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**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT**

1 **459-076-0020**

2 **Application Required**

3 (1) Application must be made on forms provided by PERS. PERS may require the
4 member to provide any information that PERS considers necessary to determine the
5 member’s eligibility for a disability benefit.

6 (2) No disability benefit will be paid unless the member files a timely and complete
7 application with PERS.

8 (3) Application must be made by a member or the member’s authorized
9 representative. A representative must submit to PERS written proof of the
10 representative’s authority; such as a power of attorney, guardianship or conservatorship
11 appointment.

12 (4) A member must file a timely application for disability benefits:

13 (a) An active member may file the application immediately after the last day worked
14 even though the member may be on a paid leave or on an official leave of absence
15 without pay. No application will be accepted that predates the last day the member was
16 actually on the job, and:

17 (A) The application must be filed no later than 90 calendar days from:

18 (i) The date the member is medically released for work; or

19 (ii) The date the member returns to work, whichever is earlier.

20 (B) Total disability must be continuous from the date of disability to the earlier of
21 paragraph (A)(i) or (ii) of this subsection.

1 (b) An inactive member who became totally disabled due to injury or disease while
2 the applicant was an active member and has not terminated membership, must file an
3 application for a disability benefit within five calendar years of the date of separation
4 from service. Total disability must have arisen while the applicant was an active member
5 and be continuous from the date of disability to the date the application is filed.

6 (c) A member cannot apply for disability benefits before their date of disability.

7 (5) In determining the effective date of a disability benefit, PERS may allow up to 60
8 months of benefits retroactive from the date the application is filed with PERS, but in no
9 case earlier than the first day of the month following the date of separation from service.

10 (6) Upon the filing of an application for a disability benefit, PERS will notify the
11 applicant's current or most recent employer of the filing. Additionally, PERS may request
12 of an employer information pertaining to current or previous employment.

13 (7) When making application for a PERS disability benefit, PERS will request the
14 applicant authorize any physician, other health practitioner, hospital, clinic, pharmacy,
15 employer, employment agency, or government agency to release and disclose to PERS,
16 or independent physicians and vocational consultants retained by PERS, any information
17 within their records or knowledge, including that information otherwise protected under
18 federal or state law, regarding the applicant's health and employment which PERS
19 determines relates to the applicant's claim of disability and inability to perform any work
20 for which qualified.

21 (8) When filing an application for disability benefit, if the applicant wishes to
22 authorize release and disclosure of protected health information, as defined in OAR 459-

1 076-0001, the applicant must complete and sign a consent form which specifically
2 authorizes the release and disclosure of such information.

3 (a) This authorization is voluntary. PERS is not a covered entity as defined in 45
4 CFR Parts 160 and 164, and the protected health information is not subject to federal and
5 state health information privacy laws, but may be protected under Oregon State Public
6 Record disclosure laws.

7 (b) This authorization may be revoked in writing at any time, except to the extent the
8 entities named on the authorization form(s) have taken action in reliance of the
9 authorization.

10 (c) If the applicant refuses to give or revokes authorization to disclose to PERS
11 medical information that PERS determines it needs to evaluate the application, eligibility
12 for a disability benefit may be affected.

13 Stat. Auth.: ORS 238A.450

14 Stats. Implemented: ORS 238A.235