

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

1 *[459-010-0010*

2 *Leave of Absence Without Pay*

3 *(1) For purposes of this rule, “major fraction of a month” means a minimum of 11*
4 *business days in a calendar month;*

5 *(2) Employer/Employee Agreement. An official leave of absence without pay for any*
6 *purpose must have the following in order to be considered bona fide:*

7 *(a) An agreement in writing;*

8 *(b) Accordance with the applicable law, rules and regulations;*

9 *(c) The duration specifically stated at the time of granting; and*

10 *(d) Certification to PERS by the employer granting such leave.*

11 *(3) Creditable Service and Retirement Credit.*

12 *(a) A leave of absence without pay occurring on or after July 1, 1987, which*
13 *constitutes the major fraction of a month:*

14 *(A) May not be used to calculate “years of membership” under ORS 238.300; and*

15 *(B) May not be used to determine “creditable service” or “retirement credit” under*
16 *ORS 238.005.*

17 *(b) A leave of absence without pay occurring before July 1, 1987, which constitutes*
18 *the major fraction of a month:*

19 *(A) Must be used to calculate “years of membership” under ORS 238.300; and*

20 *(B) Must be used to determine “creditable service” and “retirement credit” under*
21 *ORS 238.005.*

1 (c) A leave of absence without pay occurring on or after January 1, 2004, which
2 constitutes the major fraction of a month may not be used to determine “retirement credit”
3 under ORS 238A.140 for any period of employment after the date membership is
4 established under ORS 238A.100.

5 (4) Reporting Requirement. Unless otherwise agreed upon by PERS, the employer
6 shall report the following in a format acceptable to PERS:

7 (a) Any period of leave of absence without pay, which constitutes the major fraction of
8 a month, for each member at the time the leave begins. The reported period of leave of
9 absence without pay must include an end date.

10 (b) Any amendment or extension to a previously reported period of leave of absence
11 without pay.

12 (5) A PERS member on an official leave of absence without pay is not considered
13 terminated from service with a participating employer.

14 (6) An employee on an official leave of absence without pay on the date the employer
15 begins to participate in PERS, shall be considered to be an employee on such date for the
16 purpose of determining eligibility for participation in PERS.

17 (7) A layoff from employment does not constitute a leave of absence without pay.

18 Stat. Auth.: ORS 238.650 & 238A.450

19 Stats. Implemented: ORS 238.300 & 238A.140]