

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. WSR 97-01-016, § 415-104-3201, filed 12/6/96, effective 1/6/97.]