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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED

01/28/2025 9:51 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Rulemaking to Clarify current eligibility rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/28/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Tigard, OR 97223

Filed By:
Joel Mellor
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 02/25/2025

TIME: 2:00 PM

OFFICER: Joel Mellor

IN-PERSON HEARING DETAILS

ADDRESS: 11410 SW 68th Parkway , Tigard, OR 97223

SPECIAL INSTRUCTIONS:

Hearing in Boardroom

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-971-300-4342

CONFERENCE ID: 900969176

SPECIAL INSTRUCTIONS:

Meeting ID: 291 152 476 647

Passcode: kr3ah9u7

NEED FOR THE RULE(S)

Clarify eligibility rules.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 238.650

238A.450

ORS 238.300

238A.140,
ORS 238.015

These documents are available on the Internet at: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Adoption of the rule will not affect racial equity.

FISCAL AND ECONOMIC IMPACT:

There are no discrete costs attributable to the rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The rules do not affect small businesses and therefore small businesses were not involved in the development of the rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

459-005-0015, 459-010-0003, 459-010-0010, 459-010-0014, 459-010-0035, 459-075-0150

ADOPT: 459-005-0015

RULE SUMMARY: As a housekeeping issue, the substance of OAR 459-010-0010 is being moved to a new OAR. The current rule applies to all PERS programs, even though it's current placement in Division 10 indicates that it only addresses PERS administration of ORS Chapter 238. As such, this rule is being repealed, renumbered, and added to Division 5 (Administration), which covers all programs in both ORS Chapters 238 and 238A.

CHANGES TO RULE:

459-005-0015

Leave of Absence Without Pay

(1) For purposes of this rule:

(a) "Major fraction of a month" means a minimum of 11 business days in a calendar month;

(b) "The period of time when school is not normally in session" means the period of time outside the dates that school is presumed to be in session as described in OAR 459-010-0014 and OAR 459-075-0150.

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

(a) An agreement in writing;

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

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

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

(3) Creditable Service and Retirement Credit.

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

(A) May not be used to calculate "years of membership" under ORS 238.300; and

- (B) May not be used to determine "creditable service" or "retirement credit" under ORS 238.005.
- (b) A leave of absence without pay occurring before July 1, 1987, which constitutes the major fraction of a month:
- (A) Must be used to calculate "years of membership" under ORS 238.300; and
- (B) Must be used to determine "creditable service" and "retirement credit" under ORS 238.005.
- (c) A leave of absence without pay occurring on or after January 1, 2004, which constitutes the major fraction of a month may not be used to determine "retirement credit" under ORS 238A.140 for any period of employment after the date membership is established under ORS 238A.100.
- (4) Reporting Requirement. Unless otherwise agreed upon by PERS, the employer shall report the following in a format acceptable to PERS:
- (a) Any period of leave of absence without pay, which constitutes the major fraction of a month, for each member at the time the leave begins. The reported period of leave of absence without pay must include an end date.
- (b) Any amendment or extension to a previously reported period of leave of absence without pay.
- (5) A PERS member on an official leave of absence without pay is not considered terminated from service with a participating employer.
- (6) An employee on an official leave of absence without pay on the date the employer begins to participate in PERS, shall be considered to be an employee on such date for the purpose of determining eligibility for participation in PERS.
- (7) A layoff from employment does not constitute a leave of absence without pay.
- (8) Reporting Leave of Absence Without Pay for School Employees.
- (a) Except as provided by subsection (8)(b), a school employee who is on leave of absence without pay during the period of time when school is not normally in session should not be reported to PERS under section (4) of this rule.
- (b) An employee of an institution of higher education, Department of Human Services, the Oregon Youth Authority, the Department of Corrections or the State Board of Education who is on leave of absence without pay during the period of time when school is not normally in session may be reported to PERS if:
- (A) The employee is not engaged in teaching or other school activity at an institution supervised by the authority, board or department, and
- (B) The employee was required to provide service during the period under the terms of their employment agreement.
- Statutory/Other Authority: ORS 238.650, ORS 238A.450
- Statutes/Other Implemented: ORS 238.300, ORS 238A.140

AMEND: 459-010-0003

RULE SUMMARY: OAR 459-010-0003 outlines how to establish and maintain membership for the PERS Tier One/Tier Two Program. The current rule remains relevant for describing how to maintain membership for employment occurring on and after January 1, 2006, but the current version is no longer relevant for establishing membership in the Tier One/Tier Two Program because the program was closed to new employees as of August 29, 2003. The proposed rule amendments move the establishing membership portions of the rule to OAR 459-010-0035 which addresses the six-month waiting period that is required to establish Tier One and Tier Two membership.

CHANGES TO RULE:

459-010-0003

Eligibility and Maintaining Membership for in the PERS Tier One/Tier Two Program on and After January 1, 2006

(1) For the purpose of this rule:

- (a) "Concurrent positions" means employment with two or more participating employers in the same calendar year.
 - (b) "Partial year of hire" means a period in the calendar year the employee begins employment after the first working day of the year, and continues employment through December 31.
 - (c) "Partial year of separation" means a period in the calendar year the employee separates from employment that begins on January 1 of the year and ends before the last working day of the year.
 - (d) "Qualifying position" means a position designated by the employer as qualifying, including a position in a partial year of hire, partial year of separation, or short segment, except:
 - (A) A position or concurrent positions in which an employee performs at least 600 hours of service in a calendar year is qualifying regardless of employer designation.
 - (B) A position in a partial year of separation is qualifying regardless of employer designation if the position is continued from an immediately preceding calendar year in which the employee performed at least 600 hours of service in the position or concurrent positions.
 - (C) A position with one employer in which the employee is employed for the entire calendar year and fails to perform at least 600 hours of service in that position or concurrent positions in the calendar year is non-qualifying regardless of employer designation.
 - (e) "Service" means a period in which an employee:
 - (A) Is in an employer/employee relationship, as defined in OAR 459-005-0020; and
 - (B) Receives a payment of "salary," as defined in ORS 238.005 or similar payment from workers compensation or disability.
 - (f) "Short segment" means a period in the calendar year during which the employee is hired after the first working day of the year, and separated from employment before the last working day of the same calendar year.
- (2) At the time an employee is hired, an employer must designate the employee's position as qualifying or non-qualifying. An employer must designate a position as qualifying if the position is one in which an employee would normally perform at least 600 hours of service in a calendar year.
- (3) Employer designation of a position as qualifying or non-qualifying must be determined by PERS from information communicated to PERS by the employer. An employer designation that is contrary to the provisions of subsection (1)(d) of this rule in any calendar year will be reversed for that calendar year.
- (4) Eligibility. An employee who was employed in a qualifying position before August 29, 2003 by an employer participating in the PERS Chapter 238 Program was eligible to become a member of that program if the employee:
 - ~~(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 satisfies the requirements described in OAR 459-010-0035.
- (6) Maintaining Membership. An employee who becomes a member of the PERS Chapter 238 Program under section (5) 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

REPEAL: 459-010-0010

RULE SUMMARY: As a housekeeping issue, the substance of OAR 459-010-0010 is being moved to a new OAR. The current rule applies to all PERS programs, even though it's current placement in Division 10 indicates that it only addresses PERS administration of ORS Chapter 238. As such, this rule is being repealed, renumbered, and added to Division 5 (Administration), which covers all programs in both ORS Chapters 238 and 238A.

CHANGES TO RULE:

459-010-0010

Leave of Absence Without Pay

~~(1) For purposes of this rule, "major fraction of a month" means a minimum of 11 business days in a calendar month.~~

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

~~(a) An agreement in writing;~~

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

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

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

~~(3) Creditable Service and Retirement Credit.~~

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

~~(A) May not be used to calculate "years of membership" under ORS 238.300; and~~

~~(B) May not be used to determine "creditable service" or "retirement credit" under ORS 238.005.~~

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

~~(A) Must be used to calculate "years of membership" under ORS 238.300; and~~

~~(B) Must be used to determine "creditable service" and "retirement credit" under ORS 238.005.~~

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

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

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

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

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

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

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

~~Statutory/Other Authority: ORS 238.650, 238A.450~~

~~Statutes/Other Implemented: ORS 238.300, 238A.140~~

AMEND: 459-010-0014

RULE SUMMARY: Amendments to OAR 459-010-0014 address how retirement credit is accrued for school employees, clarify the dates that school is presumed to be in session and describes how the employer can rebut the presumption.

CHANGES TO RULE:

459-010-0014

Creditable Service in PERS Chapter 238 Program ¶¶

(1) For purposes of this rule:¶¶

(a) "Active member" has the same meaning as provided in ORS 238.005.¶¶

(b) "Creditable service" has the same meaning as provided in ORS 238.005.¶¶

(c) "Major fraction of a month" means a minimum of 50 hours in any calendar month in which an active member is being paid a salary by a participating public employer and for which benefits under ORS Chapter 238 are funded by employer contributions.¶¶

(2) Except as provided in OAR 459-010-0010(3), an active member accrues one month of creditable service or receives paid leave as described in OAR 459-010-0011 for each month in which the member performs service for the major fraction of the month.¶¶

(3) An active member is presumed to have performed service for a major fraction of a month if:¶¶

(a) The member performs at least 600 hours of service in the calendar year and the member's employer(s) reports salary and hours for a pay period occurring within the calendar month;¶¶

(b) The member starts employment on or before the 15th day of the calendar month and the employment continues through the end of the month;¶¶

(c) The member starts employment on or before the first day of the calendar month and ends employment on or after the 16th day of the month; or¶¶

(d) The member starts employment on or before the first day of the calendar month and ends employment before the 16th day of the month, but is reemployed in a qualifying position before the end of the month.¶¶

(4) A member or employer may seek to rebut the determination of creditable service based on the presumptions in section (3) by providing to PERS records that establish that the member did or did not perform service for a major fraction of a month as defined in subsection (1)(c) of this rule.¶¶

~~(5) Except as provided in OAR 459-010-0010(3), a~~An active member who is a school employee will accrue six months of creditable service if the member performs service for a major fraction of each month of a school year when school is normally in session that falls between January 1 and June 30, and six months of creditable service if the member performs service for a major fraction of each month of a school year when school is normally in session that falls between July 1 and December 31.¶¶

~~(6a) A member may not accrue more than one month of creditable service for any calendar month and no more than one year of creditable service for any calendar year~~School is presumed to be in session during the following dates:¶¶

(A) For non-Higher Education employment, the first half of the school year is presumed to begin on or before September 15 and end on or after December 16.¶¶

(B) For Higher Education employment, the first half of the school year is presumed to begin on or before September 26 and end on or after December 16.¶¶

(C) For all school employment, the second half of the school year is presumed to begin on or before January 7 and end on or after May 26.¶¶

(b) If the school year falls outside the presumed dates described above, PERS must receive acceptable certification from the employer of the actual begin and end dates for each half of the school year.¶¶

(c) An active member who is a school employee on leave of absence without pay may accrue retirement credit as follows:¶¶

(A) If the period of leave of absence without pay falls outside the dates when school is presumed to be in session, the active member may accrue six months of retirement credit as described above.¶¶

(B) If the leave of absence without pay falls within the dates when school is presumed to be in session, the active member may only accrue six months of retirement credit if the leave of absence constitutes less than the major fraction of the month, as provided in OAR 459-010-0010(3).¶¶

~~(7C) The provisions of this rule are effective~~If the leave of absence without pay falls within the dates when the school year is in session, the active member may not accrue six months of retirement credit if the leave of absence constitutes the major fraction of the month, as provided in OAR 459-010-0010(3). Such member may accrue one month of retirement credit for each month in which the member performs service credit determinations made on

~~or after January 1, 2008~~ or receives paid leave for the major fraction of the month, as described in section (2) of this rule.¶

(6) A member may not accrue more than one month of creditable service for any calendar month and no more than one year of creditable service for any calendar year.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.005, 238.300

RULE SUMMARY: OAR 459-010-0003 outlines how to establish and maintain membership for the PERS Tier One/Tier Two Program. The current rule remains relevant for describing how to maintain membership for employment occurring on and after January 1, 2006, but the current version is no longer relevant for establishing membership in the Tier One/Tier Two Program because the program was closed to new employees as of August 29, 2003. The proposed rule amendments move the establishing membership portions of the rule to OAR 459-010-0035 which addresses the six-month waiting period that is required to establish Tier One and Tier Two membership. In addition, OAR 459-010-0035 was amended to provide instruction on how to evaluate concurrent employment during the six-month waiting time, and importantly clarifies that for purposes of establishing membership, concurrent employment must occur in the same months of the six-month waiting period.

CHANGES TO RULE:

459-010-0035

Six-Month Waiting Period-in the PERS Chapter 238 Program ¶

~~(1) The six-month waiting period required for establishing membership under ORS 238.015 is six full calendar months of service with the same employer. The service must be~~ For the purpose of this rule:¶

~~(a) "Concurrent" means occurring in the same calendar month.¶~~

~~(b) "Concurrent waiting time employers" means two or more participating employers for which the employee is employed in concurrent positions within the same calendar month during each month of the six-month waiting period that meets the qualifying position definition of subparagraph (1)(d)(3). ¶~~

~~(c) "Non-qualifying position" means a position designated by the employer as normally requiring less than 600 hours of service in a calendar year, that does not meet the "qualifying position" defined in subsection (1)(d).¶~~

~~(d) "Qualifying position" means:¶~~

~~(A) A position designated by a participating employer as normally requiring 600 hours in a calendar year, regardless of the number of hours worked; or¶~~

~~(B) A position in which the employee performs at least 600 hours in a calendar year with a single participating employer, regardless of employer designation; or¶~~

~~(C) Concurrent positions, regardless of employer designation, if the employee performs at least 600 hours of service from the first month of employment with the concurrent waiting time employers through the end of the calendar year. ¶~~

~~(2) Eligibility. An employee who was employed in a qualifying position before August 29, 2003, by an employer participating in the PERS Chapter 238 Program was eligible to become a member of that program if the employee:¶~~

~~(a) Began the six-month waiting period 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.¶~~

~~(3) Establishing Membership under ORS 238.015. An employee who meets the requirements of section (2) 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 requirements below:¶~~

~~(a) They have completed six full calendar months of service in a qualifying position; and ¶~~

~~(b) The employee is employed on that date by the same employer for which the employee completed six full calendar months of service required in subsection (a). The six full calendar months of service may not be interrupted by more than 30 consecutive working days. ¶~~

~~(4) If the employee is employed in a "qualifying position," as defined in OAR 459-010-0003. The six full calendar months of service may not be interrupted by more than 30 consecutive working days.¶~~

~~(2) The waiting period begins on:¶~~

~~(a) The date the employee is hired, and includes the month of hire as a full calendar month, if the date of hire is the first business day of the month;¶~~

~~(b) The first day of the month following the date of hire as prescribed in subsection (1)(d)(1) or (2) then the waiting period begins on the earlier of:¶~~

~~(a) The date the employee is hired, and includes the month of hire as a full calendar month, if the date of hire is the first business day of the month;¶~~

~~(b) The first day of the month following the date of hire; or¶~~

~~(c) The first day of the month following the end date of an interruption of service of more than 30 consecutive~~

working days.¶

(5) If the employee is employed in a qualifying position as described in subsection (1)(d)(3) then the waiting period begins on:¶

(a) The date the employee is hired, and includes the month of hire as a full calendar month, if the date of hire is the first business day of the month and the first month of employment with any of the concurrent waiting time employers;¶

(b) If the date of hire of all the concurrent waiting time employers does not begin on the first business day of the month, then the waiting period begins on the first day of the month following the first month of employment with the concurrent waiting time employers; or¶

(c) The first day of the month following the end date of an interruption of service of more than 30 consecutive working days of all the concurrent waiting time employers.¶

(36) In the event an employee is on an official leave of absence under OAR 459-010-0010, the period of absence shall not constitute an interruption of the waiting period under section (1) of this rule. The waiting period shall be extended by the length of the leave of absence.¶

(47) Absence from service by an educational employee during periods that the employing educational institution is not in session does not constitute an interruption of the waiting period under section (1) of this rule. The waiting period shall be extended by the length of the period the educational institution is not in session.

Statutory/Other Authority: ORS 238.650

Statutes/Other Implemented: ORS 238.015

AMEND: 459-075-0150

RULE SUMMARY: Amendments to OAR 459-075-0150, which address how retirement credit is accrued for school employees, clarify the dates that school is presumed to be in session and describes how the employer can rebut the presumption.

CHANGES TO RULE:

459-075-0150

Retirement Credit ¶¶

(1) For purposes of this rule:¶¶

(a) "Active member" has the same meaning as provided in ORS 238A.005.¶¶

(b) "Major fraction of a month" means a minimum of 50 hours in any calendar month in which an active member is being paid a salary by a participating public employer and for which benefits under ORS Chapter 238A are funded by employer contributions.¶¶

(2) Except as provided in OAR 459-010-0010(3), an active member accrues one month of retirement credit for each month in which the member performs service or receives paid leave as described in OAR 459-010-0011 for the major fraction of the month.¶¶

(3) An active member is presumed to have performed service for a major fraction of a month if:¶¶

(a) The member performs at least 600 hours of service in the calendar year and the member's employer(s) reports salary and hours for a pay period occurring within the calendar month;¶¶

(b) The member starts employment on or before the 15th day of the calendar month and the employment continues through the end of the month;¶¶

(c) The member starts employment on or before the first day of the calendar month and ends employment on or after the 16th day of the month; or¶¶

(d) The member starts employment on or before the first day of the calendar month and ends employment before the 16th day of the month, but is reemployed in a qualifying position before the end of the month.¶¶

(4) A member or employer may seek to rebut the determination of creditable service based on the presumptions in section (3) by providing to PERS records that establish that the member did or did not perform service for a major fraction of a month as defined in subsection (1)(c) of this rule.¶¶

~~(5) Except as provided in OAR 459-010-0010(3), a~~An active member who is a school employee will accrue six months of retirement credit if the member performs service for a major fraction of each month of a school year when school is normally in session that falls between January 1 and June 30, and six months of creditable service if the member performs service for a major fraction of each month of a school year when school is normally in session that falls between July 1 and December 31.¶¶

(a) School is presumed to be in session during the following dates:¶¶

(A) For non-Higher Education employment, the first half of the school year is presumed to begin on or before September 15 and end on or after December 16;¶¶

(B) For Higher Education employment, the first half of the school year is presumed to begin on or before September 26 for Higher Education employment and end on or after December 16;¶¶

(C) For all school employment, the second half of the school year is presumed to begin on or before January 7 and end on or after May 26.¶¶

(b) If the school year falls outside the presumed dates described above, PERS must receive acceptable certification from the employer of the actual begin and end dates for each half of the school year.¶¶

(c) An active member who is a school employee on leave of absence without pay may accrue retirement credit as follows:¶¶

(A) If the period of leave of absence without pay falls outside the dates when school is presumed to be in session, the active member may accrue six months of retirement credit as described above.¶¶

(B) If the leave of absence without pay falls within the dates when school is presumed to be in session, the active member may only accrue six months of retirement credit if the leave of absence constitutes less than the major fraction of the month, as provided in OAR 459-010-0010(3).¶¶

(C) If the leave of absence without pay falls within the dates when the school year is in session, the active member may not accrue six months of retirement credit if the leave of absence constitutes the major fraction of the month, as provided in OAR 459-010-0010(3). Such member may accrue one month of retirement credit for each month in which the member performs service or receives paid leave for the major fraction of the month, as described in section (2) of this rule.¶¶

(6) A member may not accrue more than one month of retirement credit for any calendar month and no more than one year of retirement credit for any calendar year.¶¶

(7) Credit for the six-month waiting period required by OAR 459-075-0010(2).¶

(a) Upon establishing membership in the pension program, a member shall receive credit for the waiting period required to establish membership under OAR 459-075-0010(2).¶

(b) If the member's waiting period before establishment of membership included an interruption of service as described in OAR 459-075-0010(2)(b), no credit shall be awarded for the period of employment before the interruption.¶

(8) For purposes of calculating retirement credit accrued under ORS 238A.155, the period of disability for a member who receives workers' compensation payments under ORS Chapter 656 and later returns to work with a PERS participating employer shall be deemed to end upon the earlier of:¶

(a) The date on which the member's workers' compensation payments end;¶

(b) The date on which the member returns to work with a PERS participating employer; or¶

(c) The date on which the member attains normal retirement age as defined in ORS 238A.160¶

~~(9) The provisions of this rule are effective for retirement credit determinations made on or after January 1, 2008.~~

Statutory/Other Authority: ORS 238A.450

Statutes/Other Implemented: ORS 238A.140