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OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 013 – RETIREMENT BENEFITS

1 **459-013-0310**

2 **Payment of Increased Benefits under ORS 238.372 to 238.384**

3 (1) For purposes of determinations under ORS 238.372 to 238.384:

4 (a) “Person” includes a member, an alternate payee, or a beneficiary.

5 (b) The increased benefit percentage to be added to a benefit paid to a beneficiary
6 under ORS 238.390, 238.395, 238.400, 238.405, or under an optional form of retirement
7 allowance under ORS 238.305 or 238.325 will be determined based on:

8 (A) The increased benefit percentage(s) for which the member is otherwise eligible
9 under ORS 238.364, 238.366 and 238.368; and

10 (B) The residency of the beneficiary.

11 (2) PERS will make the following determinations on residency status for the purpose
12 of determining increased benefit eligibility under ORS 238.372 to 238.384, based on the
13 yearly Oregon personal income tax return information provided by the Department of
14 Revenue.

15 (a) If the Department of Revenue notifies PERS that a person:

16 (A) Filed Oregon personal income tax as a resident, PERS will treat the person as a
17 resident of Oregon.

18 (B) Filed Oregon personal income tax as a non-resident, PERS will treat the person as
19 a non-resident of Oregon, except as provided in section (3) below.

20 (C) Did not file Oregon personal income tax, PERS will treat the person as a non-
21 resident of Oregon, except as provided in section (3) below.

22 (D) Filed Oregon personal income tax as a partial-year resident and the prior year the
23 person filed personal income tax as a resident, PERS will treat the person as a non-resident

1 of Oregon, except as provided in section (3) below.

2 (E) Filed Oregon personal income tax as a partial-year resident and the prior year the
3 person filed personal income tax as a non-resident, PERS will treat the person as a resident
4 of Oregon.

5 (F) Filed Oregon personal income tax as a partial-year resident and the prior year the
6 person did not file personal income tax, PERS will treat the person as a resident of Oregon.

7 **(G) Filed Oregon personal income tax as a partial-year resident, and the person**
8 **also submitted residency status information on a form provided by PERS received**
9 **between January 1 and December 15 of the same calendar year, PERS will determine**
10 **residency status based on the information provided on the form.**

11 (b) If PERS cannot make a residency status determination based on information
12 provided by the Department of Revenue or the person did not otherwise provide PERS
13 with residency status information, PERS will treat the person as a non-resident of Oregon,
14 except as provided in section (3) below.

15 (3) Residency status information submitted on a form provided by PERS and received
16 between January 1 and December 15 of the current calendar year will, for purposes of
17 determining increased benefit eligibility under ORS 238.372 to 238.384, supersede any
18 Oregon personal income tax return information provided by the Department of Revenue
19 pursuant to section (2) of this rule.

20 **(4) Residency status information submitted on a form provided by PERS and**
21 **received between December 16 and December 31 of a calendar year will be treated as**
22 **received the following calendar year.**

23 Stat. Auth.: ORS 238.650

24 Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.368 & 238.372 to 238.384