

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 010 – MEMBERSHIP**

459-010-0042

Retroactive Salary Payments

(1) For the purpose of this rule, “retroactive payment” means a payment of salary attributable to a prior period made pursuant to a court order, administrative order, arbitration award, conciliation agreement, or private settlement agreement that resolves a dispute or claim based upon an employee’s rights under employment and wage law or a collective bargaining agreement.

(2) A retroactive payment must be allocated to the period(s) in which the work was done or would have been done and deemed paid as so allocated pursuant to ORS 238.005(21)(b)(C). Payments allocated to any period during which the employee was an active or inactive member must be used in the determination of employee and employer contributions and in the calculation of benefits. Payments allocated to any period of non-membership or retired membership must not be used to determine contributions or calculate benefits.

(3) Except as provided in OAR 459-010-0014(7), an employee who is an active member on the date of a retroactive payment will receive creditable service for those periods of active or inactive membership to which the payment is allocated.

(4) An employee who is terminated from employment, withdraws the member account under ORS 238.265, and is reinstated to employment in connection with a retroactive payment may restore membership and service rights as provided in OAR 459-011-0050 within the time period described in Section (2) of that rule or within one year from the date the employee actually returns to employment, whichever is later.

(5) The provisions of this rule apply to retroactive payments made on or after July 31, 2003.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.005, 238.105