

WSR 23-15-125
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed July 19, 2023, 11:05 a.m., effective August 19, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify language regarding the benefit options available to law enforcement officers' and firefighters' Plan 2 retirees and members who return to work in department of retirement systems-covered positions.

Citation of Rules Affected by this Order: New WAC 415-104-109.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 23-11-151 on May 24, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 19, 2023.

Tracy Guerin
Director

OTS-3799.4

NEW SECTION

WAC 415-104-109 How will my retirement membership be determined if I separate from my LEOFF 2 position and begin employment with a new employer in a position that is eligible for a different retirement system administered by DRS, such as PERS, PSERS, TRS, or SERS? (1) If you separate from LEOFF employment, but are not yet eligible to commence a normal retirement benefit, you will become a member in another DRS retirement system, if you meet the eligibility qualifications in that new system for purposes of your new position. You will become a dual member.

When you apply to begin your LEOFF 2 pension once you qualify for normal retirement, your membership in the new retirement system will end. You will not be eligible to begin collecting your pension in your other retirement plan until you have separated employment from that employer.

If you do not apply for your LEOFF pension immediately upon meeting normal retirement, your pension benefit will be paid retroactively following your application for your LEOFF benefit.

Example: After 20 years of service as a firefighter for the city of Spokane, at age 51 you separate from employment with the city and choose not to begin collecting an early retirement from LEOFF 2. You accept a PERS eligible position with Spokane County, at which point you are mandated into PERS membership. You will qualify as a dual member. At normal retirement age, you will be able to begin your LEOFF pension; however, if you do so your PERS membership will end, and you will not begin to draw a pension from PERS until you separate from employment with the county. If you do not begin your LEOFF pension at normal retirement age, you will continue to accrue PERS service credit and be able to retire from both systems when you separate employment. Your LEOFF pension will also be paid retroactively to normal retirement age.

Example: After 20 years of service as a firefighter for the Benton County, at age 45 you accept a PERS eligible position with the same employer (Benton County), and you are mandated into PERS membership. You will qualify as a dual member. At normal retirement age, you will not be able to begin your LEOFF pension since you have not yet separated employment with the county. When you do separate employment, your LEOFF pension will be paid prospectively based on your separation from employment with your employer.

(2) If you separate from LEOFF employment and are eligible to commence a normal retirement benefit, you will have the same requirements and options outlined in WAC 415-104-111(2).

Example: After 20 years of service as a police officer with the city of Seattle, you separate from employment with the city at age 56. Prior to commencing your LEOFF pension, you accept a SERS covered position with the Seattle public schools. You have two options:

(a) You can begin your LEOFF pension at any point and forgo membership in SERS.

(b) You can join SERS membership. You will not be able to begin your LEOFF pension until you have separated employment with the school district at which point you will receive a retroactive payment for the LEOFF pension payments you missed and your SERS pension benefit would begin if you qualify.

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