

# Cafeteria Plans and Basic Salary

Department of Retirement Systems

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LEOFF Plan 2 Retirement Board

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# Background

- ▶ Whether a payment is basic salary depends upon whether the payment is earned as a salary or wage for services rendered. 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.

RCW 41.26.030(4b)

# Fringe Benefits

- ▶ In general, Fringe Benefits are not basic salary  
For example:
  - Employer contributions to a retirement plan;
  - 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
  - Any employer payments into a private fund to provide health or welfare benefits for the member
- ▶ Exception: Compensation paid under a bona fide Cafeteria Plan

WAC 415-104-385

# Cafeteria Plan

- ▶ (1) **In general** The term “cafeteria plan” means a written plan under which—
  - (A) all participants are employees, and
  - (B) the participants may choose among 2 or more benefits consisting of cash and qualified benefits.

US Code Chapter 26 (B) Part III Section 125

# Is It Basic Salary?

- ▶ 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– If
  - The member has an *absolute right* to receive cash or deferred payments in lieu of the fringe benefits offered

WAC 415-104-367

# What Is Reported To DRS?

- ▶ The cash paid to the member and/or
- ▶ The value of the benefits received under the Cafeteria Plan

# What Is The Process?

- ▶ DRS does not need to review plans in advance
- ▶ If the plan is a qualified plan under section 125– the employer just reports the value or compensation to DRS



