

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

1 459-010-0003

2 Maintaining Membership in the PERS Tier One/Tier Two Program on and After  
3 January 1, 2006 [*Eligibility and Membership for the PERS Tier One/Tier Two*  
4 *Program*]

5 (1) For the purpose of this rule:

6 (a) “Concurrent positions” means employment with two or more participating  
7 employers in the same calendar year.

8 (b) “Partial year of hire” means a period in the calendar year the employee begins  
9 employment after the first working day of the year, and continues employment through  
10 December 31.

11 (c) “Partial year of separation” means a period in the calendar year the employee  
12 separates from employment that begins on January 1 of the year and ends before the last  
13 working day of the year.

14 (d) “Qualifying position” means a position designated by the employer as qualifying,  
15 including a position in a partial year of hire, partial year of separation, or short segment,  
16 except:

17 (A) A position or concurrent positions in which an employee performs at least 600  
18 hours of service in a calendar year is qualifying regardless of employer designation.

19 (B) A position in a partial year of separation is qualifying regardless of employer  
20 designation if the position is continued from an immediately preceding calendar year in  
21 which the employee performed at least 600 hours of service in the position or concurrent  
22 positions.

1 (C) A position with one employer in which the employee is employed for the entire  
2 calendar year and fails to perform at least 600 hours of service in that position or  
3 concurrent positions in the calendar year is non-qualifying regardless of employer  
4 designation.

5 (e) “Service” means a period in which an employee:

6 (A) Is in an employer/employee relationship, as defined in OAR 459-005-0020; and

7 (B) Receives a payment of “salary,” as defined in ORS 238.005 or similar payment  
8 from workers compensation or disability.

9 (f) “Short segment” means a period in the calendar year during which the employee  
10 is hired after the first working day of the year, and separated from employment before the  
11 last working day of the same calendar year.

12 (2) At the time an employee is hired, an employer must designate the employee’s  
13 position as qualifying or non-qualifying. An employer must designate a position as  
14 qualifying if the position is one in which an employee would normally perform at least  
15 600 hours of service in a calendar year.

16 (3) Employer designation of a position as qualifying or non-qualifying must be  
17 determined by PERS from information communicated to PERS by the employer. An  
18 employer designation that is contrary to the provisions of subsection (1)(d) of this rule in  
19 any calendar year will be reversed for that calendar year.

20 (4) Eligibility. An employee who was employed in a qualifying position before  
21 August 29, 2003, by an employer participating in the PERS Chapter 238 Program was  
22 eligible to become a member of that program if the employee [satisfies the requirements](#)  
23 [described in OAR 459-010-0035.](#)

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(a) Began the six-month waiting period described in OAR 459-010-0035 before August 29, 2003;

(b) Did not elect to participate in an optional or alternative retirement plan as provided in ORS Chapters 243, 341, or 353; and

(c) Was not otherwise ineligible for membership.]

(5) [ Establishing Membership. An employee who meets the requirements of section (4) of this rule becomes a member of the PERS Chapter 238 Program on the first day of the calendar month following the completion of the six-month waiting period described in OAR 459-010-0035 provided that the employee is employed on that date by the same employer that employed the employee throughout the waiting period.]

[(6)] Maintaining Membership. An employee who becomes a member of the PERS Chapter 238 Program under section (4) is eligible for membership in the system for service performed in a qualifying position on and after August 29, 2003, unless the employee:

(a) Terminates their membership under ORS 238.095;

(b) Elects to participate in an optional or alternative retirement plan as provided in ORS Chapters 237, 243, 341, or 353, and does not qualify for concurrent service eligibility under OAR 459-005-0350; or

(c) Becomes otherwise ineligible for membership.

**Statutory/Other Authority:** ORS 238.650

**Statutes/Other Implemented:** ORS 238.005, ORS 238.015 & ORS 238A.025