

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

1 459-076-0040

2 Proof of Case — Contested Case Hearings

3 (1) Burden of Proof in Hearings: The burden of proof for the right to a
4 disability benefit is upon the applicant. The Board is not required to prove that the
5 applicant is entitled to a disability benefit.

6 (2) Standards of Proof:

7 (a) An order granting the right to a disability benefit shall be supported in the
8 record by sufficient evidence demonstrating that the applicant suffers from a
9 physical or mental/emotional injury or disease, and that the applicant is unable to
10 perform any work for which he or she is qualified;

11 (b) An order denying the right to a disability benefit need not be supported by
12 medical or vocational evidence presented by the Board. An order may deny the
13 right to a disability benefit if the applicant fails to present sufficient proof of
14 disability and inability to work. An order may deny the right to a disability benefit
15 on the basis of medical or vocational evidence presented by the Board.

16 (3) Professional opinions:

17 (a) A physician or other health practitioner may express an opinion regarding
18 whether the injury or disease was caused by the performance of job duties;

19 (b) A physician or other health practitioner may express an opinion regarding
20 the applicant’s ability to perform any work, related tasks, or functions;

1 (c) The administrative law judge shall have the discretion to give more weight
2 to the testimony (findings and opinions) of the treating, the examining, or the
3 consulting physician as the facts indicate.

4 Stat. Auth.: ORS 183.310 - 183.550, 183.600 - 183.690, 237.171, 237.191 &
5 237.263

6 Stats. Implemented: