statutory Authority: RCW 41.50.050(5) and 41.32.310. 03-02-087, § 415-112-230, filed 12/31/02, effective 2/1/03. 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.] Repealed by 06-18-006, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5).	415-112-470	Payments not for services rendered. [Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-470, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).
415-112-260	How is service credit evaluated for service in higher institutions? [Statutory Authority: RCW 41.50.050(5), 41.32.270, 41.32.010(26). 05-12-042, § 415-112-260, filed 5/25/05, effective 6/25/05. 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.] Repealed by 06-18-006, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5).	415-112-483	Workers' compensation. [Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-483, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-108, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5).
415-112-310	Civilian Conservation Corps service. [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.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).	415-112-491	Severance pay not earned over time—Contract buy out. [Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-491, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-108, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5).
415-112-320	Service 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.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).	415-112-510	Eligibility for retirement with less than five years of Washington service credit. [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.] Repealed by 00-10-015, filed 4/21/00, effective 5/22/00. Statutory Authority: RCW 41.50.050.
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.	415-112-530	Balance of monthly payment due on date of death. [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.] Repealed by 06-18-006, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5).
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.	415-112-535	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.
415-112-414	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.	415-112-540	How will returning to work affect my TRS Plan 1 monthly pension? [Statutory Authority: RCW 41.50.050. 00-11-053, § 415-112-540, filed 5/12/00, effective 6/12/00; 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.] Repealed by 02-02-060, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801.
415-112-420	Determining the earnable compensation. [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.] Repealed by 99-21-031, filed 10/14/99, effective 11/14/99. Statutory Authority: RCW 41.50.050.	415-112-545	How can I qualify for an additional three hundred fifteen hours of service without having my TRS Plan 1 monthly pension reduced? [Statutory Authority: RCW 41.50.050. 00-11-053, § 415-112-545, filed 5/12/00, effective 6/12/00; 97-01-015, § 415-112-545, filed 12/6/96, effective 1/6/97.] Repealed by 02-02-060, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801.
415-112-444	Purpose and scope of earnable compensation rules. [Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-444, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).	415-112-550	Peace Corps volunteers not employed in public education. [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.] Repealed by 05-12-108, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5).
415-112-445	TRS reportable compensation table. [Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 03-06-042, § 415-112-445, filed 2/27/03, effective 4/1/03. 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.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).	415-112-561	Administration of early retirement. [Statutory Authority: RCW 41.50.050. 93-20-020, § 415-112-561, filed 9/24/93, effective 10/25/93.] Repealed by 99-12-041,
415-112-450	What compensation can be reported? [Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-450, filed 1/6/97, effective 2/6/97.] Repealed by 05-12-042, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5).		



blind, educational service districts, institutions of higher education, or community or technical colleges.

(7)(a) **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.

(b) As applied to TRS employers other than those listed in (a) of this subsection, "public school" means an institution, fifty percent or more of whose employees are "qualified to teach," whose primary function is to educate students. See subsection (8) of this section.

(8) **Qualified to teach** as used under RCW 41.32.010 (29) means:

(a) Having a valid certificate issued by the office of the superintendent of public instruction pursuant to WAC 181-79A-140;

(b) Having a valid permit to teach issued by a lawful authority of this state pursuant to WAC 181-79A-128; or

(c) Being employed under a contract to teach with an institution of higher education as defined in RCW 28B.10.016.

(9) **Service in an administrative or supervisory capacity** as used under RCW 41.32.010 and in this chapter:

(a) Means:

(i) Service in a managerial role relating to the administration of a public school; or

(ii) Service involving the exercise of direction over employees of the public school.

(b) Includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.

(10) **Spousal consent** requires 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, duly executed and filed with the department, constitutes "written evidence."

(11) **System acronyms** used in this chapter are defined as follows:

- "PERS" means the public employees' retirement system.
- "SERS" means the school employees' retirement system.
- "TRS" means the teachers' retirement system.

[Statutory Authority: RCW 41.50.050(5), 41.32.010 and chapter 41.32 RCW. 08-10-025, § 415-112-015, filed 4/25/08, effective 5/26/08; 05-12-042, § 415-112-015, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 04-21-080, § 415-112-015, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-015, filed 8/28/02, effective 9/30/02. 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 415-112-040 Actuarial tables, schedules, and factors.** See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances of members of the Washington state teachers' retirement system.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.45 RCW. 02-18-048, § 415-112-040, filed 8/28/02, effective 9/1/02. 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 415-112-050 How does the department comply with Internal Revenue Code distribution rules?** (1) This section applies only to the teachers' retirement system (TRS) Plans 2 and 3.

(2) All benefits paid from the TRS Plans 2 and 3 retirement plans shall be distributed in accordance with the requirements of section 401 (a)(9) of the Federal Internal Revenue Code and the regulations under that section. In order to meet these requirements, these retirement plans shall be administered in accordance with the following provisions:

(a) Distribution of a member's benefit must begin by the later of the April 1 following the calendar year in which a participant attains age 70 1/2 or the April 1 of the year following the calendar year in which the member retires;

(b) The life expectancy of a member or the member's spouse may not be recalculated after the benefits commence;

(c) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died;

(d) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Federal Internal Revenue Code; and

(e) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death.

(3) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to section 401 (a)(31) of the Federal Internal Revenue Code.

[Statutory Authority: RCW 41.50.050(5), chapter 41.32 RCW and IRS regulations. 02-14-009, § 415-112-050, filed 6/20/02, effective 7/21/02.]

**WAC 415-112-060 What are the IRS limitations on maximum benefits and maximum contributions?** (1) This section applies only to the teachers' retirement system (TRS) Plans 2 and 3. Subject to the provisions of this section, benefits paid from, and employee contributions made to, these plans shall not exceed the maximum benefits and the maximum annual addition, respectively, as applicable under section 415 of the Federal Internal Revenue Code.

(2) A participant may not receive an annual benefit that exceeds the dollar amount specified in section 415 (b)(1)(A) of the Federal Internal Revenue Code, subject to the applicable adjustments in section 415 of the Federal Internal Revenue Code. For purposes of applying IRC 415(b) when a participant retires before age 62 or after age 65, the determination as to whether the benefit satisfies the IRC 415(b) limitations is made by comparing the equivalent annual benefit determined in Step 1 below with the age-adjusted dollar limit determined in Step 2 below.

Step 1: Under IRC 415 (b)(2)(B), determine the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the plan benefit. In general, IRC 415 (b)(2)(E)(i) and (v) require that the equivalent annual benefit be the greater of (a) or (b) below.

(a) The equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable (plan rate and plan mortality table, or plan tabular factor, respectively).

(b) The equivalent annual benefit computed using a 5 percent interest rate assumption and the applicable mortality table.

This step does not apply to a benefit that is not required to be converted to a straight life annuity under IRC 415 (b)(2)(B), for example, a qualified joint and survivor annuity.

Step 2: Under IRC 415 (b)(2)(C) or (D), determine the IRC 415(b) dollar limitation that applies at the age the benefit is payable (age-adjusted dollar limit).

If the age at which the benefit is payable is less than 62, the age-adjusted dollar limit is determined by reducing the dollar limit on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the age-adjusted dollar amount be the lesser of (a) or (b) below.

(a) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(b) The amount computed using 5 percent interest and the applicable mortality table described in Revenue Ruling 95-6. (This is used only to the extent described in Q&A 6 of Revenue Ruling 98-1, which provides that, for purposes of adjusting any limitation under IRC 415 (b)(2)(C) or (D), to the extent a forfeiture does not occur upon death, the mortality decrement may be ignored prior to age 62 and must be ignored after SSRA.)

If the age at which the benefit is payable is greater than age 65, the age-adjusted dollar limit is determined by increasing the IRC 415(b) dollar limitation on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the increased age-adjusted dollar limit be the lesser of (a) or (b) below.

(a) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(b) The equivalent amount computed using 5 percent interest and the applicable mortality table (used to the extent described in Q&A 6, as described in the prior paragraph).

The dollar limit will be reduced proportionally for less than ten years of participation.

The plan will satisfy the IRC 415(b) limitations only if the equivalent annual benefit determined in Step 1 is less than the age-adjusted dollar limit determined in Step 2.

(3) Effective for limitation years beginning after December 31, 2001, the maximum annual addition that may be contributed or allocated to a participant's account for any limitation year may not exceed the lesser of (a) \$40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Federal Internal Revenue Code, or (b) one hundred percent of the member's compensation, within the meaning of section 415 (c)(3) of the Federal Internal Revenue Code, for the limitation year.

(2009 Ed.)

(4) Notwithstanding any other provision of law to the contrary, the department may modify a request by a participant to make a contribution to the retirement plans if the amount of the contributions would exceed the limits under section 415(c) or 415(n) of the Federal Internal Revenue Code. An eligible participant in a retirement plan, as defined by section 1526 of the Federal Taxpayer Relief Act of 1997, may purchase service credit as provided by state law in effect on August 5, 1997, without regard to the limitations of section 415 (c)(1) of the Federal Internal Revenue Code.

(5) Prior to January 1, 1998, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code does not include the amount of any elective deferral, as defined in section 402 (g)(3) of the Federal Internal Revenue Code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457 of the Federal Internal Revenue Code.

(6) For limitation years beginning on and after January 1, 1998, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code does include the amount of any elective deferral, as defined in section 402 (g)(3) of the Federal Internal Revenue Code, or any contribution which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457 of the Federal Internal Revenue Code.

(7) For limitation years beginning on and after January 1, 2001, the definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with section 415 of the Federal Internal Revenue Code shall also include elective amounts that are not includible in the gross income of the employee by reason of section 132 (f)(4).

[Statutory Authority: RCW 41.50.050(5), chapter 41.32 RCW and IRS regulations. 02-14-009, § 415-112-060, filed 6/20/02, effective 7/21/02.]

**WAC 415-112-070 Assets for exclusive benefit of members and beneficiaries.** No assets of the teachers' retirement system Plans 2 and 3 may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

[Statutory Authority: RCW 41.50.050(5), chapter 41.32 RCW and IRS regulations. 02-14-009, § 415-112-070, filed 6/20/02, effective 7/21/02.]

## MEMBERSHIP

**WAC 415-112-119 Purpose and scope of eligibility rules.** WAC 415-112-120 through 415-112-156 codifies the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in TRS Plans 1, 2 and 3. The department has applied and will apply these rules to determine eligibility for membership occurring prior to the effective dates of these sections.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 05-12-042, § 415-112-119, filed 5/25/05, effective 6/25/05. Statutory Authority:

[Title 415 WAC—p. 205]

RCW 41.50.050. 95-16-053, § 415-112-119, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-120 What is the definition of a "teacher"?** Only teachers are eligible to establish membership in TRS.

(1) A teacher is a person who:

(a) Is qualified to teach under WAC 415-112-015(8); and is employed by a public school in an instructional, administrative, or supervisory capacity; or

(b) Otherwise meets the criteria in RCW 41.32.010(29).

(2) For example, persons employed in the following positions are included in the definition of teacher:

- (a) Classroom teacher;
- (b) Superintendent and assistant superintendent;
- (c) Principal and assistant principal;
- (d) Educational staff associate (see WAC 415-112-122);
- (e) School librarian;
- (f) Program administrator;
- (g) School doctor.

(3) For example, persons employed in the following positions are not included in the definition of teacher:

- (a) Custodian, bus driver, or cafeteria worker;
- (b) Library technician;
- (c) Administrative assistant or payroll clerk.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(29). 05-12-042, § 415-112-120, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050. 95-16-053, § 415-112-120, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-122 Am I eligible for TRS membership if I am an educational staff associate?** (1) For the purposes of this chapter, you are considered a teacher and are eligible for TRS membership if you:

(a) Possess a valid educational staff associate certificate issued by the office of the superintendent of public instruction under chapter 180-79A WAC; and

(b) Serve in an educational staff associate position in a public school consistent with subsection (2) of this section.

(2) Educational staff associate positions include, but are not limited to: Communications disorder specialist, occupational therapist, physical therapist, reading resource technician, school counselor, school nurse, school psychologist, school social worker and school librarian. Educational staff associate positions do not include positions such as custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, payroll clerk or any other position that does not require service in an instructional, administrative or supervisory capacity.

(3) If you established service credit in PERS prior to June 7, 1984, in an educational staff associate position, and were employed as such on or after June 7, 1984, you may transfer your membership to TRS within the time limits established in RCW 41.32.032.

(4) If you were enrolled in PERS prior to June 7, 1984, based on employment as an educational staff associate, and were converted to SERS membership under RCW 41.40.750, you may transfer your membership to TRS within the time limits established in RCW 41.32.032.

[Statutory Authority: RCW 41.50.050(5) and 41.32.032. 05-12-042, § 415-112-122, filed 5/25/05, effective 6/25/05.]

**WAC 415-112-125 If I am eligible, how can I establish membership?** If you are a teacher as defined in WAC 415-112-120 and meet 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>	(1) You were mandated into membership, if: (a) You were contracted to teach full time, as defined in RCW 41.32.240; and (b) You were employed for ninety calendar days. (2) If you were employed less than full time, you were a member if you: (a) Worked the equivalent of ninety or more full-time days <sup>2/</sup> during a fiscal year; and (b) Established membership under RCW 41.32.240 prior to 10/01/77.	Plan 1
10/01/77 through 06/06/90	(1) If you were contracted to teach full time, you were required to be a member. (2) If you were employed as a substitute teacher or less than full time, you were a member if you: (a) Worked the equivalent of ninety or more full-time days <sup>2/</sup> during a fiscal year; (b) Worked at least ninety hours during one month; and (c) Established membership under RCW 41.32.240.	Plan 2
06/07/90 through 08/31/91	(1) You were a member if you: (a) Were employed in an eligible position as defined in RCW 41.32.010 (37)(a); (b) Worked two consecutive months of ninety hours or more of compensated employment each month during an annual period September through August. (2) If you were a substitute teacher, you were a member if you: (a) Worked two consecutive months of ninety hours or more of compensated employment each month during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 2
09/01/91 through 06/30/96	(1) If you were employed in an eligible position as defined in RCW 41.32.010 (37)(b), you were required to be a member. (2) If you were employed as a substitute teacher, you were a member if you: (a) Worked at least five months of seventy hours or more of compensated employment during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 2
07/01/96	(1) If you were employed in an eligible position as defined in RCW 41.32.010 (37)(b), you were required to be a member. (2) If you were employed as a substitute teacher, you were a member if you: (a) Worked at least five months of seventy hours or more of compensated employment during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 3

<sup>1/</sup> If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.

<sup>2/</sup> The equivalent of a full-time day is the sum of partial days, which, when added together, equal one full-time day.

[Statutory Authority: RCW 41.50.050(5), 41.32.240, 41.32.780, 41.32.835, 41.32.013, 05-12-042, § 415-112-125, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 04-21-080, § 415-112-125, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-125, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-125, filed 4/21/00, effective 5/22/00; 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, do I continue to participate in TRS?** This section applies to Plan 1, 2 and 3 members who separate employment without retiring.

**(1) As a Plan 1 member:**

(a) If you separate from service without withdrawing contributions, you will participate in Plan 1 again if you become reemployed with a TRS employer, even if you are not working as a teacher as defined in WAC 415-112-120.

(b) If you separate from service and withdraw your contributions, you will reestablish Plan 1 membership only if:

(i) You are a teacher, as defined in WAC 415-112-120, and meet the eligibility requirements in RCW 41.32.240; or

(ii) You are a member of another retirement system and repay your withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).

**(2) As a Plan 2 member:** If you separate from service, you will participate in Plan 2 again if you become reemployed in an eligible TRS position with a TRS employer.

**(3) As a Plan 3 member:** If you separate from service, you will participate in Plan 3 again if you become reemployed in an eligible TRS position with a TRS employer.

[Statutory Authority: RCW 41.50.050(5), 41.32.240, 41.32.780, 41.32.835, 05-12-042, § 415-112-130, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-130, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-130, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050, 95-16-053, § 415-112-130, 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 1.**

(i) If you are a former Plan 1 member, you may apply to reestablish Plan 1 membership if you work ninety or more full-time days during a fiscal year as a teacher.

(ii) If you are a Plan 1 member, you may apply to the department for service credit in Plan 1 as a substitute teacher if you work a minimum of twenty full-time days during a fiscal year.

**(b) TRS Plan 2.**

(i) You may apply to the department for membership in Plan 2 if you:

(A) Work at least seventy hours for five or more months during an annual period September through August; or

(B) Worked at least ninety hours for two consecutive months during the period of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan 2 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.

(2009 Ed.)

**(c) TRS Plan 3.**

(i) You may apply to the department for membership in Plan 3 if you:

(A) Began employment after July 1, 1996; and

(B) Work at least seventy hours for five or more months during an annual period September through August.

(ii) If you have established membership in Plan 3, either by transferring from Plan 2 or establishing membership after July 1, 1996, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher.

**(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 1 service credit; or

(ii) August 31 of the year for which you are applying for Plan 2 or Plan 3 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(5), 04-21-080, § 415-112-140, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-140, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-140, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-145 When does my status as a TRS member terminate?** (1) Your TRS Plan 1 membership terminates:

(a) When you retire for service or disability;

(b) When you separate from service and withdraw your accumulated contributions; or

(c) Upon your death.

(2) Your TRS Plan 2 membership terminates:

(a) When you retire for service or disability;

(b) When you separate from service and withdraw your accumulated contributions; or

(c) Upon your death.

(3) Your TRS Plan 3 membership terminates:

(a) When you retire for service or disability;

(b) When you separate from service, withdraw your accumulated contributions, and irrevocably waive your one percent defined benefit according to the provisions of WAC 415-112-150; or

(c) Upon your death.

[Statutory Authority: RCW 41.50.050(5), 41.32.500, 41.32.820, 41.32.837, chapter 41.32 RCW. 05-12-042, § 415-112-145, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050, 00-10-015, § 415-112-145, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-145, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-150 May I waive my Plan 3 one percent retirement benefit?** (1) **Why would I want to waive my Plan 3 one percent retirement benefit?** Some state retirement systems have provisions that allow members to purchase service credit earned elsewhere. If you are employed by one of these states and wish to purchase service credit for time worked in Washington, you may be required by that state to show proof that you have waived all of your rights to retirement benefits from Washington as a condition for purchasing the service credit.

(2) **Do I qualify to waive my Plan 3 one percent retirement benefit?** You may irrevocably waive your Plan 3 one percent retirement benefit if:

(a) You are separated from all Plan 3 eligible employment;

(b) You withdrew your funds in your Plan 3 member account or are receiving distributions from your Plan 3 member account;

(c) Your spouse consents to the waiver if you are married;

(d) There is not a court order or administrative order that affects your right to waive your benefits; and

(e) You have not received, or are not receiving, a defined benefit payment.

(3) **How do I waive my one percent retirement benefit?** You may waive your right to this benefit by submitting a properly completed form, available through the department.

The date of the waiver will be the date the department receives your form.

(4) **Will I get service credit for eligible time if it is discovered after I sign a waiver?** If periods of employment, prior to or within the waived time period, are discovered after you sign a waiver, you will not be credited for the service. However, your employer will be billed for employer contributions for any such period.

(5) **May I retract or withdraw my waiver in the future?** No. You irrevocably give up all rights to any retirement benefits when you submit your signed waiver.

(6) **What are my retirement options if I return to work in a (PERS/SERS/TRS) eligible position?** You will be a member of Plan 3 and will begin accumulating service credit from your new date of hire. You will not be entitled to purchase back any of the Plan 3 service credit you waived.

[Statutory Authority: RCW 41.50.050(5) and 41.32.837. 04-17-002, § 415-112-150, filed 8/4/04, effective 9/4/04.]

**WAC 415-112-155 If I work concurrently in a TRS position and PERS position, which system will I be in?** (1) If you work concurrently in a TRS and PERS position, 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:

**Former TRS Plan 1 Members <sup>1</sup>**

<b>Type of Employment <sup>2</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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 choose to establish TRS membership under RCW 41.32.240. If you choose 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 choose to establish TRS membership under RCW 41.32.240. If you choose to establish TRS membership, you must choose either to: 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.
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 choose to: 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.



**TRS Plan 1 Members**

<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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 choose either to: 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.
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 2 Members**

<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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 choose either to: 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.

**PERS Members**

<b>Type of Employment <sup>2/</sup></b>	<b>Type of Employer(s)</b>	<b>System You Will Be Reported In</b>
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. Your TRS service will not be reported unless you have met the eligibility criteria for TRS membership and choose to either: 1. Have your TRS service reported in PERS for both positions <sup>4/</sup> ; or 2. Establish TRS membership and have your service in both positions reported in TRS. 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 have met the eligibility criteria for TRS membership and choose 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 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 choose to establish membership in TRS 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 choose to establish membership in TRS for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

<sup>1/</sup> "Former TRS 1 member", as used here, means you terminate your membership by withdrawing your contributions.

<sup>2/</sup> Means during the same time period.

<sup>3/</sup> EXAMPLE: A TRS Plan 2 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 Plan 2 through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS Plan 2.

EXAMPLE: A TRS Plan 2 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 Plan 2 member, School District B employer must report his service and compensation from the PERS position to the Department in TRS Plan 2. 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.

<sup>4/</sup>This provision applies retroactively to July 1, 1996.

(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 415-112-015 (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(5) and chapters 41.32 and 41.40 RCW. 05-03-001, § 415-112-155, filed 1/5/05, effective 2/5/05. Statutory

Authority: RCW 41.50.050(5). 04-21-080, § 415-112-155, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-155, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-155, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-155, filed 4/21/00, effective 5/22/00; 95-16-053, § 415-112-155, filed 7/25/95, effective 8/25/95.]

**WAC 415-112-156 If I work concurrently in a TRS position and SERS position, which system will I be in? (1)**  
 If you work concurrently in a TRS and SERS position, 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 and SERS according to the following table:

**Former TRS Plan 1 Members <sup>1/</sup>**

Type of 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 SERS-eligible position	Same SERS employer	SERS - for both positions.
	Separate SERS employers	SERS - for SERS position only. Your substitute part-time position is not reported unless you qualify for and choose to establish TRS membership under RCW 41.32.240. If you choose to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.
A full-time teaching position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

**TRS Plan 1 Members**

Type of 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 SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.
A full-time or less than full-time TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions.

**TRS Plan 2 or 3 Members**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for TRS position only; your ineligible SERS position is not reported.
An eligible TRS position and an eligible SERS position	Same employer	TRS - for both positions.
	Separate SERS employers	TRS - for both positions. <sup>3/</sup>

**SERS Members**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An eligible SERS position and an ineligible TRS or substitute position	Same employer	SERS - for both positions.
	Separate SERS employers	SERS - for the SERS position only, unless you qualify for and choose to establish membership in TRS under WAC 415-112-125(1). If you choose to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in SERS will be transferred to TRS.

**Neither TRS Nor SERS Member**

Type of Employment <sup>2/</sup>	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible SERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate SERS employers	Neither position reported.
A substitute teaching position and an ineligible SERS position	Same employer	Neither position reported. However, if you qualify, you may choose to establish membership in TRS for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.
	Separate SERS employers	Neither position reported. However, if you qualify, you may choose to establish membership in TRS for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

<sup>1/</sup> "Former TRS 1 member," as used here, means you terminate your membership by withdrawing your contributions.

<sup>2/</sup> Means during the same time period.

<sup>3/</sup> EXAMPLE: A TRS 2 member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible SERS position. Because he is a TRS 2 member, School District B employer must report his service and compensation from the SERS position to the department in TRS 2. If the member terminates his employment in the TRS position with School District A, School District B will report him in SERS for the SERS 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 41.35.010(SERS); RCW 41.32.010 (TRS).

(b) "Employer" - RCW 41.35.010 (SERS); RCW 41.32.-010 (TRS).

(c) "Ineligible position" - RCW 41.35.010 (SERS); RCW 41.32.010 (TRS).

(d) "Member" - RCW 41.35.010 (SERS); RCW 41.32.-010 (TRS).

(e) "Membership" - RCW 41.35.030 (SERS).

(f) "Report" - WAC 415-110-010 (SERS).

(g) "Service" - RCW 41.35.010 (SERS); RCW 41.32.-010 (TRS).

[Statutory Authority: RCW 41.50.050(5). 04-21-080, § 415-112-156, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-156, filed 8/28/02, effective

9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-112-156, filed 12/12/00, effective 1/12/01.]

### SERVICE CREDIT

**WAC 415-112-240 In TRS Plan 1, do I receive service credit for my first ninety days of service?** In TRS Plan 1, the service you provide during the ninety days of service required to establish membership after July 1, 1964, qualifies as creditable service after you establish membership.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(26). 05-12-042, § 415-112-240, filed 5/25/05, effective 6/25/05. 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 Will I receive service credit for leave with pay? (1) Plan 1 members:** If you are otherwise eligible, you will receive service credit for any time you were on official leave from your position on or after July 1, 1960, provided that:

- (a) You were listed as employed by your employer; and
- (b) You were receiving compensation from your employer for the time of your leave.

(2) **Plan 2 members:** You may receive service credit in accordance with RCW 41.32.810.

(3) **Plan 3 members:** You may receive service credit in accordance with RCW 41.32.865.

[Statutory Authority: RCW 41.50.050(5), 41.32.267, 41.32.810, 41.32.865. 05-12-042, § 415-112-250, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050(5), 41.32.267, 41.32.810, 41.32.850. 02-03-120, § 415-112-250, filed 1/23/02, effective 3/1/02. 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 415-112-255 How do I purchase or restore Plan 1 service credit?** This section applies to Plan 1 members who qualify by this chapter or chapter 41.32 RCW to purchase credit for previous service, or to restore service credit after withdrawing contributions or taking a lump sum payment in lieu of benefits. This section does not apply to service credit for substitute teaching. See WAC 415-112-140.

(1) **Do I qualify to purchase or restore service credit?** In addition to meeting the statutory requirements for the specific type of service you performed:

- (a) You must be an active TRS member at the time you apply to purchase or restore service credit;
- (b) If purchasing credit for previous service, you must return to TRS service for twenty or more full-time days or the equivalent within a fiscal year after providing that service; and
- (c) You must purchase or restore the service credit according to the provisions of this section.

(2) **How do I apply to purchase or restore service credit?** You may apply to purchase service credit by submitting satisfactory proof of your service to the department.

(3) **What are the time limits for paying for service credit?** You must make payment according to this subsection or before retirement, whichever is sooner. You may make payment in full in one payment or make annual installment payments, consistent with the following deadlines:

- (a) If you make payment in full in one payment, the entire amount is due no later than the end of the fifth fiscal

year after which you return to TRS service. For example, if you return to service in April 2004, the deadline is June 30, 2008.

(b) If you make payment in annual installments:

(i) The first annual installment is due no later than the end of the fifth fiscal year after which you return to TRS service; and

(ii) The final annual installment is due no later than June 30 of the fourth year following the first annual installment. See RCW 41.32.310.

(4) **Does the deadline in subsection (3) of this section change if I separate from service before making full payment?**

(a) If you separate and withdraw your contributions (terminate membership) before making full payment, the deadline for purchasing service credit and for restoring service credit differ as follows:

(i) **Purchasing service credit for a previous period of service.** You must reestablish membership and then make payment in full by the original deadline.

(ii) **Restoring service credit after withdrawal of contributions or receipt of a lump sum payment taken in lieu of benefits.** The time limit will start over each time you reestablish membership if:

(A) You did not make any payments for the service credit and you withdrew from TRS before the first annual installment was due (see subsection (2)(a)(ii)(B) of this section); or

(B) You made at least the initial annual installment and withdrew before the end of the fourth fiscal year after the initial installment.

In cases other than (a)(ii)(A) or (B) of this subsection the original deadlines remain in place.

(b) If you separate, but do not withdraw your contributions, the original deadline applies. You may, however, continue to make payments while you are separated from service.

(5) **What happens if I do not make payment in full by the deadline?**

(a) If you were eligible to purchase or restore service credit and did not begin to do so prior to the deadline, you may purchase or restore the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370, and chapter 415-10 WAC.

(b) If you enter into an arrangement to purchase service credit and fail to make the final payment within the time limit established by law:

(i) The arrangement is terminated and all payments you made will be returned to you; and

(ii) You may purchase the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370 and chapter 415-10 WAC.

[Statutory Authority: RCW 41.50.050(5) and 41.32.310. 06-18-006, § 415-112-255, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-256 How do I purchase or restore Plan 2 or 3 service credit?** This section applies to Plan 2 and 3 members who qualify by this chapter or chapter 41.32

RCW to purchase credit for previous service or to restore service credit after withdrawing contributions or taking a lump sum payment in lieu of benefits. This section does not apply to service credit for substitute teaching. See WAC 415-112-140.

**(1) Do I qualify to purchase or restore service credit?**

In addition to meeting the statutory requirements for the specific type of service you performed, you must:

(a) Be an active TRS member when you apply to purchase or restore the service credit; and

(b) Purchase the service credit according to the provisions of this section.

**(2) How do I apply to purchase or restore service credit?** You may apply to purchase service credit by submitting satisfactory proof of your service to the department.

**(3) What are the time limits for paying for service credit?** You must make payment in full according to this subsection or before retirement, whichever is sooner.

(a) You must make payment in full, in one payment, within five years of returning to TRS service:

(i) To establish service credit for military service or unpaid authorized leave of absence. See RCW 41.32.810, 41.32.865 and 41.32.892.

(ii) To restore service credit after withdrawing contributions. See RCW 41.32.825.

(b) You must make payment in full, in one payment, within two years of returning to TRS service to restore service credit after a lump-sum distribution in lieu of a benefit payment. See RCW 41.32.762 and 41.32.870.

**(4) What are the consequences of separating from service before making full payment?**

(a) If you separate and withdraw your contributions (terminate membership) before making full payment, you must return to membership and make payment in full by the original deadline.

(b) If you separate but do not withdraw your contributions, you may purchase the service credit whether or not you return to service. The original deadline applies.

**(5) What happens if I do not make payment in full by the deadline?** If you were eligible to purchase or restore service credit and did not make payment in full by the deadline, you may purchase or restore the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370, and chapter 415-10 WAC.

[Statutory Authority: RCW 41.50.050(5), 41.32.762, [41.32.]810, [41.32.]825, [41.32.]865, [41.32.]870. 06-18-006, § 415-112-256, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-270 In TRS Plan 1, may I receive service credit for professional preparation?** As a TRS Plan 1 member, you may be eligible for service credit for additional study at an institution of higher learning or a commercial or technical school where the courses supplement your professional preparation.

The department considers thirty-six quarter hours or twenty-four semester hours of credit, or the equivalent, as one year of service credit. Fewer academic credits may be converted into a fraction of a year of service credit.

(2009 Ed.)

[Statutory Authority: RCW 41.50.050(5), 41.32.330. 05-12-042, § 415-112-270, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-270, filed 6/24/99, effective 7/25/99. 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 May I purchase service credit for out-of-state teaching? (1) Do I qualify to purchase service credit for out-of-state teaching?**

(a) **Plan 1.** If you are a Plan 1 member, you may establish service credit for teaching out-of-state, which includes teaching out of the country, only if:

(i) You were on an official leave of absence granted by your employer when you provided the service; and

(ii) You returned to public school service in Washington state.

(b) **Plans 2 and 3.** If you are a Plan 2 or 3 member, you may not purchase service credit for out-of-state teaching.

(2) **As a Plan 1 member, how do I apply to purchase service credit for out-of-state teaching?** To establish such service credit, you must submit the following to the department within the time limits set in RCW 41.32.310:

(a) Proof of your out-of-state service;

(b) Proof of your official leave of absence; and

(c) Payment of contributions.

(3) **What is the maximum amount of service credit I may purchase?** If you meet the requirements in this section, you may establish a maximum of four years of service credit for teaching out-of-state. Except that, at the time of retirement, you may not have more years of service credit for out-of-state teaching than for Washington state service, unless you established the out-of-state service credit prior to July 2, 1947.

[Statutory Authority: RCW 41.50.050(5) and 41.32.300. 05-12-042, § 415-112-290, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.-050. 99-14-008, § 415-112-290, filed 6/24/99, effective 7/25/99. 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 415-112-295 May I use "unpurchased" out-of-state teaching service credit to determine eligibility for retirement?** (1) If you earned service credit in an out-of-state retirement system that covers teachers in public schools and

[Title 415 WAC—p. 213]

do not purchase that service credit, you may use it solely to qualify for retirement.

(2) If you use "unpurchased" out-of-state service credit to qualify for retirement, your retirement benefit:

(a) Will be based solely on your years of service credit in the Washington teachers' retirement system; and

(b) Will be actuarially reduced according to the age you would have been eligible to retire if you had not counted your out-of-state service credit. See RCW 41.32.065.

(3) You may also be eligible to purchase a limited amount of service credit for out-of-state teaching under this chapter.

**Example:** Jane is a member of TRS Plan 1. She has five years of out-of-state service credit as a public school teacher and twenty-five years of service credit in TRS Plan 1. She is eligible to retire from TRS Plan 1 with thirty years of service credit; however, her retirement benefit will be based solely on her twenty-five years of TRS service credit.

[Statutory Authority: RCW 41.50.050(5), 41.32.065, 06-18-006, § 415-112-295, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-300 What types of service do not qualify for TRS service credit?** Service credit is not earned for service:

- (1) With the National Red Cross organization;
- (2) As a teacher or educational advisor in the Civilian Conservation Corps camps; or
- (3) As a Peace Corps volunteer.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 05-12-042, § 415-112-300, filed 5/25/05, effective 6/25/05. 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 415-112-330 How does the department calculate service credit for TRS Plan 1 employees?** For TRS Plan 1 calculations, one year of service credit consists of one hundred eighty days of instruction.

(1) As a TRS Plan 1 member employed by a school district, educational service district, school for the blind, or school for the deaf:

(a) Unless otherwise determined by a contract, bargaining agreement or employer policy:

(i) A classroom teacher will earn one day of service credit for each seven hours of compensated employment; and

(ii) A K-12 employee other than a classroom teacher will earn one day of service credit for every eight hours of compensated employment; and

(b) You will earn one full year of service credit for one hundred forty-four or more days of employment during a fiscal year; or a fractional year of service credit for at least twenty days but less than one hundred forty-four days of employment during a fiscal year. The fraction will use days employed as the numerator and one hundred eighty as the denominator.

(2) As a TRS Plan 1 member employed by a community or technical college:

(a) Unless otherwise determined by a contract, bargaining agreement or employer policy, you will earn one day of

service credit for eight hours of compensated employment; and

(b) One full year of service credit when you have service for four-fifths of the adopted annual academic calendar; or a fractional year of service credit for at least twenty days but less than four-fifths of the annual academic calendar.

[Statutory Authority: RCW 41.50.050(5) and 41.32.270. 04-21-080, § 415-112-330, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-330, filed 4/21/00, effective 5/22/00; 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 415-112-332 How does the department calculate service credit for Plan 2 and 3 members?** (1) How is my service credit calculated? RCW 41.32.010 (26)(b) provides three methods that may be used to calculate service credit for Plan 2 and 3 members:

(a) **Twelve-month method:** If you meet the following conditions, you will receive one service credit month for each month of a twelve-month period (September through August):

(i) You were employed at least nine calendar months starting in September; and

(ii) You earned earnable compensation for at least eight hundred ten hours during September through August.

The twelve service credit months earned under this subsection are credited to you on August 31.

(b) **Partial service credit method:** If you meet the following conditions, you will receive one-half of a service credit month for each month of a twelve-month period (September through August):

(i) You were employed at least nine calendar months starting in September; and

(ii) You earned earnable compensation for at least six hundred thirty hours, but less than eight hundred ten hours during September through August.

The six service credit months earned under this subsection are credited to you on August 31.

(c) **Month-by-month method:** You will receive service credit on a month-by-month basis as follows:

(i) One service credit month for each calendar month in which you earn earnable compensation for ninety or more hours;

(ii) One-half service credit month for each calendar month in which you earn earnable compensation for at least seventy hours but less than ninety hours; and

(iii) A quarter of a service credit month for each calendar month in which you earn earnable compensation for some but less than seventy hours.

(2)(a) **Twelve-month method.** If you qualify, the department will calculate your service credit using the twelve-month method.

**Example.**

Sept.	60
Oct.	60
Nov.	60
Dec.	60
Jan.	60
Feb.	60

March	160
April	160
May	160
June	
July	
Aug.	
Total	840

Mary is a Plan 3 member who worked nine months, for a total of 840 hours, as shown in the table. Using the twelve-month method, Mary receives one service credit month for each of twelve calendar months, for a total of twelve service credit months. The department will credit Mary with twelve service credit months on August 31. If Mary separates service at the end of May, she will receive nine service credit months. If she separates service at the end of June, she will receive ten service credit months.

(b) **Partial service credit method.** If you do not qualify for the twelve-month method, and you meet the requirements in subsection (1)(b) of this section, the department will calculate your service credit using the partial service credit method.

(c) **Month-by-month.** The month-by-month method will be used if you leave service before the end of the school year or otherwise do not meet the requirements for the twelve-month method or the partial service credit method.

(3) If you are employed by two or more employers, you will receive no more than one service credit month for any calendar month.

[Statutory Authority: RCW 41.50.050(5), 41.32.010 (26)(b). 06-18-006, § 415-112-332, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-335 Calculating service credit for part-time community and technical college employees.**

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

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

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

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

(2009 Ed.)

(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 Purpose and scope of TRS earnable compensation rules.** WAC 415-112-402 through 415-112-491 provide the department's interpretation of statutes and its administrative practice regarding classification of payments as earnable compensation in all TRS plans. 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(5). 04-21-080, § 415-112-400, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050(5) and 41.32.270. 02-03-120, § 415-112-400, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-400, filed 6/24/99, effective 7/25/99. 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 415-112-401 What types of payments are considered earnable compensation?** The following table indicates whether certain types of payments are earnable compensation under TRS Plan 1, 2 or 3 and provides a cross-reference to the specific WAC.

Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-415	No - WAC 415-112-415
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601

Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
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
Employer Taxes/Contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
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
Fringe Benefits, including insurance	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
National Board of Professional Teaching Standards Certification Bonus	Yes - WAC 415-112-4602	Yes - WAC 415-112-4602
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
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
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 415-112-4608	No - WAC 415-112-4608
Sick Leave Cash Outs	No - WAC 415-112-417	No - WAC 415-112-417
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Time Off with Pay	Yes - WAC 415-112-473	Yes - WAC 415-112-473
Union Leave <sup>4</sup>	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Workers' Compensation	No - WAC 415-112-482	No - WAC 415-112-482

<sup>1</sup>A portion of the value of an employer car allowance may be reportable in Plan 1 only. See WAC 415-112-41301.

<sup>2</sup>A portion of the value of an employer provided vehicle may be reportable in Plan 1 only. See WAC 415-112-413.

<sup>3</sup>A portion of the value of nonmoney maintenance provided may be reportable in Plan 1 only. See WAC 415-112-412.

<sup>4</sup>Only specific types of union leave are reportable. See WAC 415-112-475.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 08-19-106, § 415-112-401, filed 9/17/08, effective 10/18/08; 05-12-042, § 415-112-401, filed 5/25/05, effective 6/25/05.]

### WAC 415-112-402 What is earnable compensation?

(1) The department determines whether payments to an

employee are earnable compensation based on the nature of the payment, **not** the name of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of earnable compensation.

(2) Earnable compensation must meet the definition in RCW 41.32.010(10). It must:

(a) Be paid by a TRS employer to an employee as salary or wages for services provided; or

(b) Qualify as earnable compensation under WAC 415-112-471 through 415-112-477, even though it was not paid for services provided. See RCW 41.32.010(10), 41.32.267, 41.32.810 and 41.32.865.

(3) In certain cases you may establish service credit for out-of-state teaching, military service, and professional preparation. However, any compensation you may have received for these periods is excluded from earnable compensation because it is not salary or wages from a TRS employer.

(4) Some types of compensation are defined as earnable compensation in one plan and not in another.

(5) An employer must report all of an employee's earnable compensation to the department. An employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

**Example:** A member is paid in July for work performed during June. The employer must report the compensation to the department as "June earnings."

[Statutory Authority: RCW 41.50.050(5), 41.32.010(10), 05-12-042, § 415-112-402, filed 5/25/05, effective 6/25/05.]

**WAC 415-112-412 Are nonmoney payments from my employer earnable compensation?** (1) Nonmoney maintenance compensation, as defined in this section:

(a) Is earnable compensation to the extent authorized by this section, for Plan 1 members; and

(b) Is **not** earnable compensation for Plan 2 and 3 members.

(2) Nonmoney maintenance compensation is compensation legally provided to you in a form other than money. For example, nonmoney maintenance compensation may include the provision of materials such as living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities. To be considered nonmoney maintenance compensation, the materials must be provided for your personal use and/or the personal use of your dependents, not for a business use. The materials are **not** nonmoney maintenance compensation if:

(a) You use them solely in connection with your employer's business; or

(b) They are provided in lieu of reimbursement for your business expenses.

(3) To prove that the provision of materials constitutes nonmoney maintenance compensation:

(a) Your employer must substantiate by adequate records or other sufficient corroborating evidence that the materials were provided to you for your personal use as payment for your services to the employer.



(b) Your employer must substantiate that the fair market value of the materials provided is includable in your taxable income for federal income tax purposes.

(c) You may provide corroborating evidence to the department. Written documentation prepared at or near the time the materials were provided is generally preferred.

(d) In the absence of clear proof, the department will presume that employer-provided materials were not nonmoney maintenance compensation.

(4) If you are a member of TRS Plan 1, your employer must report nonmoney maintenance compensation to the department as earnable compensation. The amount reported as earnable compensation is the fair market value of materials legally provided by your employer. To substantiate the value of nonmoney maintenance compensation:

(a) Your employer must establish and regularly update a written schedule reflecting the monthly fair market value of the materials provided. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction. Your employer must be able to substantiate the accuracy of this schedule with adequate records.

(b) 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 exceeds the amount of your payment.

[Statutory Authority: RCW 41.50.050(5), 41.32.010(10), 05-12-042, § 415-112-412, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.-050(5) and 41.32.010 (10)(b), 02-03-120, § 415-112-412, filed 1/23/02, effective 3/1/02. 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 1 members:**

(a) Use of an employer vehicle for business purposes does not qualify as compensation earnable. If your employer's established policy prohibits the use of an employer vehicle for nonbusiness uses, all use of the vehicle will be deemed business use.

(b) Use of an employer vehicle for nonbusiness purposes qualifies as compensation earnable if:

(i) Your employer reports the value of this use as compensation earnable on a monthly basis. Monthly compensation earnable is the lesser of the following:

(A) Fair Market Lease Value x Percentage of Personal Use; or

(B) Miles of Personal Use x IRS Mileage Rate. The IRS Mileage Rate is the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle; and

(ii) Your employer reports your personal use of the vehicle to the IRS as taxable income under IRC Section 61 and Treas. Reg. Section 1.61-21; or

(iii) Your employer maintains monthly records of your personal use.

These records must contain:

(A) Your employer's authorization of your personal use;

(B) The distance normally commuted each day during the month, if you use the vehicle to commute;

(C) The dates, mileage, and itinerary of each personal trip other than a commute trip; and

(D) Your total mileage for the month.

(E) The ratio of personal mileage to total mileage, expressed as a percent.

(c) The department presumes that your use of an employer vehicle is solely for business purposes.

(2) **TRS Plan 2 and Plan 3 members.** If you are a member of TRS Plan 2 or Plan 3, you are not entitled to count any of the value of an employer-provided vehicle as earnable compensation.

[Statutory Authority: RCW 41.50.050(5), 41.32.010(10), IRC Section 61.02-03-120, § 415-112-413, filed 1/23/02, effective 3/1/02. 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 Are vehicle allowances earnable compensation? (1)(a) Plan 1.** Vehicle allowances may be earnable compensation for Plan 1 members according to this section.

(b) **Plans 2 and 3.** Vehicle allowances are **not** earnable compensation for members of Plans 2 and 3. Subsections (2) through (5) of this section apply to Plan 1 members only.

(2) For TRS Plan 1:

(a) A vehicle allowance is not earnable compensation if it is received in lieu of expenses you incur or expect to incur in using your own vehicle for business purposes.

(b) A vehicle allowance qualifies as earnable compensation to the extent that it exceeds your actual expenses. For instance, if you receive both a vehicle allowance and separate reimbursement for vehicle expenses each time you use a privately owned vehicle for business purposes, the vehicle allowance is earnable compensation.

(3) To prove that your vehicle allowance exceeded your actual expenses, your employer must maintain ongoing monthly records, documenting:

(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;

(c) Your itinerary for each of these trips; and

(d) The amount of the allowance LESS the actual expenses, using IRS methodology. Under the IRS methodology, your actual expenses are the miles you drove multiplied by the IRS rate.

(i) The miles you drove are the number of miles you drove a privately owned vehicle for business purposes during the month.

(ii) "IRS rate" means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(4) If a vehicle allowance exceeds your actual expenses, your employer must report the excess, calculated in subsection (3)(d) of this section.

(5) If any part of a vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10), 05-12-108, § 415-112-41301, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-41301, filed 6/24/99, effective 7/25/99; 95-22-006, § 415-112-41301, filed 10/18/95, effective 11/18/95.]

**WAC 415-112-415 Are cash-outs for annual leave and personal leave included in earnable compensation and/or average final compensation?** (1)(a) **Plan 1.** Under RCW 41.32.010 (10)(a), cash-outs for up to two hundred forty hours of unused annual leave are included in earnable compensation<sup>1</sup> for Plan 1 members according to this section.

(b) **Plans 2 and 3.** Under RCW 41.32.010 (10)(b), cash-outs for unused annual leave and personal leave are not earnable compensation in Plans 2 and 3, and are **not** includable in average final compensation. Subsections (2) through (4) of this section apply to Plan 1 members only.

(2) For Plan 1 members, cash-outs for unused annual leave and personal leave may be included in average final compensation only if the leave was earned during the two fiscal years used to calculate your average final compensation under WAC 415-112-430.

(3) The department determines when your cashed-out leave was earned as follows:

(a) You accrue annual leave and personal leave at a prescribed rate, often a certain number of hours per month. Your accrued leave is stored until you use it.

(b) Except as provided in (c) of this subsection, the department applies a "first-in-first-out (FIFO)" methodology to determine what personal leave and annual leave you have used.

**Example:** John has accrued ten days of annual leave. He earned five days in 2000 and five days in 2001. In 2002, John uses five days of annual leave. He is deemed to have used the five days earned in 2000. The five days earned in 2001 remain unused.

(c) If the employer has a different methodology in place, the department will use the employer's methodology, rather than the FIFO methodology; provided that:

(i) The employer's methodology was clearly documented by a collective bargaining agreement, regulation, charter provision, ordinance, or other comparable written policy statement; and

(ii) The employer's methodology was applied consistently to all employees for all purposes.

(4) For purposes of determining average final compensation and excess compensation, the department will consider the hours of leave in the form in which the leave was earned. If an employer converts one form of leave to another form of leave, the department will disregard the conversion and bill the employer for the amount converted if it meets the definition of excess compensation in RCW 41.50.150.

<sup>1</sup>In certain cases, an employee may cash out personal leave and/or more than two hundred forty hours of annual leave. Although this cash-out is not earnable compensation, it may be used in the calculation of the employee's retirement allowance and the employer will be billed for the excess compensation. See WAC 415-102-140.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-415, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050 and 41.32.010(10). 00-13-001, § 415-112-415, filed 6/7/00, effective 7/8/00. 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 415-112-417 Are cash-outs for sick leave included in earnable compensation and/or average final compensation?** Cash-outs for unused sick leave are not earnable compensation in TRS Plans 1, 2, or 3, and are not includable in average final compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-417, filed 5/27/05, effective 6/27/05.]

**WAC 415-112-430 How is average final compensation calculated?** (1) **Plan 1.** Except as provided in subsection (2) of this section, to calculate average final compensation for a member of TRS Plan 1, the department will:

(a) Determine the two consecutive fiscal years in which the member's total earnable compensation is the highest.

(b) Divide the total earnable compensation for this period by twenty-four to determine the member's average monthly compensation during this period.

(2) **Plan 1 alternative.** Certain members of TRS who have taught in an extended school year program may use an alternate two-year period for the calculation of average final compensation. An alternate period may be used only if a TRS member has rendered service under contract in an extended school year program at any time during the member's career, and under such contract, the member rendered some service in the extended school year program after June 30. The following process is used to determine whether the alternate period is advantageous to the member:

(a) If a member rendered contracted service in an extended school year program after June 30, the department will identify the last day of required service in the district's official calendar for the extended school year.

(b) The alternate period is a two-year period ending on the last day of service in the official calendar.

(c) The department will total the member's compensation for services rendered during the alternate period.

(d) The department will repeat steps (a) through (c) of this subsection for all alternate periods.

(e) To calculate the member's average final compensation, the department will use the member's highest two-year period, as calculated in either subsection (1)(a) or (2)(c) of this section.

(3) **Plans 2 and 3.** To calculate average final compensation for a member of TRS Plans 2 or 3, the department will:

(a) Determine the sixty consecutive service creditable months in which the member's total earnable compensation is the highest.

(b) Divide the total earnable compensation for this period by sixty to determine the member's average monthly compensation during this period.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010. 04-12-020, § 415-112-430, filed 5/25/04, effective 6/25/04. 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 415-112-432 Do I qualify for the alternate computation of earnable compensation in RCW 41.32-345?** RCW 41.32.345 provides an optional method of computing earnable compensation for part-time TRS Plan 1

members. This method is intended to ensure that a TRS Plan 1 member who earns a fractional year of service credit will receive benefits proportional to benefits received by a member who earns a full year of service credit.

(1) To be eligible for the alternate calculation, you must meet the requirements in subsection (2) or (3) of this section for:

(a) Each fiscal year for two consecutive fiscal years; or

(b) Each of the two twelve-month periods contained in an alternate period, provided that you meet the qualifications for using an alternate period for the calculation of your AFC under WAC 415-112-430(2).

(2) Service for a single employer. If you work for one and only one employer during the twelve-month period, you must satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contract.

(i) If you work for a school district or educational service district, you must be under a part-time contract from the first teaching day to the last teaching day of the school's official calendar.

(ii) If you work for a community or technical college, school for the blind, or school for the deaf, you must be under part-time contracts for at least three of the four academic quarters (summer, fall, winter, or spring).

(b) Instructional position. You must spend more than seventy-five percent of your total hours of service as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor.

(c) Number of days. During the twelve-month period, you must be employed at least twenty days or the equivalent, but less than eighty percent of the days in your employer's official calendar. For purposes of this calculation, the department considers that the official calendar of a school district or educational service district has one hundred eighty days.

(3) Service for two or more employers. If you work for more than one employer during the twelve-month period, you must satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contracts. You must be employed only under part-time contracts with a school district, educational service district, community or technical college, school for the deaf, or school for the blind for the equivalent of three of the four academic quarters (summer, fall, winter, or spring).

**Example 1.** Susan is employed part time with School District B from September 1 through December 31. She is employed with School District C from January 1 through June 20. Susan meets the "written contract" requirement of this subsection because she is under contract for the equivalent of three academic quarters (fall, winter, and spring).

**Example 2.** Bill is employed with School District B from September 1 through December 31. He is employed with Community College C for winter and spring quarters. Bill meets the "written contract" requirement of this subsection because he is under contract for the equivalent

of three academic quarters (fall, winter, and spring).

(b) Instructional position. You must spend more than seventy-five percent of your total hours of service as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor.

(c) Number of days. During the twelve-month period, you must be employed at least twenty days or the equivalent, but less than eighty percent of the days in your employers' official calendars, as illustrated in the example. For purposes of this calculation, the department considers that the official calendar of a school district or educational service district has one hundred eighty days. The number of days in the official calendars of community and technical colleges may vary.

**Example:** Sue worked for 10 days at School District A, which is considered to have 180 days in its official calendar. She worked for 90 days at Community College B, which has 150 days in its official calendar. She worked 5.6% (10/180) of School District A's official calendar plus 60% (90/150) of Community College B's official calendar for a total of 65.6%.

(4) The department may consider additional information to determine if you meet the requirements in this section. Upon the department's request, employers must provide, without limitation, the following information:

(a) For school district employees, the salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district; and

(b) Documentation indicating:

(i) Whether your position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement;

(ii) Whether your position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, workload provisions, or collective bargaining agreement;

(iii) When your position was created, and how long you held the position;

(iv) Whether you have previously retired under the provisions of chapter 41.32 RCW.

[Statutory Authority: RCW 41.32.345. 06-18-006, § 415-112-432, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-434 How is my earnable compensation adjusted if I meet the requirements in WAC 415-112-432 for two consecutive fiscal years?** If you meet the requirements in WAC 415-112-432 for each fiscal year for two consecutive fiscal years, you may choose to have your annual earnable compensation computed according to this section rather than WAC 415-112-430.

(1) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the hours per day reported under (a) of this subsection, by the number of days reported under (b) of this subsection. For each contracted position you occupied during the fiscal year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers there are seven hours in a school day.

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of hours reported by your employers; and

(b) The number of days in the employer's official calendar under a regular full-time contract:

(i) For K-12 teachers, the department will count only days identified in contracts adopted pursuant to RCW 28A.405.200. 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."

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of days reported by your employers.

(2) The department will calculate your average hourly rate by dividing the compensation reported under (b) of this subsection, by the hours reported under (a) of this subsection. Your employer(s) must provide the following written information:

(a) Total hours you worked during the fiscal year under all employment contracts with the employer; and

(b) Total earnable compensation you earned during the fiscal year under all employment contracts with the employer.

(3) To determine your adjusted earnable compensation for each fiscal year, the department will multiply your average hourly wage determined in subsection (2) of this section, by the number of hours in an official calendar, as determined by subsection (1) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

[Statutory Authority: RCW 41.32.345. 06-18-006, § 415-112-434, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-435 How is earnable compensation adjusted for TRS Plan 1 members in extended school year programs?** If you meet the requirements in WAC 415-112-432 for each year in an alternate period as defined in WAC 415-112-430, you may choose to have your annual earnable compensation computed according to this section rather than WAC 415-112-430. If you meet the requirements in WAC 415-112-432 for both, an alternate period and two consecutive fiscal years, you may also have your earnable compensation calculated by fiscal years under WAC 415-112-434.

(1) For purposes of this section, the "alternate period" in WAC 415-112-430 (1)(b) will be divided into two consecutive twelve-month periods and each will be referred to as an "alternate year." Annual earnable compensation will be determined for each alternate year.

(2) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the hours per day reported under (a) of this subsection, by the number of days reported under (b) of this subsection. For each contracted position you occupied during the alternate year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers there are seven hours in a school day.

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of hours reported by your employers.

(b) The number of days in the employer's official calendar under a regular full-time contract:

(i) For K-12 teachers, the department will count only days identified in contracts adopted pursuant to RCW 28A.405.200. 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."

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of days reported by your employers.

(3) The department will calculate your average hourly rate by dividing the compensation reported under (b) of this subsection, by the hours reported under (a) of this subsection. Your employer(s) must provide the following written information regarding your employment:

(a) Total hours you worked during the alternate year under all employment contracts with the employer; and

(b) Total earnable compensation you earned during the alternate year under all employment contracts with the employer.

(4) To determine your adjusted earnable compensation for the alternate year, the department will multiply your average hourly wage determined in subsection (3) of this section, by the number of hours in the official calendar, as determined by subsection (2) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

[Statutory Authority: RCW 41.32.345. 06-18-006, § 415-112-435, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-440 May I withdraw my employee contributions?** (1) You may withdraw TRS contributions only upon termination of employment.

(2) You may not withdraw TRS contributions during any period in which you remain employed. For example:

(a) A teacher is considered to remain employed during the summer break that is often included in a school's official calendar. This is true whether the teacher is employed by the same employer or by different employers before and after the summer break.

(b) A teacher is considered to remain employed during a period of official leave from a Washington public school employer.

[Statutory Authority: RCW 41.50.050(5). 04-21-080, § 415-112-440, filed 10/20/04, effective 11/20/04. 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 415-112-4601 Are contract salary payments earnable compensation?** (1) **Base contract.** Payments authorized under a base contract may be earnable compensation.

(a) Payments made to classroom teachers for the provision of educational services are earnable compensation.

(b) Payments made to administrators and principals for the provision of administrative services are earnable compensation.

(c) Even though salaries are derived from a salary schedule that incorporates experience and educational attainment, to the extent that the salaries are paid for services provided, they are earnable compensation. Both experience and educational attainment are deemed to increase the quality of the service performed. See RCW 28A.405.200.

(d) Payments pursuant to the base contract that are not made in exchange for services performed are not earnable compensation.

(2) **Supplemental contract.** Payments authorized under a supplemental time, responsibility or incentives (TRI) contract may be earnable compensation. RCW 28A.400.200 allows the use of supplemental TRI contracts to compensate an employee for additional time, additional responsibility, or the achievement of stated incentives.

(a) Payments authorized by a supplemental contract for services requiring additional time are earnable compensation. Examples include payments for the provision of educational services during evening or summer school.

(b) Payments authorized by a supplemental contract for services requiring additional responsibility within the regularly scheduled working day are earnable compensation. Examples include payments linked to over enrollment or additional duties.

(c) Payments authorized by a supplemental contract for the achievement of stated incentives are earnable compensation. Examples include meeting performance goals specified by the employer.

(3) **Longevity or educational attainment.** Payments for longevity or educational attainment must be analyzed to determine whether they are paid for services provided. 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 earnable compensation.

(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be earnable 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(5) and 41.32.010(10). 05-12-108, § 415-112-4601, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4601, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-4602 Are bonuses for National Board for Professional Teaching Standards certification earnable compensation?** Bonuses you receive for attaining National Board for Professional Teaching Standards certification are earnable compensation.

(2009 Ed.)

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 08-19-106, § 415-112-4602, filed 9/17/08, effective 10/18/08; 05-12-108, § 415-112-4602, filed 5/27/05, effective 6/27/05.]

**WAC 415-112-4603 Are performance bonuses earnable compensation?** Bonuses for meeting certain performance goals or working under unusual conditions, such as over enrollment, are earnable compensation because they are paid for services provided.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-4603, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4603, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-4604 Is compensation applied toward cafeteria plans earnable compensation?** Compensation you receive and apply toward a benefit plan under I.R.C. Section 125 may be earnable compensation. If you have an absolute right to receive cash or deferred cash payments instead of the fringe benefit, the payment is earnable compensation. If you have no cash option, the value of the fringe benefit is not earnable compensation. Also see WAC 415-112-480.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-4604, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4604, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-4607 Are retroactive salary increases earnable compensation?** (1) A retroactive salary increase occurs when your rate of pay is increased and made retroactive to a prior date. You receive a lump sum payment for the increased amount earned during the earlier period.

**Example:** John's salary is \$2000 per month. On April 10, his salary is increased to \$2200 per month. The increase is made retroactive to January 1. On April 25, he receives a lump sum payment of \$600, i.e., the \$200 increase for January, February, and March. In April he also receives a paycheck at the new rate of \$2200.

(2) A lump sum payment received pursuant to certain retroactive salary increases is earnable compensation. See subsection (3) of this section. The payment will be deemed to be earned in the period in which the work was done.

**Example:** When the \$600 payment is reported to the department, John will receive an additional \$200 of earnable compensation for each of January, February, and March.

(3) To qualify as earnable compensation, the retroactive salary increase 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 a claim before a court or administrative agency for a retroactive salary increase;

(c) A collective bargaining agreement; or

(d) A legislative enactment.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-4607, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-4607, filed 1/6/97, effective 2/6/97.]

[Title 415 WAC—p. 221]

**WAC 415-112-4608 Is severance pay earnable compensation? (1) Severance pay earned over time.**

(a) **Plan 1.** 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 provided and to be reportable in Plan 1. 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 provided.

**Example:** Mr. Jones is a TRS Plan 1 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 earnable 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 1 retirement calculation.

(b) **Plans 2 and 3.** All forms of severance pay are excluded from earnable compensation for Plans 2 and 3 by RCW 41.32.010(10).

(2) **Severance pay that is not earned over time.** Severance pay that is not earned over time is not earned for services provided and is not earnable compensation for Plan 1, 2 or 3.

**Example:** A school administrator and a school district negotiate a termination agreement. In the agreement, the school district agrees to pay the administrator a lump sum payment equal to two months salary as severance pay. The severance payment was not accrued over time in exchange for services provided, and therefore is not earnable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-4608, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-4608, filed 4/21/00, effective 5/22/00; 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 Are payroll deductions earnable compensation?** Amounts withheld from your salary or wages are earnable compensation. Examples include:

(1) Your employee contributions to TRS (compare WAC 415-112-480 regarding employer contributions);

(2) Amounts withheld for federal income tax purposes; and

(3) Other authorized voluntary deductions, such as the deferred compensation plan or 403(b) plan deferrals.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-4609, filed 5/27/05, effective 6/27/05. 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 415-112-471 Is compensation reported for legislative leave?** If you take a leave without pay to serve in the legislature, you are entitled to service and earnable compensation credit according to this section.

(1) **Plan 1.** The salary you would have earned in the position from which you took leave of absence is earnable

compensation if you serve at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) **Plans 2 and 3.** You may choose between:

(a) The earnable compensation you would have earned had you not served in the legislature; or

(b) The actual earnable compensation received for service plus the legislative earnable compensation.

If you select option (a), you are responsible for paying the additional employer and employee contributions to the extent the earnable compensation reported is higher than it would have been under (b) of this subsection.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-471, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-471, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-471, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-473 Is paid leave, which is not earned over time, earnable compensation?** If paid leave is not based upon earned leave accumulated over time, the payment is not for services previously provided and is generally not earnable compensation. Exceptions identified in RCW 41.32.267, 41.32.810 and 41.32.865 are reportable, and contributions are due on these payments to the extent they meet both of the following conditions:

(1) The compensation reported is equal to the salary for the position from which you are on leave; and

(2) The payment is received from your employer, not from a third party. Except as provided in WAC 415-112-475, if you receive payment from your employer but your employer is reimbursed for the payment by a third party, the payment is not earnable compensation.

[Statutory Authority: RCW 41.50.050(5), 41.32.267, 41.32.810, 41.32.865. 05-12-108, § 415-112-473, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-473, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-473, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-474 Is compensation from shared leave earnable compensation?** If you receive leave through the leave sharing program created by RCW 41.04.660, the compensation you receive from your employer for that leave is earnable compensation.

[Statutory Authority: RCW 41.50.050(5), 41.04.660. 06-18-006, § 415-112-474, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-475 Is the pay I receive from my employer when I am on union leave earnable compensation?** If you take an authorized leave of absence to serve as an elected official of a labor organization and you receive payment from your employer during your leave, the payments may be earnable compensation, even if the union reimburses your employer. To qualify as earnable compensation, the payments must meet the specific conditions in RCW 41.32.-267 (Plan 1), RCW 41.32.810 (Plan 2), or RCW 41.32.865 (Plan 3).

[Statutory Authority: RCW 41.50.050(5), 41.32.267, 41.32.810, 41.32.865. 05-12-108, § 415-112-475, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-475, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-475, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-477 Are payments for reinstatement or payment instead of reinstatement earnable compensation?** (1) When you receive payments upon reinstatement or instead of reinstatement, such payments are earnable compensation to the extent they are equivalent to the salary you would have earned by working in your position. RCW 41.32.010 defines these payments as earnable compensation even though they are not payments for services you provided to your employer. The payment will be prorated over the entire period that you were suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of:

- (a) The employer;
- (b) A school district; or
- (c) A court of law.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-477, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-477, filed 4/21/00, effective 5/22/00; 97-03-016, § 415-112-477, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-480 Are fringe benefits earnable compensation?** Fringe benefits provided by an employer are not a salary or wage, and are not earnable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or
- (3) Any employer payments into a private fund to provide health or welfare benefits for you or your dependents, with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-112-4604.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-480, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 03-06-042, § 415-112-480, filed 2/27/03, effective 4/1/03. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-480, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-482 Are disability insurance or workers' compensation payments earnable compensation?** (1) Disability insurance payments are not earnable compensation, whether the payments come directly from the employer or from an insurance company.

(2) Workers' compensation payments are not earnable compensation.

**Example:** Susan, an employee on unpaid disability leave, submits her workers' compensation payments to her employer. The employer then issues Susan a check for the same amount through the payroll system. Even though the payment may have the appearance of compensation from the employer, it is not a payment for services provided and it is not earnable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-482, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-482, filed 1/6/97, effective 2/6/97.]

(2009 Ed.)

**WAC 415-112-485 Are payments that are outside my employer's legal authority earnable compensation?** Payments made by an employer that are outside the employer's legal authority are not earnable compensation.

**Example:** School districts are prohibited by RCW 28A.400.-220 from increasing an employee's salary instead of providing a fringe benefit. If a district increased a person's salary instead of providing a district car, the teacher's increased salary payments would not be earnable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-485, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-485, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-487 Are optional payments considered earnable compensation?** If you receive an additional payment only on the condition of taking an action other than providing service to your employer, the payment is not earnable compensation.

**Example:** An employer offers to make a contribution to Joe's deferred compensation plan only if Joe agrees to have a portion of his salary deferred. Because Joe does not have a right to receive the contribution based solely on providing service, the payment is not earnable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-487, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-487, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-489 Are reimbursements for business expenses earnable compensation?** Reimbursements are not earnable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, or meal and lodging reimbursements for business trips.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-489, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-489, filed 1/6/97, effective 2/6/97.]

**WAC 415-112-490 Is a retirement bonus or incentive earnable compensation?** A payment made as an incentive to retire or terminate is not a payment for services provided, and is not earnable 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 earnable compensation.

[Statutory Authority: RCW 41.50.050(5) and 41.32.010(10). 05-12-108, § 415-112-490, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050. 97-03-016, § 415-112-490, filed 1/6/97, effective 2/6/97.]

## SERVICE RETIREMENT

**WAC 415-112-500 Do I qualify for retirement from Plan 1?** You may retire from Plan 1:

- (1) At age sixty with a minimum of five years of service. You may not use service credit you purchased for professional preparation or military service to meet the five-year minimum;

[Title 415 WAC—p. 223]

(2) At age fifty-five with a minimum of twenty-five years of service; or

(3) At any age with a minimum of thirty years of service. See RCW 41.32.480.

[Statutory Authority: RCW 41.50.050(5) and 41.32.480, 05-12-108, § 415-112-500, filed 5/27/05, effective 6/27/05. 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 415-112-501 Do I qualify for retirement from Plan 2?** You may retire from Plan 2:

(1) At age sixty-five with a minimum of five years of service;

(2) At age fifty-five with a minimum of twenty years of service, however, your retirement allowance will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five; or

(3) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year to reflect the difference in the number of years between your age at retirement and age sixty-five.

See RCW 41.32.765.

[Statutory Authority: RCW 41.50.050(5) and 41.32.765, 05-12-108, § 415-112-501, filed 5/27/05, effective 6/27/05.]

**WAC 415-112-502 Do I qualify for retirement from Plan 3?** You may retire from Plan 3:

(1) At age sixty-five with the following amounts of service credit to retire with an unreduced defined benefit:

(a) Ten years of service credit; or

(b) Five years of service credit, including at least twelve service credit months after attaining age forty-four; or

(c) Five years of TRS Plan 2 service credit earned prior to July 1, 1996, before transferring to Plan 3 under RCW 41.40.750.

(2) At age fifty-five with a minimum of ten years of service credit, however, your defined benefit will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five.

(3) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year to reflect the difference in the number of years between your age at retirement and age sixty-five.

See RCW 41.32.875.

[Statutory Authority: RCW 41.50.050(5) and 41.32.875, 06-15-071, § 415-112-502, filed 7/13/06, effective 8/13/06; 05-12-108, § 415-112-502, filed 5/27/05, effective 6/27/05.]

**WAC 415-112-504 What are the benefit options for Plan 1 members?** Upon retirement from Plan 1 for service under RCW 41.32.480 or disability under RCW 41.32.550 (1)(c), you must choose to have your retirement allowance paid to you by one of the options described in this section. You may also select an optional supplemental cost-of-living (COLA) adjustment.

(1) **May I withdraw any of my contributions?** You may withdraw some or all of your accumulated contributions as follows:

(a) If you retire according to the provisions of RCW 41.32.498, you may withdraw some or all of your accumulated contributions at the time of retirement. Your monthly

retirement allowance will be actuarially reduced according to the amount you withdraw.

(b) If you terminate service due to a disability under the conditions of RCW 41.32.550 (1)(a), you may withdraw all your accumulated contributions in a lump sum payment. You will receive no monthly retirement allowance.

(2) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (3)(c) through (e) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(3) **What are my benefit options?**

(a) **Maximum benefit allowance (no survivor feature).** The department will pay you the maximum benefit allowed by statute. Under this option you will receive a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death, and any remaining balance of accumulated contributions will be:

(i) Retained by the retirement fund if you retired for service under RCW 41.32.497 or 41.32.498; or

(ii) Paid according to subsection (9) of this section if you retired because of disability and were receiving a monthly retirement allowance under RCW 41.32.550 (1)(c).

(b) **Option one: Standard allowance for service retirement (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death, and any remaining balance of accumulated contributions will be paid according to subsection (9) of this section.

(i) This benefit option has a lower monthly allowance than the **maximum benefit allowance** in (a) of this subsection because, with this option, any remaining accumulated contributions will be paid to your beneficiaries upon your death.

(ii) If you are retiring because of disability under RCW 41.32.550 (1)(c), you will not benefit from this option because your beneficiaries will receive any remaining accumulated contributions under the maximum benefit allowance in (a) of this subsection.

(c) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(d) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(e) **Option four: Joint and two-thirds allowance** (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the



department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(4) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.530(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (5) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(5) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(6) **What is the supplemental COLA option?** In addition to choosing a retirement benefit option described in subsection (3) of this section, you may choose a supplemental annual COLA. If you select this option, your monthly retirement allowance will be actuarially reduced to offset the cost of this benefit.

(7) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

(a) **Members who retire on or after January 1, 1996:** Your increased monthly allowance will be:

- (i) The amount you would have received had you chosen the maximum benefit at the time of retirement;
- (ii) Minus any reduction in the maximum allowance resulting from a withdrawal of contributions;
- (iii) Plus any COLAs you received prior to your survivor beneficiary's death, based on your original option selection.

**Example:**

Lucinda retires from TRS Plan 1 in 1996. Lucinda withdraws some of her contributions, which actuarially reduces her maximum monthly allowance from \$2,000 to \$1,963.86. She chooses a benefit option with a survivor feature, and names Garth, her husband, as her survivor beneficiary. As a result, Lucinda's monthly allowance is further reduced from \$1,963.86 to \$1,846.03. Garth dies in January 2001. Lucinda's monthly allowance will increase to \$1,963.86, the amount she would have received had she chosen the maximum benefit option (after reduction for her withdrawals). The total amount of the COLAs she received (based on her prior monthly allowance) will be added to the \$1,963.86.

(b) **Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.530(3).

(8) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

(b) **Postretirement marriage option.** If you select the maximum benefit option or the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

- (i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;
- (ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;
- (iii) You provide a copy of your certified marriage certificate to the department;
- (iv) You provide proof of your current spouse's birth date; and
- (v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(9) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the annuity payments paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid according to this subsection.

(i) Except as provided in (a)(ii) of this subsection, any remaining balance will be paid to the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you retired for service and chose the maximum benefit option, any remaining balance will be retained by the retirement fund.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid to the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(10) For more information, see RCW 41.32.530 and 41.32.550.

[Statutory Authority: RCW 41.50.050(5), 41.32.530, 41.32.550. 05-23-062, § 415-112-504, filed 11/14/05, effective 12/15/05.]

**WAC 415-112-505 What are the benefit options for Plan 2 and 3 members?** Upon retirement for service under RCW 41.32.765 or 41.32.875, or disability under RCW 415-112-790 or 415-112-880, you must choose to have the defined benefit portion of your retirement allowance paid to you by one of the options described in this section.

(1) **Which option will pay my beneficiary a monthly allowance after my death?** Options described in subsection (2)(c) and (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your

"survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

**(2) What are my benefit options?**

**(a) Option one: Standard allowance for service retirement (no survivor feature).** The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly allowance will cease upon your death.

**(b) Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

**(c) Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

**(d) Option four: Joint and two-thirds allowance** (available to members retiring on or after January 1, 1996). The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

**(3) Do I need my spouse's consent on the option I choose?** If you are married, you must submit your spouse's notarized signature indicating consent to the retirement option you selected. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.32.785(2) and 41.32.851(2). If your survivor beneficiary has been designated by a dissolution order under RCW 41.50.790, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

**(4) Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

**(5) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will begin accruing the first day of the month following the death.

**(a) Members who retire on or after January 1, 1996:** Your increased monthly allowance will be:

(i) The amount you would have received had you chosen the standard allowance option; plus

(ii) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

**Example:**

Agnes retires from TRS Plan 2 in 1996. She chooses a benefit option with a survivor feature and names Beatrice, her daughter, as her survivor beneficiary. As a result, Agnes' monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2001. Agnes' monthly allowance will increase to \$2,191.05, which equals the amount she would have received had she chosen the standard allowance option, plus the COLAs she has received (based on her prior monthly allowance).

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

\* In the future, Agnes' COLA will be based on her increased monthly allowance.

**(b) Members who retired before January 1, 1996:** Your monthly retirement allowance will be adjusted according to the provisions of RCW 41.32.785(3).

**(6) May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

**(a) Return to membership.** If you retire and then return to membership, you may choose a different retirement option upon your subsequent retirement. See RCW 41.32.044.

**(b) Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

**(c) Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

**(7) Who will receive the balance of my accumulated contributions, if any, after my death?**

**(a) Plan 2:**

(i) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement

allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(B) If you have not designated a beneficiary, or if your designated beneficiary is no longer living, then to your surviving spouse.

(C) If not paid according to (a)(i)(A) or (B) of this subsection, then to your estate.

(ii) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(A) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(B) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living, then to your survivor beneficiary's spouse.

(C) If not paid according to (a)(ii)(A) or (B) of this subsection, then to your survivor beneficiary's estate.

(b) **Plan 3:** The defined benefit stops upon your death or upon the death of your survivor beneficiary, if applicable. As a Plan 3 member, you do not contribute to the defined benefit portion of your retirement allowance. The defined contribution portion of your benefit will be distributed according to WAC 415-111-310.

(8) For more information, see RCW 41.32.785 and 41.32.790 (Plan 2) and RCW 41.32.851 (Plan 3).

[Statutory Authority: RCW 41.50.050(5), 41.32.785, 41.32.851, and 41.32.790. 08-10-025, § 415-112-505, filed 4/25/08, effective 5/26/08; 05-23-062, § 415-112-505, filed 11/14/05, effective 12/15/05.]

**WAC 415-112-507 How do I apply for retirement benefits?** To apply for retirement benefits, you must submit the following to the department:

(1) A completed, signed, and notarized retirement application, including:

(a) Your selection of one of the benefit options described in WAC 415-112-493.

(b) Designation of a survivor beneficiary if you selected a benefit option with a survivor feature.

(c) If you are married, your spouse's notarized signature indicating consent to the retirement option you selected. See WAC 415-112-015(10).

(i) If you are married and you do not provide spousal consent, the department will pay you a joint and one-half survivor benefit allowance and record your spouse as the survivor beneficiary as required by RCW 41.32.530(2), 41.32.785(2), and 41.32.851(2).

(ii) If you are married, but have had a prior dissolution decree on file with the department designating a survivor beneficiary under RCW 41.50.790, spousal consent is not required. The dissolution decree must have been filed at least thirty days prior to your retirement;

(2) Evidence of your birth date, such as a certified copy of your birth certificate, passport, naturalization certificate, certificate of armed services record U.S. DD 214, or other documentation acceptable to the department; and

(2009 Ed.)

(3) If you selected a benefit option with a survivor feature, acceptable evidence of your designated survivor beneficiary's birth date.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 05-12-108, § 415-112-507, filed 5/27/05, effective 6/27/05.]

**WAC 415-112-509 When will the department approve my application for service retirement?** The department will approve your application for service retirement only after you:

(1) Submit a properly completed form according to the provisions of WAC 415-112-507;

(2) Meet the age and service requirements in WAC 415-112-500 for Plan 1, WAC 415-112-501 for Plan 2, or WAC 415-112-502 for Plan 3;

(3) Separate from service with all employers as defined in RCW 41.32.010(11);

(4) Have no written agreement to return to employment with an employer; and

(5) Pay in full for any service credit you wish to purchase or restore.

[Statutory Authority: RCW 41.50.050(5). 06-18-006, § 415-112-509, filed 8/24/06, effective 9/24/06.]

**WAC 415-112-515 When does a member of the teachers' retirement system (TRS) enter retirement status?** A member of TRS enters retirement status when he or she:

(1) Has separated from service or employment as defined in RCW 41.32.010(48);

(2) Has no written agreement to return to employment; and

(3) Has applied for retirement, the accrual date has been determined under WAC 415-112-520, RCW 41.32.795, or 41.32.855, and the benefit begins to accrue.

**Example:** Judy is eligible for retirement on July 1st. She submits an application on June 1st with a July 1st retirement date. Her last day of employment is June 30th and she does not have an agreement to return to work.

Judy's retirement date (accrual date) is July 1st and the benefit begins to accrue. The first retirement payment will be paid at the end of July. Judy entered "retiree status" effective July 1st.

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-112-515, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.050. 99-14-008, § 415-112-515, filed 6/24/99, effective 7/25/99. 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 When do my monthly retirement payments begin?** (1) The department will issue your first retirement allowance payment at the end of the month in which you retire.

(2) If your accrual date is prior to the date your application is approved, you will receive a lump sum payment of the amount that has accrued prior to your first payment. Thereafter, you will receive the calculated monthly benefit.

[Title 415 WAC—p. 227]

[Statutory Authority: RCW 41.50.050(5), 06-18-006, § 415-112-520, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-520, filed 6/24/99, effective 7/25/99. 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 415-112-523 How does the department calculate my retirement allowance?** (1) When you apply for retirement, you will begin to receive a provisional retirement allowance.

(a) The department will calculate the provisional allowance based on:

(i) The data for service credit and earnable compensation in the department's system at the time it is calculated;

(ii) Projections of your salary for periods that have not yet been reported by your employer.

(b) The department will pay you the provisional allowance until your actual retirement allowance has been calculated.

(2) To compute your actual allowance, the department must receive a final compensation report from your employer.

The department may also require any of the following from your employer:

(a) Cash-out information (Plan 1 only).

(b) Earnings history.

(c) Copies of your employment contract(s).

(d) Copies of your employer's compensation policies.

(3) The department will make a final calculation of your actual retirement allowance by making a final determination of your service credit and average final compensation and by applying the correct formula to these values. Your actual retirement allowance may be higher or lower than your provisional allowance.

(4) If the amount of your actual allowance is different from your provisional allowance, the department will make the necessary adjustments.

(a) If you were underpaid, the department will pay you a lump sum payment equal to the difference of the total provisional payments you received and the total you would have received based on your actual allowance.

(b) If you were overpaid, the department will recover the overpayment either through a lump sum payment, monthly installment payments, or through an actuarial reduction of your actual allowance.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW, 05-12-108, § 415-112-523, filed 5/27/05, effective 6/27/05.]

**WAC 415-112-525 How soon can I return to work as a retiree?** (1) If you return to work sooner than one full calendar month after your accrual date, your retirement allowance will be reduced by 5.5% for every seven hours worked during the month until you separate from all employment for one full calendar month. See RCW 41.32.570 (TRS Plan 1), 41.32.802 (TRS Plan 2), or 41.32.862 (TRS Plan 3).

#### Example 1:

Dave's last day of work is September 15th. He has no agreement to return to work. His accrual date is October 1st. If Dave wants to return to work after he retires, he will need

to wait until at least November 1st to avoid receiving the daily percentage reduction in his retirement allowance.

#### Example 2:

Brian's last day of work is September 15th. He has no agreement to return to work. His accrual date is October 1st. Brian subsequently is asked to work for five seven-hour work days between October 10th and October 17th. On November 1st, Brian's retirement allowance will be reduced by five and one-half percent for every seven hours worked during October. (RCW 41.32.570.) On December 1st, he will qualify for his full retirement benefit. Brian will also qualify to return to work under the work limits described in WAC 415-112-540(2).

#### Example 3:

Joe's last day of work is September 15th. He has no agreement to return to work. His accrual date is October 1st. Joe then returns to work on October 10th and continues working. Joe's retirement benefit will be reduced by 5.5% for each seven hours he works. Joe's benefit reduction will accrue up to one hundred forty hours per month. If he stops working, his full retirement benefit will resume after he remains separated for one full calendar month. Any benefit reduction over one hundred percent will be applied to Joe's allowance in subsequent months.

(2) If you have a written agreement to return to work before your accrual date, and in fact return to work, you have not entered retirement status. See WAC 415-112-515. In this case, you are not a retiree, and the 5.5% reduction in subsection (1) of this section does not apply.

#### Example 4:

Teri's last day of work is September 15th. Her accrual date would ordinarily be on October 1st. However, on September 18th, Teri signed an agreement to work for one day in October. Teri signed the agreement prior to her accrual date. Under WAC 415-112-515 she is not a retiree, and not eligible for her retirement benefits. In addition, the 5.5% reduction does not apply. Teri's accrual date will now be November 1st, as long as she did not have any other agreements to work.

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

(a) "Accrual date" - WAC 415-112-520; RCW 41.32.-795, 41.32.855.

(b) "Eligible position" - RCW 41.40.010, 41.32.010 (37)(a), 41.35.010(22).

(c) "Employer" - RCW 41.32.010(11).

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.-802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.-193, 41.40.680, 41.40.750, 41.40.801, 02-02-060, § 415-112-525, filed 12/28/01, effective 1/1/02.]

**WAC 415-112-541 How will returning to work affect my TRS Plan 1 monthly pension?** This section implements RCW 41.32.570, which limits employment for TRS Plan 1 retirees with public educational institutions to fifteen hundred hours regardless of the nature of service.

(1) You may return to any type of service with a public education institution for up to fifteen hundred hours per fiscal year as defined in RCW 41.32.010(12) without affecting your TRS Plan 1 monthly pension under RCW 41.32.570, provided you have been retired from service for one full calendar month (see WAC 415-112-520 and 415-112-525 for more information).

(a) Your employer must notify the department when you return to work. Your employer must report hours and compensation.

(b) If you are a TRS Plan 1 retiree and you work more than fifteen hundred hours during a fiscal year, the department will suspend your monthly pension. The pension is suspended until the first of the next fiscal year or termination of your employment, whichever comes first.

(c) The TRS Plan 1 limits will be applied to retirees from both TRS Plan 1 and a Plan 2 or 3 in another pension plan.

(d) The TRS Plan 1 limits will be applied to retirees from both TRS Plan 1 and PERS Plan 1.

(e) If you are a TRS Plan 1 retiree working for a public education 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.

(2) If the department suspends your benefit because of your reemployment, the department will reinstate the original amount of your pension, less deductions to recover any overpayment, effective the day following your termination of employment, or at the beginning of the next fiscal year, whichever comes first.

(3) You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section.

(4) You may choose to return to membership if you are employed by a public education institution and are otherwise eligible. Membership will be prospective from the month in which you opt into membership.

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

Public educational institution: WAC 415-112-015.

[Statutory Authority: RCW 41.50.050(5) and 41.32.570. 05-03-006, § 415-112-541, filed 1/6/05, effective 2/6/05. Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW. 02-18-046, § 415-112-541, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-112-541, filed 12/28/01, effective 1/1/02.]

**WAC 415-112-542 How will returning to work affect my TRS Plan 2 or Plan 3 monthly retirement allowance?** This section implements RCW 41.32.802 and 41.32.862, which limit employment for TRS Plan 2 or Plan 3 retirees employed in an eligible position to eight hundred sixty-seven hours per calendar year.

(1) You may return to any eligible position for up to eight hundred sixty-seven hours per calendar year without affecting your monthly retirement allowance.

(a) Your employer must notify the department when you return to work and report hours and compensation.

(b) Your monthly retirement benefit is suspended effective the day after the day in which you exceed the work limit, unless you are also a member of any Plan 1, in which case the Plan 1 limits will apply.

(c) Your monthly retirement benefit is reinstated at the beginning of the next calendar year or the first day of the month following your termination from employment whichever comes first.

(d) You may choose to return to membership if you are employed by a public school and are otherwise eligible. Membership will be prospective from the month in which you opt into membership.

(e) If you are a TRS Plan 2 or Plan 3 retiree working as a bona fide independent contractor as determined under WAC 415-02-110, you are not considered an employee and are not subject to the work limitations.

(f) If you are working as an on-call substitute teacher you are working in an ineligible position and not subject to the work limitations of RCW 41.32.802 and 41.32.862.

(2) You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section.

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

(a) Eligible position: RCW 41.32.570 (2)(b).

(b) Substitute teacher: RCW 41.32.010(36).

[Statutory Authority: RCW 41.50.050(5), 41.04.270, 41.26.030, 41.32.010, 41.32.025, 41.32.480, 41.32.500, 41.32.570, 41.32.765, 41.32.795, 41.32.802, 41.32.855, 41.32.860, 41.32.862, 41.35.010, 41.35.030, 41.35.060, 41.35.450, 41.35.640, 41.40.010, 41.40.023, 41.40.037, 41.40.150, 41.40.193, 41.40.680, 41.40.750, 41.40.801. 02-02-060, § 415-112-542, filed 12/28/01, effective 1/1/02.]

**WAC 415-112-544 How does the department calculate the retirement allowance of a TRS Plan 2 or Plan 3 member who retires, reenters TRS membership, and then retires again?** This rule establishes a method to actuarially recompute your defined benefit retirement allowance if you are a Plan 2 or Plan 3 member who retires, reenters TRS membership causing your retirement allowance to stop, and then retires again.

(1) **If you previously retired before age sixty-five**, the department will:

(a) Recompute your retirement allowance pursuant to RCW 41.32.760 (Plan 2) or 41.32.840 (Plan 3) using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-112-505.

(2) **If you previously retired at or after age sixty-five**, the department will recompute your retirement allowance pursuant to RCW 41.32.760 (Plan 2) or 41.32.840 (Plan 3)

and include any additional service credit you earned and any increase in your average final compensation resulting from your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-112-505.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

[Statutory Authority: RCW 41.50.050(5), 41.32.800, 41.32.860, 41.32.802, 41.32.862, 08-20-068, § 415-112-544, filed 9/25/08, effective 10/26/08; 05-12-043, § 415-112-544, filed 5/25/05, effective 6/25/05.]

**WAC 415-112-555 What is the TRS Plan 1 minimum allowance?** RCW 41.32.4851 entitles certain TRS Plan 1 retirees and beneficiaries to a minimum monthly allowance. Subsection (3) of this section provides the amount of the minimum allowance and explains how it may be adjusted.

(1) **Do I qualify for the minimum allowance?** Except as provided in subsection (2) of this section:

(a) You qualify if your current monthly allowance, excluding any amount you receive for an additional (optional) annuity based on extra contributions, is less than the minimum allowance calculated under subsection (3) of this section, and:

- (i) You have twenty-five or more years of TRS Plan 1 service credit and have been retired at least twenty years; or
- (ii) You have twenty or more years of TRS Plan 1 service credit and have been retired at least twenty-five years.

(b) You qualify if you are a TRS Plan 1 member's survivor beneficiary under WAC 415-112-504 and your current monthly allowance is less than the minimum allowance calculated under subsection (3) of this section, provided:

- (i) The member had twenty-five or more years of TRS Plan 1 service credit and retired at least twenty years ago; or
- (ii) The member had twenty or more years of TRS Plan 1 service credit and retired at least twenty-five years ago.

(2) **Do I qualify if I am receiving a temporary disability benefit?** You do not qualify to receive the minimum allowance provided by this rule if you are currently receiving a temporary disability benefit under RCW 41.32.540.

(3) **How much is the minimum allowance in RCW 41.32.4851, and how is it adjusted?**

(a) **Minimum allowance.** The minimum allowance prior to July 1, 2006, was \$1000. On July 1, 2006, and each July 1 thereafter, the minimum allowance increases by three percent, rounded to the nearest cent.

(b) **Adjustment.** The minimum allowance in (a) of this subsection will be adjusted each July by the same factors that were otherwise used in the calculation of your monthly allowance, including, but not limited to:

- (i) Annuity withdrawal;
- (ii) Early retirement;
- (iii) Automatic cost-of-living (COLA) increases chosen at retirement;
- (iv) Joint survivor option chosen at retirement;
- (v) Survivor percentage. See Example 2 in this subsection.

**Example 1:** Bob retired in August 1986 with twenty-five years of service credit. Bob chose benefit option three, so that his wife, Betty, would receive a monthly allowance equal to 50% of his allowance after his death. In August 2006, Bob became eligible for the minimum allowance, calculated as follows:

Minimum allowance in August 2006 =		\$1,030.00
<b>Minimum allowance, actuarially reduced for benefit option three</b>	\$1,030 x 0.87 (benefit option factor based on the difference in age between Bob and Betty) =	<b>\$896.10</b>

**Example 2:** When Bob died in August 2009, Betty's allowance was calculated using the minimum allowance in effect on the date of Bob's death. The minimum allowance was adjusted by the same factors used to calculate Bob's allowance at retirement and also by the survivor percentage (50%) chosen when Bob retired.

Minimum allowance in August 2009	(includes a 3% per year increase)	\$1,125.51
Actuarially reduced for benefit option three =	\$1,125.51 x 0.87 =	\$979.19
<b>Betty's adjusted minimum allowance</b>	(50% of the allowance Bob was receiving)	<b>\$489.60</b>

The tables, schedules, and factors the department currently uses to calculate benefits are located in WAC 415-02-300 through 415-02-380. However, factors have changed over time, and your minimum allowance will be adjusted using the same factors that were used to calculate your current monthly allowance.

(4) **If the minimum allowance is less than my current monthly allowance, will my monthly allowance be reduced?** The department will compare the amount of the minimum allowance calculated under subsection (3) of this section with your current monthly allowance. You will always receive the higher of the two benefits.

(5) **If I qualify for the minimum allowance, when will I begin to receive it?**

(a) If your eligibility is based on meeting the requirements of subsection (1)(a)(i) or (b)(i) of this section, and:

(i) You were eligible on July 1, 2004, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2004.

(ii) You become eligible after July 1, 2004, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

(b) If your eligibility is based on meeting the requirements of subsection (1)(a)(ii) or (b)(ii) of this section, and:

(i) You were eligible on July 1, 2006, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2006.

(ii) You become eligible after July 1, 2006, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

(6) **Will I receive cost-of-living adjustments (COLAs)?** You will not receive the uniform COLA (based on your years of service credit) while you are receiving the minimum allowance.

(7) **How long will I continue to receive the minimum allowance?** You will receive the minimum allowance calculated under subsection (3) of this section for your lifetime or until your regular retirement allowance, plus COLAs and

other eligible adjustments, exceeds your minimum allowance. At that time you will automatically start receiving the higher benefit.

Example:

	Regular Allowance (including COLAs and other eligible adjustments)	Adjusted Minimum Allowance	Actual Amount Paid
July 1, 2006	\$882.38 (allowance + COLAs)	<b>\$896.10</b> (\$1,030 x .87)	\$896.10
July 1, 2007	\$914.63 (\$882.38 + COLA)	<b>\$922.98</b> (\$1,060.90 x .87)	\$922.98
July 1, 2008	\$946.88 (\$914.63 + COLA)	<b>\$950.67</b> (\$1,092.73 x .87)	\$950.67
July 1, 2009	\$979.13 (\$946.88 + COLA)	<b>\$979.19</b> (\$1,125.51 x .87)	\$979.19
July 1, 2010	<b>\$1,011.38</b> (\$979.13 + COLA)	\$1,008.57 (\$1,159.28 x .87)	\$1,011.38 (reverts to regular allowance including COLAs)

[Statutory Authority: RCW 41.50.050(5), 07-10-013, § 415-112-555, filed 4/20/07, effective 5/21/07. Statutory Authority: RCW 41.50.050(5) and 41.32.4851. 04-20-004, § 415-112-555, filed 9/23/04, effective 10/24/04.]

**DISABILITY BENEFITS**

**WAC 415-112-600 Am I eligible for temporary disability benefits?** As a member or the beneficiary of a deceased member of TRS Plan 1, you are covered for benefits under the temporary disability program according to the provisions of RCW 41.32.540.

[Statutory Authority: RCW 41.50.050(5), 04-21-080, § 415-112-600, filed 10/20/04, effective 11/20/04. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-600, filed 6/24/99, effective 7/25/99. 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 What temporary disability benefits are due upon death of a member?** When a member applies for temporary disability benefits, the member may designate a beneficiary. Any temporary disability benefits that have accrued and are payable upon the death of the member will be paid to the deceased member's designated beneficiary or to the member's estate if there is no designated beneficiary.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW, 05-12-108, § 415-112-610, filed 5/27/05, effective 6/27/05. 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 When will my disability retirement allowances begin to accrue?** (1) If you qualify for a disability retirement allowance without first qualifying for temporary disability benefits, your retirement allowance will start according to the provisions governing service retirement in WAC 415-112-520.

(2) If you qualify for a disability retirement allowance after having first qualified for TRS Plan 1 temporary disability benefits, your disability retirement allowance will start the first of the month following termination of your temporary disability allowance, and will otherwise be consistent with WAC 415-112-520, which governs service retirement.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.32 RCW, 05-12-108, § 415-112-620, filed 5/27/05, effective 6/27/05. 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.]

(2009 Ed.)

**WAC 415-112-630 How will returning to work affect my Plan 1 disability retirement benefits?** The provisions of RCW 41.32.570 with regard to service in public education by a retired teacher applies equally to TRS Plan 1 members retired for disability.

[Statutory Authority: RCW 41.50.050(5) and 41.32.570, 05-12-108, § 415-112-630, filed 5/27/05, effective 6/27/05. 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 How is "dependent" defined for determining Plan 1 beneficiary rights?** (1) For purposes of TRS Plan 1 death benefits under RCW 41.32.520, a dependent must be a dependent as defined in 26 U.S.C. 152.

(2) The department must receive proof that the beneficiary stands in the necessary relationship to the member, and that either:

(a) The member had provided over half of the beneficiary's financial support continuously prior to death and at the time of the member's death; or

(b) The beneficiary otherwise meets the definition of beneficiary set forth in 26 U.S.C. 152.

(3) Financial support includes the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.

[Statutory Authority: RCW 41.50.050(5) and 41.32.520, 05-12-108, § 415-112-700, filed 5/27/05, effective 6/27/05. Statutory Authority: RCW 41.50.050, 99-14-008, § 415-112-700, filed 6/24/99, effective 7/25/99. 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 415-112-705 How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to the designation of beneficiaries for Plan 1 and Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts. RCW 41.32.895 governs the defined benefit portion of Plan 3.

(1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the depart-

ment's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.32.520 for Plan 1 members;

(b) RCW 41.32.805 for Plan 2 members; and

(c) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.32.520 (1)(b) or 41.32.805(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

### Examples:

#### EXAMPLE ONE.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

##### Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.32.-

520 for Plan 1 members, RCW 41.32.805 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

#### EXAMPLE TWO.

##### Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

##### Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

#### EXAMPLE THREE.

##### Facts

When she became a TRS 1 member, Joan was unmarried and named her mother as her beneficiary. Joan later married, but did not complete a new beneficiary form before she died with four years of service.

##### Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.32.520(1) and pay Joan's surviving spouse the accumulated contributions in her retirement account. In this case, Joan's mother will not receive a distribution.

#### EXAMPLE FOUR.

##### Facts

John is a TRS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.32.805(2). However, Mary died the following week before requesting a distribution from the department.

##### Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

[Statutory Authority: RCW 41.50.050(5). 05-12-041, § 415-112-705, filed 5/25/05, effective 6/25/05. Statutory Authority: RCW 41.50.050. 00-10-015, § 415-112-705, filed 4/21/00, effective 5/22/00.]

**WAC 415-112-715 Who gets the balance of my monthly retirement allowance if I die partway through a month?** If you have entered retirement status and die partway through a month, a prorated portion of the defined bene-



fit retirement allowance payable for the month of your death will be paid to the beneficiary named on the form in effect at the time of your death, if that person or entity survives your death. If your named beneficiary has died or is no longer in existence, the prorated amount will be paid to your estate.

[Statutory Authority: RCW 41.50.050(5). 06-18-006, § 415-112-715, filed 8/24/06, effective 9/24/06.]

**Chapter 415-113 WAC**  
**PORTABILITY OF PUBLIC EMPLOYMENT**  
**BENEFITS**

**WAC**

415-113-005 Purpose and scope.

**DEFINITIONS**

415-113-030 Definitions for purposes of chapter 415-113 WAC.

**ELIGIBILITY FOR DUAL MEMBER BENEFITS**

415-113-041 Am I a dual member?  
415-113-042 What can terminate my status as a dual member?  
415-113-045 Can I reestablish service credit in a prior system?  
415-113-055 Am I eligible for a multiple system benefit?  
415-113-057 Am I required to retire with a multiple system benefit?

**CALCULATING YOUR DUAL MEMBER BENEFIT**

415-113-059 Can I combine service from different systems to qualify for increased benefits?  
415-113-065 Can I substitute salary from one system to another?  
415-113-070 If I retire as a dual member, must I receive benefits from both systems immediately?  
415-113-080 May I receive a retroactive payment from a prior system?  
415-113-082 Could retroactive retirement cancel my membership in a subsequent system?  
415-113-084 How will my benefit be computed if I retire retroactively from LEOFF Plan 2?  
415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW?  
415-113-100 Am I eligible for a lump sum retirement allowance?  
415-113-200 SERS and PERS concurrent employment.

**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.  
415-113-0301 Accumulated contributions—Definition. [Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0301, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0302 Average compensation—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-0302, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0302, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0302, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0303 Dual member system—Definition and system acronyms. [Statutory Authority: RCW 41.50.050(5) and 41.54.010. 02-03-120, § 415-113-0303, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-0303, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0303, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0303, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-

046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0304 First class city retirement systems—Definition. [Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0304, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0305 Member participant—Definition. [Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0305, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0305, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0306 Multiple system benefit—Definition. [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.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0307 Multiple system participant—Definition. [Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0307, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0308 Multiple system retiree—Definition. [Statutory Authority: RCW 41.50.050. 95-03-001, § 415-113-0308, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0309 Nonmember participant—Definition. [Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0309, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0309, filed 1/4/95, effective 2/4/95.] Repealed by 02-18-046, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW.  
415-113-0310 System acronyms—Definition. [Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-0310, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-0310, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-0310, filed 1/4/95, effective 2/4/95.] Repealed by 02-03-120, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050(5).  
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 1. 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, 99-22-043, § 415-113-005, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-005, filed 1/4/95, effective 2/4/95.]

## DEFINITIONS

**WAC 415-113-030 Definitions for purposes of chapter 415-113 WAC.** (1) All definitions in RCW 41.54.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are defined in this chapter.

(2) **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:

(a) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;

(b) **LEOFF Plan 2:** Final average salary as defined in RCW 41.26.030 (12)(b);

(c) **PERS:** Average final compensation as defined in RCW 41.40.010(17);

(d) **PSERS:** Average final compensation as defined in RCW 41.37.010(14);

(e) **SERS:** Average final compensation as defined in RCW 41.35.010(14);

(f) **Statewide cities retirement systems:** Final compensation as defined in RCW 41.44.030(14).

(g) **TRS:**

(i) Plan 1: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;

(ii) Plans 2 and 3: Average final compensation as defined in RCW 41.32.010(30); and

(h) **WSPRS:** Average final salary as defined in RCW 43.43.120(15).

(3) **Dual member system** refers to the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems include:

(a) First class city retirement systems of Seattle, Tacoma and Spokane;

(b) Law enforcement officers' and fire fighters' retirement system (LEOFF) Plan 2;

(c) Public employees' retirement system (PERS) Plans 1, 2 and 3;

(d) Public safety employees' retirement system (PSERS);

(e) School employees' retirement system (SERS) Plans 2 and 3;

(f) Statewide cities employees' retirement system (SCERS);

(g) Teachers' retirement system (TRS) Plans 1, 2 and 3; and

(h) Washington state patrol retirement system (WSPRS) Plans 1 and 2.

(4) **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.

(5) **Member participant.**

(a) For all dual member systems administered by the department other than TRS Plan 1, "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.

(b) For TRS Plan 1, "member participant" includes persons meeting the definition of (a) of this subsection and also includes members who are not employed for compensation but have accumulated contributions standing to their credit with TRS.

(c) This definition may not apply to first class city systems. See RCW 41.54.061 and WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

(6) **Multiple system benefit** means retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

(7) **Multiple system participant** means a person who is a participant in two or more dual member systems.

(8) **Multiple system retiree** means a person who chooses to retire under the provisions of chapter 41.54 RCW.

(9)(a) **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.

(b) This definition does not apply to TRS Plan 1. A TRS Plan 1 member who meets the criteria of (a) of this subsection is a member participant.

(c) This subsection applies only to the retirement systems listed in RCW 41.50.030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-113-030, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-030, filed 8/28/02, effective 9/30/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-030, filed 12/12/00, effective 1/12/01. 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.]

## 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 participating member of a dual member system.** You must be a current member participant in at least one of the systems listed in WAC 415-113-030 to be a dual member. You may have established dual member status if you are or were a member participant in one of those systems on or after:

(a) July 1, 1988, for current or former members of all plans of PERS, SERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan 2;

(c) January 1, 1994, for current or former members of a first class city retirement system; or

(d) July 1, 2006, for current or former members of PSERS.

(2) **You must also be a former or current member of at least one other system listed in WAC 415-113-030.**

(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) If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan 1, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan 2 or 3, PSERS, SERS Plan 2 or 3, TRS Plan 2 or 3 or LEOFF Plan 2, 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 Plan 1 or 2.

**Example 1:** A former PERS Plan 1 member who has never been retired and becomes a member participant in TRS Plan 2 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 415-113-030.
- (c) "Member participant" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-113-041, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-041, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 41.54.010, 41.54.061. 02-03-120, § 415-113-041, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-041, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-041, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-041, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-042 What can terminate my status as a dual member? (1) If you terminate your status as a participating member, you also terminate your status as a dual member.** If you are no longer 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 2 eligible employment, the person in Example 1 (see WAC 415-113-041) is no longer a member of TRS Plan 2 nor a dual member.

(2) **If you retire, you are no longer a dual member.** When you retire from any or all dual member systems, you are 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 terminate dual membership, you may still be eligible 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) **LEOFF 2:** RCW 41.26.490;
- (b) **PERS 1:** RCW 41.40.193;
- (c) **PERS 2:** RCW 41.40.680;
- (d) **PERS 3:** RCW 41.40.801;
- (e) **PSERS:** RCW 41.37.240;
- (f) **SERS 2:** RCW 41.35.450;
- (g) **SERS 3:** RCW 41.35.640;
- (h) **TRS 1:** WAC 415-112-520;
- (i) **TRS 2:** RCW 41.32.795;
- (j) **TRS 3:** RCW 41.32.855.

(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 415-113-030.
- (c) "Member participant" - WAC 415-113-030.
- (d) "Multiple system benefit" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and 41.37.240. 08-02-048, § 415-113-042, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-042, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5), 41.54.-010, 41.54.030. 02-03-120, § 415-113-042, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-042, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-042, filed 10/29/99, effective 11/29/99; 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 2 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 2, 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 sys-

tem, you have until December 31, 1995, to repay your withdrawn contributions.

**Example 5:** A person is a member participant in PERS Plan 2 and has previous service in LEOFF Plan 2. LEOFF Plan 2 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 2 service.

(2) **You may reestablish TRS Plan 1 membership.** If a PERS member restores withdrawn TRS Plan 1 contributions under this section he or she:

(a) Reestablishes membership in TRS Plan 1; and  
 (b) Will participate prospectively in TRS Plan 1 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 415-113-030.

(c) "First class city retirement system" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-045, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-045, filed 10/29/99, effective 11/29/99; 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 415-02-030.

(b) "Dual member system" - WAC 415-113-030.

(c) "Multiple system benefit" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 08-20-068, § 415-113-055, filed 9/25/08, effective 10/26/08; 02-18-046, § 415-113-055, filed 8/28/02, effective 9/30/02. 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 415-02-030.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member" - RCW 41.54.010(4), WAC 415-113-030.

(d) "Dual member system" - WAC 415-113-030.

(e) "Multiple system benefit" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 08-20-068, § 415-113-057, filed 9/25/08, effective 10/26/08; 02-18-046, § 415-113-057, filed 8/28/02, effective 9/30/02. 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 to determine your eligibility for a disability or service retirement allowance from your current system, a service retirement allowance from your prior system, or an indexed retirement allowance from LEOFF Plan 2, PERS Plan 3, SERS Plan 3, or TRS Plan 3.

(2) **You may not combine service for any other purpose.** You may not combine your service to qualify for any other benefit offered by a particular system. For example:

(a) PERS Plan 1 military service. You may not combine service from other systems to qualify for military service credit in PERS Plan 1 under RCW 41.40.170.

(b) LEOFF Plan 2 post-separation benefits. You may not combine your accrued service from other systems for purposes of qualifying for a refund of one hundred fifty percent of the LEOFF Plan 2 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(5). 08-15-065, § 415-113-059, filed 7/14/08, effective 8/14/08. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-059, filed 10/29/99, effective 11/29/99; 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 choose 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, Sandy is a member participant in PERS Plan 2 and has prior creditable service in TRS Plan 1. She earned her highest compensation during her PERS Plan 2 service. Sandy's PERS Plan 2 retirement allowance will be based on her PERS Plan 2 average compensation. For purposes of computing her TRS average compensation and retirement allowance, Sandy may substitute her PERS Plan 2 base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

**Example 7:** At retirement, Pat is a member participant in TRS Plan 1 and has prior creditable service in PERS Plan 1. He earned his highest compensation during his membership in TRS Plan 1 and received a sick-leave cashout. Pat may substitute his base salary earned while a member in TRS Plan 1 for his PERS Plan 1 compensation earnable. However, because Pat may substitute only his base salary from TRS Plan 1 for his compensation earnable in PERS, his PERS average compensation will not include the 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:** Tim has creditable service in TRS Plan 1 and PERS Plan 2. He retires at age sixty-five after accruing twenty-four months of service in PERS Plan 2. Under PERS Plan 2, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute Tim's PERS Plan 2 retirement allowance, the department will substitute his 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 1, 2 or 3 as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan 1, 2 or 3 as defined in RCW 41.40.010(8);

(c) Compensation earnable under PSERS as defined in RCW 41.37.010(6);

(d) Basic salary under LEOFF Plan 2 as defined in RCW 41.26.030 (13)(b);

(e) Monthly salary under WSPRS Plan 1 or 2 as defined in RCW 43.43.120(23); and

(f) Compensation earnable under SERS Plan 2 or 3 as defined in RCW 41.35.010(6).

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

(a) "Average compensation" - WAC 415-113-030.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member system" - WAC 415-113-030.

(d) "Member participant" - WAC 415-113-030.

(e) "Multiple system benefit" - WAC 415-113-030.

(f) "Multiple system retiree" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and 41.37.010(6). 08-02-048, § 415-113-065, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-065, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and 41.54.030. 02-03-120, § 415-113-065, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-065, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-065, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-065, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-070 If I retire as a dual member, must I receive benefits from both systems immediately? (1) If you qualify to retire in one system but not the second system, you may nonetheless choose to retire *from both systems* and receive a multiple system benefit.**

(2) If you retire with a multiple system benefit, before you have become eligible in a second system(s), you must either:

(a) Take an actuarial reduction in the retirement allowance you receive from the second system(s); or

(b) Defer receipt of your retirement allowance in the second system(s) under RCW 41.54.030(3).

(3) If you take an actuarial reduction under subsection (2)(a) of this section, the reduction will account for the difference between your age at the time you begin to receive the retirement allowance and the earliest age when you would be fully eligible based on your combined service. You are "fully eligible" when you meet the age and service qualifications for retirement for each system.

(4) If you defer receipt of your retirement allowance under subsection (2)(b) of this section:

(a) You will retain dual member status for the sole purpose of receiving a deferred retirement allowance from the second system(s); and

(b) You may not subsequently withdraw accumulated contributions from the second system(s).

**Example 9:** A sixty-two year old dual member of PERS Plan 1 and TRS Plan 2 retires. He chooses to receive PERS Plan 1 benefits but defers receipt of a TRS Plan 2 retirement allowance. If he becomes reemployed in a TRS Plan 2 eligible position, he will reenter TRS Plan 2 membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan 1 retirement allowance until he works more than the work-limit in a calendar year under WAC 415-108-710. The member's eligibility to retire from TRS Plan 2 will be based solely on his accrued service credit in

TRS Plan 2 and his TRS Plan 2 retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan 2.

effective 11/29/99; 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.]

**Example 10:** Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan 2 position. He could work in this position up to the work-limit in a calendar year under WAC 415-108-710 without having his PERS retirement allowance suspended. If the retiree works over the work-limit:

- The department would suspend his retirement allowance until the next calendar year. He would remain a dual member. He would be able to retire in TRS 2 if otherwise eligible;
- The retiree could choose to reenter PERS Plan 1 membership at any time, if otherwise eligible, and terminate his dual member status. His choice for membership is not retroactive. The effect on the person's right to a TRS Plan 2 benefit is the same as in Example 9. See WAC 415-108-710.

**(5) 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 choose to begin receiving the allowance:

(a) Your surviving spouse, if any, must choose 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.

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

- (a) "Dual member system" - WAC 415-113-030.
- (b) "Includable compensation" - WAC 415-113-065(3).
- (c) "Member participant" - WAC 415-113-030.
- (d) "Multiple system participant" - WAC 415-113-030.
- (e) "Nonmember participant" - WAC 415-113-030.
- (f) "System" - RCW 41.54.010(6).

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-070, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and 41.54.030. 02-03-120, § 415-113-070, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-070, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-070, filed 10/29/99,

**WAC 415-113-080 May I receive a retroactive payment from a prior system? (1) Eligibility.** You are eligible to receive a retroactive payment from a prior system if:

(a) You retire with a multiple system benefit according to WAC 415-113-055; and

(b) You were eligible to retire from a prior system with an unreduced benefit before the date of your multiple system retirement.

**(2) Accrual date.** At the time of your retirement from all dual member systems, you must choose the date on which the benefit from your prior system will accrue. This may be any date on or after the date you first became eligible for an unreduced retirement allowance from that system. The date you choose will affect your monthly retirement allowance from that system and your retroactive payment.

**(3) Monthly retirement allowance from prior system.** Your monthly retirement allowance from your prior system will be calculated under the rules of that system.

(a) **Service credit.** Your service credit is the actual credit earned in the prior system.

(b) **Average compensation.** Your average compensation is calculated under the rules in WAC 415-113-030(2) and 415-113-065. If you substitute base salary from another system, the base salary must have been earned prior to your chosen accrual date.

**(4) Retroactive payment.** Your retroactive payment will be computed by multiplying:

(a) The amount of your monthly retirement allowance in subsection (3) of this section; by

(b) The number of months from your accrual date to the month your first monthly retirement allowance is paid.

**Example.** Tom became a member of LEOFF 2 on January 1, 1981, and remained a member through December 31, 2000. He earned 20 years of service credit. Tom reached age 48 on December 31, 2000. His highest years of compensation in LEOFF 2 were as follows:

1996	—	\$49,200/year
1997	—	\$50,400/year
1998	—	\$51,600/year
1999	—	\$52,800/year
2000	—	\$54,000/year

Tom became a member of PERS 2 on January 1, 2001. He separated from service on December 31, 2014. He earned 14 years of service credit. On December 31, 2005, Tom reached age 53 and met the eligibility requirements for an unreduced retirement from his prior system (LEOFF 2). During the period of his PERS employment, Tom's compensation was as follows:

2001	—	\$55,200/year	2006	—	\$84,000/year	2011	—	\$90,000/year
2002	—	\$56,400/year	2007	—	\$85,200/year	2012	—	\$91,200/year
2003	—	\$57,600/year	2008	—	\$86,400/year	2013	—	\$92,400/year
2004	—	\$81,600/year	2009	—	\$87,600/year	2014	—	\$93,600/year
2005	—	\$82,800/year	2010	—	\$88,800/year			

Upon separation on December 31, 2014, Tom chooses to retire from both LEOFF 2 and PERS 2 with a multiple system benefit. Because Tom met the eligibility requirements for an unreduced benefit from LEOFF 2 on December 31, 2005, he may choose an accrual date on or after January 1, 2006. His benefit will vary depending on the accrual date chosen. For example, an accrual date of January 1, 2006, yields a different result from an accrual date of January 1, 2009, as shown in Option 1 and Option 2 below. Tom may also retire from both systems with a January 1, 2015, effective date, as shown in Option 3.

**Option 1: Accrual date of January 1, 2006.** Tom chooses January 1, 2006, as the accrual date for his LEOFF 2 benefit.

**Monthly allowance:** The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance. Note: Tom's PERS 2 base salary must have been earned prior to January 1, 2006.

- Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

- Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$55,200 + \$56,400 + \$57,600 + \$81,600 + \$82,800}{60} = \$5,560/\text{month}$$

The highest average compensation, i.e., \$5,560/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	LEOFF 2 Benefit Calculation	PERS 2 Benefit Calculation <sup>1</sup>
Service credit	20 yrs	14 yrs
Average compensation	\$5,560/month	\$7,600/month
2% monthly benefit	2% x 20 x \$5,560 = \$2,224/month <sup>2</sup>	2% x 14 x \$7,600 = \$2,128/month

**Retroactive payment.** Tom will receive a retroactive payment representing monthly retirement payments from January 1, 2006 (accrual date), through December 31, 2014, including applicable COLAs. This is nine years or one hundred eight monthly payments. His retroactive payment will be \$240,192, calculated as follows:

$$108 \times \$2,224 = \$240,192$$

(This assumes no COLAs were given during the nine-year period. If COLAs were given, the retroactive payment would be greater.)

**Total multiple system benefit (LEOFF 2 and PERS 2):** Tom will receive a retroactive payment of \$240,192 from LEOFF 2. He will receive a total monthly allowance of \$4,352 (\$2,224 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

**Option 2: Accrual date of January 1, 2009.** Tom chooses January 1, 2009, as the accrual date for his LEOFF 2 benefit.

**Monthly allowance:** The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance. Note: Tom's PERS 2 base salary must have been earned prior to January 1, 2009.

- Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

- Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$81,600 + \$82,800 + \$84,000 + \$85,200 + \$86,400}{60} = \$7,000/\text{month}$$

The highest average compensation, i.e., \$7,000/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	LEOFF 2 Benefit Calculation	PERS 2 Benefit Calculation <sup>1</sup>
Service credit	20 yrs	14 yrs
Average compensation	\$7,000/month	\$7,600/month
2% monthly benefit	2% x 20 x \$7,000 = \$2,800/month	2% x 14 x \$7,600 = \$2,128/month

**Retroactive payment.** Tom will receive a retroactive payment representing monthly retirement payments from January 1, 2009 (accrual date), through December 31, 2014, including applicable COLAs. This is six years or seventy-two monthly payments. His retroactive payment will be \$201,600, calculated as follows:

$$72 \times \$2,800 = \$201,600$$

(This assumes no COLAs were given during the six-year period. If COLAs were given, the retroactive payment would be greater.)

**Total multiple system benefit (LEOFF 2 and PERS 2):** Tom will receive a retroactive payment of \$201,600 from LEOFF 2. He will receive a total monthly allowance of \$4,928 (\$2,800 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

**Option 3: Accrual date of January 1, 2015 (no retroactive payment).** Tom is not required to choose a retroactive payment from his prior system. He may choose a multiple system benefit of \$5,168/month calculated as follows:

**Monthly allowance:** The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance.

- Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

- Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$88,800 + \$90,000 + \$91,200 + \$92,400 + \$93,600}{60} = \$7,600/\text{month}$$

The highest average compensation, i.e., \$7,600/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	LEOFF 2	PERS 2
Service credit	20 yrs	14 yrs
Average compensation	\$7,600/month	\$7,600/month <sup>1</sup>
2% monthly benefit	2% x 20 x \$7,600 = \$3,040/month	2% x 14 x \$7,600 = \$2,128/month

**Total multiple system benefit (LEOFF 2 and PERS 2):** Tom will not receive a retroactive payment. He will receive a total monthly allowance of \$5,168 (\$3,040 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

Tom's PERS 2 allowance will be based on sixty consecutive months of PERS service, which yields a greater AFC than sixty consecutive months of LEOFF 2 base salary.

$$\frac{\$88,800 + \$90,000 + \$91,200 + \$92,400 + \$93,600}{60} = \$7,600/\text{month}$$

His PERS 2 allowance is NOT affected by his retroactive payment from LEOFF or by the accrual date he chooses.

<sup>2</sup>In certain cases, an increased benefit may be available from LEOFF Plan 2 (WAC 415-113-084).

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 06-18-008, § 415-113-080, filed 8/24/06, effective 9/24/06; 02-18-046, § 415-113-080, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-080, filed 10/29/99, effective 11/29/99; 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 14:** A nonmember participant in LEOFF Plan 2 who has accrued sixteen years of service in LEOFF Plan 2 became a member of PERS Plan 2 at age fifty-four. Because she became a member participant of PERS Plan 2 at age fifty-four, prior to attaining retirement eligibility under LEOFF Plan 2 (i.e., age fifty-five), she may later retire retroactively from LEOFF Plan 2, subject to LEOFF Plan 2 criteria, while continuing membership in PERS Plan 2.

**Example 15:** A nonmember participant in LEOFF Plan 2 with sixteen years of accrued service became a member of PERS Plan 2 at age fifty-five. If he attempts to retire from LEOFF Plan 2 while continuing membership in PERS Plan 2, the department will cancel his PERS Plan 2 membership and refund his PERS contributions. However, if he retires from both systems, he is entitled to retain the benefits of his PERS Plan 2 membership.

**Example 16:** Assume either of the retirees in Examples 13 and 14 above had accrued less than fifteen years of service in LEOFF Plan 2. In this case, RCW 41.04.270 would not apply to prevent the retirees from establishing PERS Plan 2 membership. Either person could retire retroactively from the LEOFF Plan 2 without canceling membership and participation in PERS Plan 2.

(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 415-113-030.
- (c) "Nonmember participant" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-082, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-082, filed 10/29/99, effective 11/29/99; 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 2? (1) Computation of your retroactive LEOFF Plan 2 retirement allowance.** If you retire with a multiple system benefit and one of your retirement allowances is a retroactive LEOFF Plan 2 allowance, the department will compute your LEOFF Plan 2 allowance based upon the greater of:

- (a) Your LEOFF Plan 2 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 2 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 2 average compensation.

**Example 17:** A person who is a nonmember participant of LEOFF Plan 2 and a member participant of PERS Plan 2 retires from both systems at age sixty-five. If he had accrued twenty-one years of creditable service in LEOFF Plan 2, the multiple system retiree's LEOFF Plan 2 retirement allowance may be based upon either: His substituted

PERS Plan 2 base salary which he earned prior to attaining retirement eligibility in LEOFF at age fifty-five; or the LEOFF Plan 2 indexed retirement allowance under RCW 41.26.530(2) using his LEOFF Plan 2 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 415-113-030.
- (b) "Multiple system benefit" - WAC 415-113-030.
- (c) "Multiple system retiree" - WAC 415-113-030.
- (d) "Nonmember participant" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-084, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-084, filed 10/29/99, effective 11/29/99; 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 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 if all of your service had been provided in one system. 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 18:** A multiple system retiree retires from TRS Plan 1 state employment with prior creditable PERS Plan 1 service. His PERS employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as TRS earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either his PERS Plan 1 or TRS Plan 1 maximum benefit.

**Example 19:** A multiple system retiree retires from PERS Plan 1 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 1 and TRS Plan 1.

(b) **Determine your retirement allowances from each system.** After computing your maximum benefit, the department will determine the retirement allowances to which you are entitled 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 Plan 1 or 2 pursuant to RCW 43.43.280(2); or

(ii) Your choice to retire early under RCW 41.40.630 (2) or (3), 41.40.820 (2) or (3), 41.37.210(3), 41.35.420 (2) or (3), 41.35.680 (2) or (3), 41.32.765 (2) or (3), 41.32.875 (2) or (3), and 41.26.430 (2) or (3).

(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; and

(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 20:** A person with twenty-nine years of prior service in TRS Plan 1 and one year of subsequent service in PERS Plan 2 retires from both systems at age sixty-five. The retiree's TRS Plan 1 average compensation is thirty thousand dollars. The TRS Plan 1 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 2 average compensation is twenty-eight thousand dollars. The retiree's maximum PERS 2 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 1 monthly benefit is one thousand four hundred fifty dollars and her PERS Plan 2 monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan 1 and PERS Plan 2 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 1 and PERS Plan 2 benefits. Her TRS Plan 1 benefit is 29/30 of

her total service or ninety-seven percent, and her PERS Plan 2 benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan 1 benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x.97) and her PERS Plan 2 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 choose:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan 1;

(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 415-113-030.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-030.

(d) "First class city system" - WAC 415-113-030.

(e) "Member participant" - WAC 415-113-030.

(f) "Multiple system benefit" - WAC 415-113-030.

(g) "Multiple system retiree" - WAC 415-113-030.

(h) "Nonmember participant" - WAC 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and 41.37.210(3). 08-02-048, § 415-113-090, filed 12/27/07, effective 1/27/08. Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-090, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050(5) and 41.54.070. 02-03-120, § 415-113-090, filed 1/23/02, effective 3/1/02. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-090, filed 10/29/99, effective 11/29/99; 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 1, 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 1, the department will use your maximum retirement allowance under TRS Plan 1 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 415-113-030.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.54 RCW. 02-18-046, § 415-113-100, filed 8/28/02, effective 9/30/02. Statutory Authority: RCW 41.50.050. 99-22-043, § 415-113-100, filed 10/29/99, effective 11/29/99; 95-03-001, § 415-113-100, filed 1/4/95, effective 2/4/95.]

**WAC 415-113-200 SERS and PERS concurrent employment.** For the purposes of this section and pursuant to RCW 41.35.005, 41.35.010, 41.40.010, and 41.54.100, "con-

current employment" refers to simultaneous employment in an eligible SERS Plan 2 or Plan 3 position and an eligible PERS Plan 2 or Plan 3 position.

If a member has been concurrently employed at any time, this section governs the calculation of service credit, average final compensation, and retirement benefits attributable to all periods of PERS employment, SERS employment, and concurrent employment.

**(1) Can I participate in SERS and PERS at the same time?** Yes, you may participate in SERS and PERS at the same time when employed concurrently in a PERS eligible position and a SERS eligible position. Your SERS employer will report your SERS eligible service in SERS. Your PERS employer will report your PERS eligible service in PERS.

**(2) Will the factors used to calculate my defined benefit be different because of concurrent employment in SERS and PERS?** No, the department will calculate your service credit and average final compensation as if all of your employment was reported in one system. These two factors are used to calculate your defined benefit.

**(3) Will the amount of my benefit be different because of concurrent employment?**

(a) If you are concurrently employed in SERS Plan 2 and PERS Plan 2, the amount of your benefit from SERS and PERS combined will be the same as if all of your service had been reported and you received a benefit in one system, because:

(i) SERS Plan 2 and PERS Plan 2 both use identical two-percent benefit formulas; and

(ii) Your total service credit and average final compensation will not be different than if all of your service had been reported in one system pursuant to subsection (2) of this section.

(b) If you are concurrently employed in SERS Plan 3 and PERS Plan 2, the amount of your benefit may be larger or smaller than if all of your service had been reported in one system:

(i) SERS Plan 3 uses a one-percent defined benefit formula and has a defined contribution component. You are responsible for the investment of your defined contribution component, which is subject to investment gains or losses; therefore, the dollar value of your total benefit may be greater or less than what you would have received if all of your service had been reported in one defined benefit system.

(ii) The allocation of your service credit while concurrently employed, as described in subsection (4) of this section, may also affect the dollar value of your benefit.

**(4) How is my service credit granted while concurrently employed?** As a concurrently employed member, you are entitled to exactly the same amount of service credit for your SERS and PERS service combined that you would have received had all of your service been reported in one system.

To calculate your service credit the department will:

(a) Combine your SERS and PERS service to determine the amount of service credit you would have earned had all of your service been reported in one system.

(b) Calculate and grant service credit in SERS based only on your reported SERS service.

(c) Calculate and grant service credit in PERS by subtracting the amount of service credit granted for SERS in (b) of this subsection from the amount of service credit calcu-

lated in (a) of this subsection that you would have earned had all of your service been reported in one system (see example 1):

(i) For any month in which you receive one month of service credit in SERS for a calendar month of employment, you will not receive any PERS service credit in that month.

(ii) The combined service credit in SERS and PERS may not exceed one month of service for a calendar month of employment.

(d) Adjust the SERS service credit at the conclusion of each school year in accordance with the provisions of RCW 41.35.180. This adjustment may cause changes in the combined SERS/PERS service credit and/or changes in the PERS service credit. (See example 2).

**Example 1: Monthly computation of concurrent employment service credit.**

**Part-time SERS and part-time PERS.**

(a) During a month, a member works 80 hours at a school district and 100 hours at a county. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .5 service credit in SERS based on the 80 hours of service reported in SERS and will receive .5 service credit in PERS based on subtracting the .50 service credit in SERS from the maximum of 1.00 service credit.

(b) During a month, a member works 65 hours at a school district and 30 hours at a county. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .25 service credit in SERS based on the 65 hours of service reported in SERS and will receive .75 service credit in PERS based on subtracting the .25 service credit in SERS from the maximum of 1.00 service credit.

**Full-time SERS and part-time PERS.**

During a month, a member works 172 hours for an educational service district and works 30 hours for a state agency. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted one month of service credit in SERS based on the 172 hours of service reported in SERS and will receive 0.0 service credit in PERS (even though they worked 30 hours) based on subtracting the 1.00 service credit in SERS from the maximum of 1.00 service credit.

**Part-time SERS and full-time PERS.**

During a month, a member works 40 hours for a school district and 180 hours for a city. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .25 service credit in SERS based on the 40 hours of service reported in SERS and will receive .75 service credit in PERS based on subtracting the .25 service credit in SERS from the maximum of 1.00 service credit.

**Example 2: Application of the educational service credit rules and the effects on concurrent employment service credit computation.**

During September, October, and November a member works 60 hours, 30 hours, and 70 hours in SERS and works 90 hours, 30 hours, and 60 hours in PERS, respectively. Based on these hours, the member would have been granted .25, .25, and .50 service credits in SERS and .75, 0.0, and .50 in PERS. The member's service credit calculated on a monthly basis through November is shown in Table 1 below.

At the end of the school year, the educational service credit rules (RCW 41.35.180) are applied. The application of these rules may cause one or more months of SERS service credit to change. A change in the SERS service credit for any given month may cause the com-

bined SERS/PERS service credit to change. See Table 2, second line. The PERS service credit would then need to be recalculated for any month that the SERS service credit changed.

The members service for the entire school year is shown in Table 2 below. Applying the educational service credit rules, the member is now entitled to six service credit months in SERS for the school year (.50 in each month of September through August) based on working a total of 750 hours for the year. Thus, the service credit in September would be changed to .50 service credit in SERS and .50 credit in PERS. The service credit in October would be changed to .50 service credit in SERS and would remain at 0.0 service credit in PERS. November's service credit calculation is not affected by the application of the educational service credit rules.

**Table 1: Month by Month Determination**

	HOURS			SERVICE CREDIT		
	Combined PERS/SERS	SERS	PERS	Combined PERS/SERS	SERS	PERS
Sept	150	60	90	1	0.25	0.75
Oct	60	30	30	.25	.25	0.00
Nov	130	70	60	1	0.50	0.50

**Table 2: After RCW 41.35.180 Adjustment**

	HOURS			SERVICE CREDIT		
	Combined PERS/SERS	SERS	PERS	Combined PERS/SERS	SERS	PERS
Sept	150	60	90	1	0.5	0.5
Oct	60	30	30	0.5	0.5	0
Nov	130	70	60	1	0.5	0.5
Dec	120	60	60	1	0.5	0.5
Jan	140	70	70	1	0.5	0.5
Feb	160	90	70	1	0.5	0.5
Mar	130	60	70	1	0.5	0.5
Apr	140	70	70	1	0.5	0.5
May	130	70	60	1	0.5	0.5
Jun	130	70	60	1	0.5	0.5
Jul	80	40	40	0.5	0.5	0
Aug	120	60	60	1	0.5	0.5
		750		11	6	5

**(5) How is my average final compensation calculated if I have been concurrently employed?** Your average final compensation will be calculated by combining all compensation earnable and service credit from all periods of SERS employment, PERS employment, and concurrent employment and then determining your highest consecutive sixty service credit months prior to your retirement, termination, or death. If an authorized leave occurs during the highest consecutive sixty service credit months, amounts earned during the period of leave will not be used in the calculation of average final compensation, except under RCW 41.40.710(2), 41.35.470(2) or 41.35.650(2).

**(6) How is my defined benefit in each system calculated?** A retirement allowance will be calculated using the appropriate formula for each system and plan as described in chapters 41.40 and 41.35 RCW, except that:

(a) The PERS service credit granted under subsection (4) of this section will be used in the PERS calculation and the SERS service credit granted under subsection (4) of this section will be used in the SERS calculation; and

(b) The average final compensation calculated under subsection (5) of this section will be used as the average final compensation for both PERS and SERS.

[Statutory Authority: RCW 41.50.050(5), chapters 41.32, 41.34, 41.35, 41.40, and 41.50 RCW. 02-03-120, § 415-113-200, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-113-200, filed 12/12/00, effective 1/12/01.]

**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.
415-115-080	Determination of additional administrative fee.
415-115-090	Maximum additional administrative fee allowable for the public employees', public safety 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

415-115-070	Evaluation of reports and assessment of additional administrative fee. [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.] Repealed by 99-12-041, filed 5/26/99, effective 6/26/99. Statutory Authority: RCW 41.50.050.
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.

[Title 415 WAC—p. 246]

[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', public safety employees', school employees', teachers', and law enforcement officers' and fire fighters' retirement systems refers to the administrative fee provided for under RCW 41.50.110; 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: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-115-020, filed 12/27/07, effective 1/27/08. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-115-020, filed 12/12/00, effective 1/12/01. 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.]

(2009 Ed.)

**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.]

**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 415-115-080 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', public safety 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 public safety employees' retirement system, the school employees' retirement system, the teachers' retirement system, and the law 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.

[Statutory Authority: RCW 41.50.050(5) and chapter 41.37 RCW. 08-02-048, § 415-115-090, filed 12/27/07, effective 1/27/08. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW. 01-01-059, § 415-115-090, filed 12/12/00, effective 1/12/01. 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 assess-

ment. An employer must provide suitable verification of the 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 415-200 WAC

### EMPLOYEE RETIREMENT BENEFITS BOARD

#### WAC

415-200-020	Regular board meetings.
415-200-030	Plan 3 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 quarterly at the offices of the State Investment Board, 2100 Evergreen Park Drive Southwest, Olympia, Washington.

[Statutory Authority: RCW 41.50.050(5), 41.50.086, 08-10-025, § 415-200-020, filed 4/25/08, effective 5/26/08. 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 Plan 3 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 the teachers' retirement system Plan 3, school employees' retirement system Plan 3 and the public employees' retirement system Plan 3 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 Plan 3 systems.

[Statutory Authority: RCW 41.50.050(5) and 41.50.088, 02-03-120, § 415-200-030, filed 1/23/02, effective 3/1/02. Statutory Authority: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-200-030, filed 12/12/00, effective 1/12/01. 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 3 and school employees' retirement system plan 3 to elect to self-direct their investments. Members electing to self-direct their investments must pay the expenses caused by the self-directed investment program.

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

- (a) External third party administrator costs;

(b) External investment manager and consultant costs; and

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

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

(2) **Adoption of expense charge.** The expense charges used to calculate self-directed investment fees for 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: Chapters 41.32, 41.34, 41.35, 41.50 RCW, 01-01-059, § 415-200-040, filed 12/12/00, effective 1/12/01. Statutory Authority: RCW 41.50.088 and 41.32.060, 97-16-039, § 415-200-040, filed 7/30/97, effective 7/30/97.]

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

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

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

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

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

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

Example: The board is composed in part of individuals who are employed by companies which provide investment options to retirement plans. The board is in the process of selecting investment options for the defined contribution portion of the Teachers' Retirement System Plan 3. A company which employs one of the board members has bid on the contract. The board member who is employed by



the bidding company may use his general expertise to educate and provide general information to the board regarding investments and defined contribution retirement plans in general. The member is prohibited from participating in the board discussion and analysis implementing the criteria for selecting an investment company, and is prohibited from participating in the board vote to select the company.

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

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

**WAC 415-200-060 Recusal of board members—Beneficial interest in entity engaged in transaction with the board.**

(1) When a member of the board either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual which is engaged in a transaction involving the board, the member shall:

- (a) Recuse him or herself from the board discussion regarding the specific transaction;
- (b) Recuse him or herself from the board vote on the specific transaction; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific transaction.

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

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

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

(2009 Ed.)

- (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 415-501 WAC

## DEFERRED COMPENSATION PLAN

## ASSETS

## WAC

## DEFERRED COMPENSATION PLAN ESTABLISHED

415-501-010 What is the purpose of this chapter, and does it apply to me?

## DEFINITIONS

415-501-110 Definitions.

## ADMINISTRATION

415-501-312 What laws govern the administration of the plan?  
 415-501-315 What are my employer's responsibilities?  
 415-501-320 What are the tax consequences of participating in the plan?  
 415-501-330 Does the department maintain a record of my account?  
 415-501-340 Where is my deferred compensation deposited?

## DEPARTMENT POWERS

415-501-370 How are the rights of participants and beneficiaries determined?  
 415-501-380 How are questions about distributions resolved?  
 415-501-390 Can the department delegate its authority?

## PARTICIPATION IN THE PLAN

415-501-410 How do I enroll in the plan?  
 415-501-415 May I move funds into the plan from an eligible retirement plan?  
 415-501-416 May I move funds from the plan into another eligible retirement plan?  
 415-501-417 How do I purchase service credit in a qualified defined benefit retirement plan?  
 415-501-420 What are the annual deferral limits?  
 415-501-430 Are there exceptions to the annual deferral limits?  
 415-501-440 How are deferral limits monitored?  
 415-501-450 May I change my deferral amount?  
 415-501-472 Who determines DCP's investment options?  
 415-501-475 May I choose how I want my deferred compensation invested?  
 415-501-480 How do I designate my beneficiaries?  
 415-501-485 How do I obtain a distribution?  
 415-501-486 How will my accumulated deferrals be distributed in the event of my death?  
 415-501-487 If my beneficiary dies while receiving my accumulated deferrals, who will get the remainder of the account?  
 415-501-488 How will the account be distributed if my beneficiary is my spouse?  
 415-501-491 How will the account be distributed if my beneficiary is not my spouse?  
 415-501-493 How will my accumulated deferrals be distributed if my beneficiary is an organization, estate, or trust?  
 415-501-494 How will the account be distributed if my beneficiary is a minor?  
 415-501-495 Will the department honor domestic relations orders?

## UNFORESEEABLE EMERGENCY

415-501-510 May I have some or all of my accumulated deferrals in the event of an unforeseeable emergency?

## LEAVE OF ABSENCE

415-501-520 May I stay in the plan if I am on a leave of absence?

## AMENDMENT OR TERMINATION OF PLAN

415-501-530 What happens if the plan is terminated?  
 415-501-540 Does the department have the right to amend the plan?

## RELATIONSHIP TO OTHER PLANS

415-501-550 Will my retirement benefit be affected by the amount of compensation I defer?

## TRANSFER IN LIEU OF CASH

415-501-560 May I receive assets in lieu of cash?

## NONASSIGNABILITY CLAUSE

415-501-570 May I transfer or assign my accumulated deferrals?

415-501-580 How are the plan's assets protected for the exclusive benefit of participants and beneficiaries?

## PARTICIPATION BY DEPARTMENT OFFICERS AND EMPLOYEES AND MEMBERS OF THE EMPLOYEE RETIREMENT BENEFITS BOARD

415-501-590 Are department officers and employees and members of the employee retirement benefits board eligible to participate in the plan?

## EMPLOYER CONTRIBUTIONS

415-501-600 Is my employer allowed to contribute to my deferred compensation account?

## INVESTMENT RESPONSIBILITY

415-501-610 What is the state investment board's responsibility regarding investments?

## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

415-501-020 Separate plan. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-020, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.

415-501-120 Beneficiary. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-120, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-130 Compensation. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-130, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-140 Deferred compensation. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-140, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-150 Department. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-150, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-160 Eligible employee. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-160, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.

415-501-170 Employee retirement benefits board. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-170, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.-770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-180 Employer. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-180, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-190 Participant. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-190, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-200 Participation agreement. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-200, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.-088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-210 Separation from service. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-210, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.-088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-300 Department to adopt rules and regulations. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-300, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-305 Department to interpret. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-305, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-310 Administered by department. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-310, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-350 Department and employee retirement benefits board actions. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-350, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-360 Plan prevails. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-360, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-470 Suspension and reinstatement of deferrals. [Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.-088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-470, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-470, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-490 Elections regarding distribution. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-490, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.-088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-492 Distribution to a beneficiary, if distribution to the participant has not begun. [Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-492, filed 12/19/01, effective 1/1/02.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-500 Distribution of deferrals. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-500, filed 5/18/00, effective 6/18/00. 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.] Repealed by 02-01-121, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations.
- 415-501-710 Plan to conform to state law. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-710, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.
- 415-501-720 Plan to conform to federal law. [Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-720, filed 5/18/00, effective 6/18/00. 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.] Repealed by 04-22-053, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770.

**DEFERRED COMPENSATION PLAN ESTABLISHED**

**WAC 415-501-010 What is the purpose of this chapter, and does it apply to me?** (1) This chapter establishes the "deferred compensation plan" according to the provisions of RCW 41.50.030(2), 41.50.088(2), 41.50.770, 41.50.780, and Section 457 of the Internal Revenue Code. This plan is for employees of the state of Washington and approved political subdivisions of the state of Washington.

(2) This chapter does not:

(a) Apply to any other plan administered by the department;

(b) Constitute an employment agreement between the participant and the employer; or

(c) Give a participant any right to be retained in the employ of the employer.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-010, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-010, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-010, filed 5/18/00, effective 6/18/00. 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.]

## DEFINITIONS

**WAC 415-501-110 Definitions.** (1) **Accumulated deferrals.** Compensation deferred under the plan, adjusted by income received, increases or decreases in investment value, fees, and any prior distributions made.

(2) **Beneficiary.** A beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

(3) **Compensation.** All payments made to a public employee by the employer as remuneration for services rendered.

(4) **Deferred compensation.** The amount of the participant's compensation that is deferred under a participation agreement. See WAC 415-501-410.

(5) **Deferred compensation plan or plan.** A plan that allows employees of the state of Washington and approved political subdivisions of the state of Washington to defer a portion of their compensation according to the provisions of Section 457(b) of the Internal Revenue Code.

(6) **Department.** The department of retirement systems created by RCW 41.50.020 or its designee.

(7) **Eligible employee.** Any person who is employed by and receives any type of compensation from a participating employer for whom services are provided, and who is:

(a) A full-time, part-time, or career seasonal employee of Washington state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service;

(b) An elected or appointed official of the executive branch of the government, including a full-time member of a board, commission, or committee;

(c) A justice of the supreme court, or a judge of the court of appeals or of a superior or district court; or

(d) A member of the state legislature or of the legislative authority of a county, city, or town.

(8) **Eligible rollover distribution.** A distribution to a participant of any or all funds from an eligible retirement plan unless it is:

(a) One in a series of substantially equal annuity payments;

(b) One in a series of substantially equal installment payments payable over ten years or more;

(c) Required to meet minimum distribution requirements of the plan; or

(d) Distributed for hardship or unforeseeable emergency from a 457 plan.

(9) **Employee retirement benefits board.** The board created by RCW 41.50.086.

(10) **Employer.**

(a) The state of Washington; and

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

(11) **Normal retirement age.** An age designated by the participant for purposes of the three-year catch-up provision described in WAC 415-501-430(2). The participant may choose a normal retirement age between:

(a) The earliest age at which an eligible participant has the right to receive retirement benefits without actuarial adjustment from his/her retirement plan with the same employer; and

(b) Age seventy and one-half.

(12) **Participant.** An eligible employee:

(a) Who has submitted a participation agreement that is approved by the department; and

(b) Who either:

(i) Is currently deferring compensation under the plan; or

(ii) Has previously deferred compensation and has not received a distribution of his/her entire benefit under the plan.

(13) **Participation agreement.** The agreement executed by an eligible employee pursuant to WAC 415-501-410, in which the eligible employee chooses to become a plan participant.

(14) **You,** as used in this chapter, means a participant as defined in subsection (12) of this section.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 05-15-045, § 415-501-110, filed 7/11/05, effective 8/11/05; 04-22-053, § 415-501-110, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-110, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-110, filed 5/18/00, effective 6/18/00. 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.]

## ADMINISTRATION

**WAC 415-501-312 What laws govern the administration of the plan?** This plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457(b) of the Internal Revenue Code and Washington state law. It is interpreted and administered accordingly.

The department is authorized to interpret the provisions of this plan and resolve any ambiguity in the plan. In the event any form or other document used in administering this plan conflicts with the terms of the plan, the terms of the plan prevail.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-312, filed 10/29/04, effective 11/29/04.]

**WAC 415-501-315 What are my employer's responsibilities?** An employer has responsibilities including, but not limited to, monitoring for deferral limits and determining employees' eligibility to participate.

The department's administration of the plan does not replace the employer's responsibilities.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-315, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, § 415-501-315, filed 5/18/00, effective 6/18/00.]

**WAC 415-501-320 What are the tax consequences of participating in the plan?** You should consult with your own representative regarding questions of federal or state income, payroll, personal property or other tax consequences arising from your participation in this plan. The department does not:

(1) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of your participation in this plan;

(2) Assume any liability for your compliance with the Internal Revenue Code.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-320, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-320, filed 5/18/00, effective 6/18/00. 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 415-501-330 Does the department maintain a record of my account?** The department maintains a deferred compensation account for each participant.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-330, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-330, filed 5/18/00, effective 6/18/00. 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 415-501-340 Where is my deferred compensation deposited?** The department deposits deferred compensation into a special fund created in the treasury of the state of Washington called the "deferred compensation principal account." Amounts in the deferred compensation principal account may be invested according to RCW 41.50.770. All amounts payable to participants or their beneficiaries are paid from the deferred compensation principal account.

All costs of administering and staffing the plan, expenses of the department, and other amounts determined by the department and permitted by law, are paid out of the deferred compensation administrative account.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-340, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-340, filed 5/18/00, effective 6/18/00. 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.]

## DEPARTMENT POWERS

**WAC 415-501-370 How are the rights of participants and beneficiaries determined?** (1) The department has the authority to decide all issues concerning the rights of participants and beneficiaries under the plan. The department's determination is binding on the participant and beneficiaries.

(2) A participant or beneficiary may file a petition for review under chapter 415-04 WAC or an application under WAC 415-08-015(2) for review of a decision to deny an application for distribution pursuant to WAC 415-501-510.

(2009 Ed.)

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-370, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-370, filed 5/18/00, effective 6/18/00. 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 415-501-380 How are questions about distributions resolved?** (1) The department may suspend distribution of your accumulated deferrals in order to resolve issues beyond its authority, such as the correctness of the distribution, amount of the distribution, or identity of the entitled recipient(s). The suspension will continue until all issues are resolved, either by written agreement of all parties concerned or by final order of a court of competent jurisdiction. The department and all involved parties must comply with the final order(s) of the court in any such suit.

(2) Whenever a distribution is suspended pursuant to this section, the time period for making any choice under WAC 415-501-485 or 415-501-491 through 415-501-494 will not begin until all issues are resolved.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-380, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-380, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-380, filed 5/18/00, effective 6/18/00. 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 415-501-390 Can the department delegate its authority?** The department may delegate functions performed under this plan to any designee with legal authority to perform such functions.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-390, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-390, filed 5/18/00, effective 6/18/00. 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.]

## PARTICIPATION IN THE PLAN

**WAC 415-501-410 How do I enroll in the plan?** (1) As an eligible employee, you may enroll in the plan by executing a participation agreement.

(2) By signing the participation agreement, you authorize your employer to reduce your gross compensation each month by a specific amount. This amount will be contributed to your deferred compensation account. Your employer will reduce your compensation by the specified amount until you change the amount (WAC 415-501-450) or suspend contributions (WAC 415-501-470).

(3) Deferrals from your compensation will start during the calendar month after the month your participation agreement is approved by the department.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-410, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-410, filed 5/18/00, effective 6/18/00. 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.]

[Title 415 WAC—p. 253]

**WAC 415-501-415 May I move funds into the plan from an eligible retirement plan? (1) Rollover.** You may roll pretax contributions into the plan from an individual retirement account (IRA) or from another eligible retirement plan.

(a) The plan will keep a separate accounting of all funds rolled into the plan.

(b) Distributions of money rolled into the plan may be subject to an additional ten percent tax on early distributions.

(2) **Plan-to-plan transfer.** You may transfer money into the plan from another eligible governmental Section 457(b) plan maintained by political subdivision, subject to the following conditions:

(a) The political subdivision also participates in DCP;

(b) The transferor plan allows direct plan-to-plan transfers; and

(c) You are employed by the political subdivision at the time of the transfer.

(3) **Rollover/transfer application.** You must complete the appropriate form to transfer or roll money over into your deferred compensation account. Forms are available through the department or on its web site.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-415, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-415, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-415, filed 5/18/00, effective 6/18/00. 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 415-501-416 May I move funds from the plan into another eligible retirement plan? (1) Rollover.** Subject to the rules of the receiving plan, you may roll pretax contributions into an individual retirement account (IRA) or another eligible retirement plan after separation from service.

(2) **Plan-to-plan transfer.** You may transfer money:

(a) Through a plan-to-plan transfer into another eligible governmental Section 457(b) plan after you terminate employment, if the receiving plan allows the transfer and you are employed by the sponsor of the receiving plan.

(b) Through a plan-to-plan transfer into another eligible governmental Section 457(b) plan maintained by a political subdivision if the receiving plan allows the transfer and you are employed by the political subdivision both before and after the transfer.

(c) Through a plan-to-plan transfer to purchase service credit in a governmental Section 401(a) plan.

Transferred funds are governed by the rules of the receiving plan.

(3) Subject to the rules of the receiving plan, if your spouse becomes eligible to receive a distribution as beneficiary, your spouse may roll an eligible rollover distribution from his/her deferred compensation account into an eligible retirement plan in which he or she is a member.

(4) **Rollover/transfer application.** You or your spouse must complete the appropriate form to transfer or roll money over from your deferred compensation account. Forms are available through the department or on its web site.

[Title 415 WAC—p. 254]

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-416, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-416, filed 12/19/01, effective 1/1/02.]

**WAC 415-501-417 How do I purchase service credit in a qualified defined benefit retirement plan? (1) What is allowed.** Subject to the requirements of the receiving retirement plan, you may make a direct transfer of funds from your deferred compensation account to purchase, restore, or reinstate service credit in any qualified defined benefit governmental retirement plan.

(2) **Who is eligible.** You may transfer funds, whether or not you are employed at the time of the transfer.

(3) **How to request a transfer.**

(a) You may request a transfer by submitting a completed form to the department.

(b) Forms are available through the department or on its web site.

(4) **Tax consequences.** You are advised to consult with a tax professional regarding the tax consequences of this transaction.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-417, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-417, filed 12/19/01, effective 1/1/02.]

**WAC 415-501-420 What are the annual deferral limits? Except as provided in WAC 415-501-430 (catch-up provisions), the maximum you may defer for any taxable year is the lesser of:**

(1) One hundred percent of your includible compensation as defined in IRC Section 457 (e)(5), and Treasury Regulation 1.457.2(g), and determined without regard to community property laws; or

(2) The annual deferral limit in the following table:

For taxable year beginning in calendar year:	Annual deferral limit:
2001	\$8,500
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000
Beginning January 1, 2007	\$15,000 plus cost-of-living adjustments, if any, established by the IRS under 26 USC 457

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-420, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-420, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-420, filed 5/18/00, effective 6/18/00. 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.]

(2009 Ed.)

**WAC 415-501-430 Are there exceptions to the annual deferral limits?** You may defer more than the annual deferral limit set in WAC 415-501-420 if you qualify to use one of the "catch up" provisions described in this section. You may not use both catch-up provisions during the same taxable year.

(1) **Age fifty and over:** You may defer a higher amount during any plan year in which you are age fifty or older. The maximum you may defer each year is the sum of:

(a) The annual deferral amount in WAC 415-501-420 for the current taxable year; and

(b) The amount in the following table:

For taxable year beginning in calendar year:	Age 50 deferral limit:
2002	\$1,000
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006	\$5,000
Beginning January 1, 2007	\$5,000 plus cost-of-living adjustments, if any, established by the IRS under 26 USC 414

(2) **Three years before normal retirement age:** You may defer a higher amount during a period of three consecutive years immediately preceding the taxable year in which you reach normal retirement age as defined in WAC 415-501-110(11). The maximum you may defer during each of the three years is the lesser of:

(a) Twice the annual deferral limit established in WAC 415-501-420; or

(b) The sum of the annual deferral limit established in WAC 415-501-420, plus the portion of the annual deferral limit for any prior taxable year that you have not previously used.

(i) For years prior to 2002, amounts you deferred under certain other plans must be considered in determining the unused amount, consistent with Treasury Regulation 1.457-4(c)(3)(iv).

(ii) A prior taxable year may be taken into account only if:

(A) It begins after December 31, 1978;

(B) You were eligible, during any portion of the taxable year, to participate in the plan; and

(C) Compensation deferred under the plan during that year, if any, was subject to a deferral limit under WAC 415-501-420.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-430, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-430, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.1780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-430, filed 5/18/00, effective 6/18/00. 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 415-501-440 How are deferral limits monitored?** (1) Under WAC 415-501-315, employers will monitor deferrals to ensure that amounts deferred comply with the limitations in WAC 415-501-420 and 415-501-430.

(2) The department may also monitor deferrals and has the authority to disallow deferral of compensation in excess of the statutory limits.

(3) You must also monitor your deferrals to ensure that combined deferrals in two or more deferred compensation plans do not exceed the deferral limits.

(4) If the plan determines that your deferrals into the plan have exceeded the deferral limit, the excess deferrals will be distributed to you as soon as administratively practicable.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-440, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.1780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-440, filed 5/18/00, effective 6/18/00. 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 415-501-450 May I change my deferral amount?** You may change the amount of your deferred compensation through the methods established by the department. Changes may be made only in:

(1) Whole dollar increments; or

(2) Whole percentages if percentage deferrals are allowed for your employer.

A change in the amount will be effective for any calendar month only if you notify the department of the change, through the methods available, prior to the month for which the change is requested and prior to the established payroll cutoff date for your employer.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-450, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.1780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-450, filed 5/18/00, effective 6/18/00. 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 415-501-472 Who determines DCP's investment options?** (1) The state investment board, in consultation with the employee retirement benefits board, makes certain investment options available to plan participants. The investment board may:

(a) Open, change, or close investment options according to its investment policy; or

(b) Change investment managers for any investment option.

(2) If the state investment board closes or substantially changes an investment option, the state investment board may transfer the funds invested in that option to another option that, in the board's judgment, most closely represents the investment characteristics of the option being closed or changed.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10). 05-22-109, § 415-501-472, filed 11/2/05, effective 12/3/05.]

**WAC 415-501-475 May I choose how I want my deferred compensation invested?** (1) You must designate on your participation agreement the investment option(s) in which you wish to have your deferrals invested.

(2) In general, you may change the investment of your accumulated deferrals, the investment of your future deferrals, or both, through the methods established by the department. However, if necessary to protect the performance results of the DCP program, the department has the right to:

- (a) Limit the number of times you change investment options;
- (b) Limit the frequency of the changes;
- (c) Limit the manner of making changes; or
- (d) Impose other restrictions.

In addition, changes must be consistent with any restrictions on trading imposed by the investment options involved.

(3) Beneficiaries receiving a distribution may change investment options according to the provisions of subsection (2) of this section.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), 05-22-109, § 415-501-475, filed 11/2/05, effective 12/3/05. Statutory Authority: RCW 41.50.-050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-475, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-475, filed 5/18/00, effective 6/18/00. 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 415-501-480 How do I designate my beneficiaries?** You have the right to designate a beneficiary or beneficiaries to receive your accumulated deferrals in the event of your death. You may change your beneficiary designation at any time by filing a beneficiary change form with the department. The change will take effect upon the department's receipt of the beneficiary change form.

You may name:

- (1) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.
- (2) Your estate.
- (3) An existing trust or a trust that is to be established under your last will. For an existing trust, you must provide a copy of the trust document and the name, address and telephone number of the current trustee.

You may name contingent beneficiaries in addition to primary beneficiaries.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-480, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-480, filed 5/18/00, effective 6/18/00. 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 415-501-485 How do I obtain a distribution?** Distribution from the plan is governed by Internal Revenue Code Sections 401 (a)(9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are set forth in the *DCP Distribution Booklet*. The booklet will be mailed to you when your employer notifies the department of your termination of employment.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection. The department must receive a properly completed distribution form from you at least thirty days prior to the date distribution is to begin.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

- (i) A distribution for an unforeseeable emergency under WAC 415-501-510;
- (ii) A voluntary in-service distribution under subsection (4) of this section; or
- (iii) A distribution from funds that were rolled into the deferred compensation account.

(b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:

- (i) The calendar year in which you reach age seventy and one-half; or
- (ii) The calendar year in which you retire.
- (c) If you do not make a timely choice of distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a)(9).

(2) **Method of distribution.** You must choose a distribution method (amount and frequency) from the payment options outlined in the *DCP Distribution Booklet*. Payment options include a lump sum payment, periodic payments, or an annuity purchase.

(a) Periodic payments must be at least fifty dollars per month (if paid monthly) or six hundred dollars per year.

(b) Beginning at age seventy and one-half or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a)(9).

(3) **Voluntary in-service distribution.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:

- (a) Your entire account value does not exceed five thousand dollars;
- (b) You have not previously received an in-service distribution; and
- (c) Your deferrals have been suspended during the preceding two-year period ending on the date of the in-service distribution.

(4) **Unforeseeable emergencies.** See WAC 415-501-510.

(5) **Rehire.** If you terminate and then return to employment for an eligible employer, you may reenroll in the plan. The department will stop your distribution, if applicable, and void any choices of distribution date and method made prior to reenrollment.

[Statutory Authority: RCW 41.50.780(10), 06-04-058, § 415-501-485, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.50.-780(10), and 41.50.770. 04-22-053, § 415-501-485, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.-088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-485, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00.]



tive 6/18/00. 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 415-501-486 How will my accumulated deferrals be distributed in the event of my death?** If you die before your entire deferred compensation account has been distributed, accumulated deferrals will be paid to the beneficiary or beneficiaries you have designated according to WAC 415-501-480. If no beneficiary is designated or if the designated beneficiary does not survive you by a period of thirty days, accumulated deferrals will be paid to your surviving spouse, if any. If you do not have a surviving spouse, the accumulated deferrals will be paid to your estate. Provisions regarding distribution to various classes of beneficiaries are set forth in WAC 415-501-487 through 415-501-494.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-486, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-486, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.1780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-486, filed 5/18/00, effective 6/18/00. 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 415-501-487 If my beneficiary dies while receiving my accumulated deferrals, who will get the remainder of the account?** If your beneficiary dies while receiving distributions, any remaining balance will be paid to your beneficiary's estate. Distribution will take place in the second month following the notification of the beneficiary's death, unless benefits are being paid under an annuity you purchased. If benefits were being paid under an annuity, distribution will be governed by the terms of the annuity contract.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-487, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-487, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.1780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-487, filed 5/18/00, effective 6/18/00. 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 415-501-488 How will the account be distributed if my beneficiary is my spouse?** If you die before the entire account has been exhausted, your spouse beneficiary will receive your accumulated deferrals according to the provisions of this section.

(1) **Date of distribution.** Your spouse beneficiary may choose the date on which to begin receiving the distribution, provided:

(a) The spouse beneficiary notifies the department of the distribution date within ninety days from the date the department is notified of your death.

(b) The department receives the election form at least thirty days before distribution is to begin.

(c) Distribution begins on or before the first day of April of the calendar year following the latter of:

(i) The year you would have reached age seventy and one-half; or

(ii) The calendar year in which you die.

(2009 Ed.)

If the beneficiary does not make a timely choice of distribution date, the department will begin distribution according to the minimum distribution requirements in IRC 401 (a)(9).

(2) **Method of distribution.** The spouse beneficiary must choose a distribution method from the payment options outlined in the *DCP Distribution Booklet*, which will be mailed to your beneficiary when the department is notified of your death. Payment options include a lump sum payment or periodic payments, provided:

(a) The amount and frequency allows for distribution of the entire account balance during the beneficiary's life expectancy, as computed by the Department of Treasury in IRS Regulation 1.72.9; and

(b) Periodic distributions made by the department are at least fifty dollars per month, if paid monthly, or six hundred dollars per year.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-488, filed 10/29/04, effective 11/29/04.]

**WAC 415-501-491 How will the account be distributed if my beneficiary is not my spouse?** If you die before the entire account has been exhausted and your beneficiary is not your spouse, your accumulated deferrals will be distributed according to the provisions of this section.

(1) **Date of distribution.** A nonspouse beneficiary may choose the date on which to begin receiving the distribution, provided:

(a) The beneficiary notifies the department of the distribution date within ninety days from the date the department is notified of your death.

(b) The department receives the election form at least thirty days before distribution is to begin.

(c) Distribution begins on or before the first day of April of the calendar year following the latter of:

(i) The year you would have reached age seventy and one-half; or

(ii) The calendar year in which you die.

If the beneficiary does not make a timely choice of distribution date, the department will begin distribution according to the minimum distribution requirements in IRC 401 (a)(9).

(2) **Method of distribution.** A nonspouse beneficiary must choose a distribution method from the payment options outlined in the *DCP Distribution Booklet*, which will be mailed to your beneficiary when the department is notified of your death. Your beneficiary may choose a lump sum payment or periodic payments.

(a) If the nonspouse beneficiary begins distribution by the thirty-first day of December of the year following your death:

(i) The amount and frequency must allow for distribution of the entire account balance during the beneficiary's life expectancy, as computed by the Department of Treasury in IRS Regulation 1.72.9; and

(ii) Periodic distributions made by the department must be at least fifty dollars per month, if paid monthly, or six hundred dollars per year.

(b) If the nonspouse beneficiary does not begin distribution by the thirty-first day of December of the year following

[Title 415 WAC—p. 257]

the year of your death, the entire account balance must be paid out within five years from the date of your death.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-491, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-491, filed 12/19/01, effective 1/1/02.]

**WAC 415-501-493 How will my accumulated deferrals be distributed if my beneficiary is an organization, estate, or trust?** If your beneficiary is an organization, estate, or trust, the department will make the distribution as a lump sum in the second month following the receipt of all required information.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-493, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-493, filed 12/19/01, effective 1/1/02.]

**WAC 415-501-494 How will the account be distributed if my beneficiary is a minor?** (1) The department will distribute deferred compensation funds on behalf of a minor beneficiary only upon proof that the minor has either a court-appointed guardian or a custodian designated in compliance with RCW 11.114.030.

(2) If the department does not receive the proof in subsection (1) of this section, or if the guardian or custodian is unable or unwilling to serve, the department will request a court of competent jurisdiction to establish a guardianship under chapters 11.88 and 11.92 RCW. The department will make this request no sooner than one hundred eighty days after notification of your death, regardless of the amount at issue.

(3) After a guardianship or custodianship has been established, either by prior designation or by court order, the department will transfer the deferred compensation funds to the named guardian or custodian.

(4) If you have more than one minor beneficiary, a separate custodianship must be established for each minor. Each minor's interest must be determined in accordance with the governing instrument and applicable law. Only one person may be the custodian for each minor.

(5) Disbursement of funds to the guardian or custodian on behalf of the minor discharges the department from further liability.

(6) The guardian or custodian may choose a deferred compensation distribution date and method on behalf of the minor, consistent with the requirements of this chapter.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-494, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-494, filed 12/19/01, effective 1/1/02.]

**WAC 415-501-495 Will the department honor domestic relations orders?** (1) The department will honor a domestic relations order (DRO) only if the order:

- (a) Was entered by a court of competent jurisdiction.
- (b) Establishes a right of a former spouse to a portion of your deferred compensation account pursuant to a division of property;

[Title 415 WAC—p. 258]

(c) Clearly states either the dollar amount or a percentage of the account to be transferred to the account of the former spouse from your account; and

(d) Provides your name and date of birth, and the name and date of birth of your former spouse.

(2) You must provide the address and Social Security number of both you and your former spouse to the department. This information may be submitted in a cover letter, in another document, or by other means arranged with the department.

(3) To implement a DRO, the department will establish a separate account for the former spouse in the amount specified in subsection (1)(c) of this section. The amount will initially be invested in the savings pool. Thereafter, the former spouse may provide investment instructions under WAC 415-501-450.

(4) Your former spouse may choose a method of distribution, including a direct rollover.

(5) If a DRO filed with the department prior to January 1, 2002, provides that distribution to the former spouse is not available until you separate from service, the department will comply with the express terms of the order unless it is subsequently amended.

(6) If the former spouse has not elected another method of distribution by age seventy and one-half, the department will begin distribution in accordance with the minimum distribution requirements in IRC 401 (a)(9).

(7) If the former spouse dies before the account is fully distributed, the remaining balance will be paid to the former spouse's estate.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-495, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.060, 41.50.770, 41.50.780, 2001 c 42. 02-12-084, § 415-501-495, filed 6/4/02, effective 7/5/02. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-495, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-495, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050. 98-20-047, § 415-512-095, filed 9/30/98, effective 10/31/98.]

## UNFORESEEABLE EMERGENCY

**WAC 415-501-510 May I have some or all of my accumulated deferrals in the event of an unforeseeable emergency?** (1) Notwithstanding any other provisions in this chapter, you may request all or a portion of your accumulated deferrals in the event of an unforeseeable emergency. Distribution will be made within sixty days following the department's approval of your request. The amount paid will be limited strictly to that amount reasonably necessary to satisfy the emergency need.

(2) For purposes of this plan, an unforeseeable emergency is severe financial hardship to you resulting from:

(a) A personal illness or accident or the illness or injury of a spouse or dependent who meets the definition in Section 152(a) of the Internal Revenue Code;

(b) Loss of your property due to casualty, including the need to rebuild a home following damage not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster; or

(2009 Ed.)

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control.

(3) The circumstances that constitute an unforeseeable emergency depend upon the facts of each case, but, in no case will the department approve a distribution request if the financial hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of your assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

(4) Examples:

(a) The following types of occurrences are not considered unforeseeable emergencies:

(i) Sending your child to college; or

(ii) Purchasing a home.

(b) The following types of occurrences may be considered unforeseeable emergencies, depending on the facts in each case:

(i) Imminent foreclosure of or eviction from your primary residence;

(ii) Medical expenses, including nonrefundable deductibles, and/or the cost of prescription drug medication;

(iii) Funeral expenses of your spouse or a dependent as defined in Section 152(a) of the Internal Revenue Code; and

(iv) Extraordinary expenses resulting from a divorce.

(5) If the department denies your request for distribution, you may request a review of that decision according to the provisions of WAC 415-08-015.

(6) Unforeseeable emergency requests received by the department, whether approved or denied, will cause a mandatory suspension of deferrals to the plan. You may not resume deferrals sooner than six months from the date of suspension.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-510, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.770 and 41.50.780. 02-02-059, § 415-501-510, filed 12/28/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-510, filed 5/18/00, effective 6/18/00. 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.]

## LEAVE OF ABSENCE

**WAC 415-501-520 May I stay in the plan if I am on a leave of absence?** If you are on an approved leave of absence from the employer, participation in this plan will continue.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-520, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-520, filed 5/18/00, effective 6/18/00. 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.]

## AMENDMENT OR TERMINATION OF PLAN

**WAC 415-501-530 What happens if the plan is terminated?** The legislature may terminate this plan at any time. Upon such termination, accumulated deferrals will be distributed to all plan participants and beneficiaries as soon as

administratively possible. The participants' deferrals will cease.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-530, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780. 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-530, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-530, filed 5/18/00, effective 6/18/00. 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 415-501-540 Does the department have the right to amend the plan?** To the extent not inconsistent with state and federal law, the department may amend the provisions of this plan at any time. No amendment will affect the rights of participants or their beneficiaries regarding accumulated deferrals at the time of the amendment.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-540, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-540, filed 5/18/00, effective 6/18/00. 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.]

## RELATIONSHIP TO OTHER PLANS

**WAC 415-501-550 Will my retirement benefit be affected by the amount of compensation I defer?** Deferred amounts are included as compensation in determining benefits or rights under the employer's group insurance and retirement plans.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-550, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-550, filed 5/18/00, effective 6/18/00. 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.]

## TRANSFER IN LIEU OF CASH

**WAC 415-501-560 May I receive assets in lieu of cash?** Upon the occurrence of any event requiring the distribution 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 that the employer has acquired, at fair market value.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-560, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-560, filed 5/18/00, effective 6/18/00. 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.]

## NONASSIGNABILITY CLAUSE

**WAC 415-501-570 May I transfer or assign my accumulated deferrals?** Neither you, your beneficiaries, nor any other designee, has any right to sell, assign, transfer, commute, or otherwise convey the right to receive any distributions under the plan. These distributions and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or exe-

cution 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(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-570, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-570, filed 5/18/00, effective 6/18/00. 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.]

## ASSETS

**WAC 415-501-580 How are the plan's assets protected for the exclusive benefit of participants and beneficiaries?** 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 will be held in trust for the exclusive benefit of participants and beneficiaries under the plan. Any trust under the plan will be established under the laws of Washington.

All amounts of compensation deferred under the plan will 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(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-580, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-580, filed 5/18/00, effective 6/18/00. 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.]

## PARTICIPATION BY DEPARTMENT OFFICERS AND EMPLOYEES AND MEMBERS OF THE EMPLOYEE RETIREMENT BENEFITS BOARD

**WAC 415-501-590 Are department officers and employees and members of the employee retirement benefits board eligible to participate in the plan?** 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. Such officers, employees, or board members may not participate in any department or board action uniquely affecting their own participation.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-590, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-590, filed 5/18/00, effective 6/18/00. 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.]

## EMPLOYER CONTRIBUTIONS

**WAC 415-501-600 Is my employer allowed to contribute to my deferred compensation account?** The employer may, pursuant to WAC 415-501-450, add addi-

[Title 415 WAC—p. 260]

tional deferred compensation for services you provided to the employer during any calendar month, provided:

(1) You elected to have such additional compensation deferred 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 this chapter.

[Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-600, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.-780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. 02-01-121, § 415-501-600, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, amended and recodified as § 415-501-600, filed 5/18/00, effective 6/18/00. 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.]

## INVESTMENT RESPONSIBILITY

**WAC 415-501-610 What is the state investment board's responsibility regarding investments?** Action by the state investment board as plan trustee or by the department as plan administrator is not 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(5), 41.50.780(10), and 41.50.770. 04-22-053, § 415-501-610, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. 00-11-104, recodified as § 415-501-610, filed 5/18/00, effective 6/18/00. 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.]