

Division 1
Notice Rule for Rulemaking and Model Rules of Procedure

Notice Rule for Rulemaking. Before adopting, amending or repealing any permanent rule, the Board will give notice of the intended action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;
- (2) By e-mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;
- (3) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and
- (4) By mailing or furnishing a copy of the notice to the list of interested parties compiled and maintained by the State Treasurer.

Stat. Auth.: ORS 183.335

Stats. Implemented: ORS 183.341, HB 2960 (2015) [ORS 178.220 to 178.245]

Hist.:

Model Rules of Procedure. The Attorney General's Model Rules of Procedure, effective January 1, 2014, as set forth in OAR 137, Divisions 1 through 4, are adopted as rules of procedure for administrative rulemaking and other administrative law functions of the Board and the Plan.

Stat. Auth.: ORS Chapter 183.341

Stats. Implemented:

Hist.:

ADR Related Model Rules. The Attorney General's ADR Related Model Rules, effective January 1, 2014, as set forth in OAR 137, Division 5, are adopted by the Board as its rules for collaborative dispute resolution.

Stat. Auth.: ORS 183.502

Stats. Implemented: ORS 183.502

Hist.:

Confidentiality and Inadmissibility of Mediation Communication. The policies and procedures of the Oregon State Treasurer set forth in OAR 170 in regard to confidentiality and inadmissibility of mediation communication, to the extent not inconsistent with the Actor the Code, are adopted as the policies and procedures of the Board.

Stat. Authority: ORS 36.224

Stat. Implemented: ORS 36.224, 36.228, 36.230 & 36.232

Hist.:

Division 2
Inspection, Certification or Copying Public Records

Public Records. The policies and procedures of the Oregon State Treasurer set forth in OAR 170 in regard to inspection, certification or copying of public records, to the extent not inconsistent with the Act or Chapter 178, are adopted as the policies and procedures of the Board.

Stat. Auth.: 178.050
 Stats. Implemented: ORS 183, ORS 192.410 to 192.505
 Hist.:

Division 5 Administration

Definitions. All terms are used in these rules as defined in the Act. Where a conflict is found to exist between a definition stated in these rules and the corresponding definition in the Act, the statutory definition shall apply. As used in these rules, unless the context indicates otherwise:

“Act” means ORS 178.200 to 178.245, as amended from time to time.

“Board” means the Oregon Retirement Savings Board established in ORS 178.200(1).

“Certificate of Exemption” means a truthful statement by an Employer meeting the requirements of [cite rule below]

“Code” means the Internal Revenue Code and any regulations, rulings, announcements or other guidance issued thereunder.

“Employee” means any person 18 years of age and older, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer. “Employee” does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.

“Employer” means any employing unit which employs one or more individuals in an employment subject to ORS Chapter 657 in each of 18 separate weeks during any calendar year, or in which the employing unit’s total payroll during any calendar quarter amounts to \$1,000 or more.

“Enrollment Date” means the date by which a Participating Employer must enroll its Participating Employees.

“Participating Employee” means any Employee who has not opted out of the Plan as specified in [cite rule below]

“Participating Employer” means an Employer whose Registration Date has passed and who is not an Exempt Employer.

“Exempt Employer” means an employer who has filed a valid and current certificate of exemption with the Executive Director.

“Executive Director” means the Executive Director of the Oregon Retirement Savings Plan.

“Plan” means the Oregon Retirement Savings Plan established in ORS 178.205(1).

“Plan Administrator” means a third party administrator chosen by the Board to assist the Executive Director in carrying out the requirements of the Act.

“Qualified Plan” means a plan qualified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p) or section 457(b) of the Internal Revenue Code.

“Registration Date” means, for each Employer, the date by which the Employer is required to register with the Plan or provide a current Certificate of Exemption.

“Standard Choices” means the Plan contributions applicable to a Participating Employee who has not opted for different choices.

“Wages” means all cash compensation for performance of service by an employee for an employer, whether paid by the employer or another person.

Stat. Auth.: ORS 178.200 to 178.245

Stats. Implemented: ORS 178.200 to 178.245; HB 2960 (2015) [ORS 178.220 to 178.245]

Hist.:

**Division 10
Eligibility**

Participant Eligibility. Any person who is employed for wages in this state, and who meets federal and state legal requirements governing the Plan, is eligible to establish an account.

Stat. Auth.: ORS 178.210(1)(a)

Stats. Implemented: ORS 178.200 to 178.245; HB 2960 (2015) [ORS 178.220 to 178.245]

Hist.:

**Division 15
Registration and Enrollment**

[The state is in the process of determining the best way to bring employers and employees on board. The following represents one concept of how this could be accomplished. It will be important for employers to know if they are exempt from facilitating participation, therefore this process is described in some detail. For further discussion]

Registration.

- (1) On or before the Registration Date, each Employer shall file a Certificate of Exemption with the Plan or register with the Plan.
- (2) The Registration Date for each Employer shall be as follows:
 - a. An Employer employing 100 or more Employees: _____.
 - b. An Employer employing at least ___ but no more than 99 Employees: [date tbd]
 - c. An Employer employing at least ___ but no more than ___ Employees: [date tbd]
 - d. An Employer employing 4 or fewer Employees: [date tbd]
- (3) To register with the Plan, a Participating Employer shall provide the following information using a secure web portal established by the Plan:
 - a. Employer name and assumed business name, if any
 - b. Employer Identification Number (FEIN, BIN or both, TBC)
 - c. Employer physical address
 - d. Employer mailing address
 - e. Name, title, telephone number and email address of an individual designated by the Employer as the Plan’s point of contact
 - f. [Information concerning how the Employer processes payroll, i.e. whether they use a payroll service, software, etc.]
 - g. Number of Employees
 - h. Any other information requested by the Plan for the purposes of administering the Plan.
- (4) In determining the number of Employees for purposes of this section
- (5) New Employers: The Registration Date for an Employer who first hires Employees after _____, shall be the later of:

- a. the date specified in subsection (2) above, or
 - b. ___ days after the Employer first hires an Employee.
- (6) The Plan will provide each Participating Employer with an Enrollment Date which shall be not less than XXX days after its Registration Date.

Enrollment. On or before its Enrollment Date, a Participating Employer shall enroll its Participating Employees using a secure web portal or other means of data transmittal specified by the Plan. The Participating Employer shall provide the following information for each Participating Employee:

- (1) Full legal name;
- (2) Social security number or taxpayer ID number;
- (3) Date of birth;
- (4) Mailing address; and
- (5) Work email address, if the Participating Employee has an individual employer-provided and password-protected email account.

Division 20

Standard Choices; Changing Choices; Opting Out

[This section to be confirmed with the Service Provider]

- (1) An Employee who does not wish to enroll in the Standard Choices shall notify the Participating Employer, on a form provided by the Plan and within ___ days of receipt of the informational materials provided by the Participating Employer, that:
 - a. The Employee wishes to participate in the plan:
 - i. at an initial contribution rate different from the Standard Choices, which shall be a percentage of Wages expressed as any whole number (i.e. 3% or 6%, but not 4.5%); or
 - ii. at an initial contribution rate consistent with the Standard Choices but without auto-escalation; or
 - iii. at an initial contribution rate different from the Standard Choices and without auto-escalation; or
 - iv. “Standard Choices” contribution rate but different investment option.
 - b. That the Employee does not wish to participate and is opting out of the Plan.
- (2) If the Participating Employer receives a notice from an Employee pursuant to subsection (1) of this section, the Participating Employer shall:
 - a. Retain the notice in its personnel files for not less than ___ years, and
 - b. For any Participating Employee, record the Participating Employee’s choices in its payroll system in a manner that will enable the Participating Employer to make accurate deductions from the Participating Employee’s paycheck.
- (3) An Employee who wishes to select an investment option other than that provided by the Standard Choices shall notify the Plan Administrator, in a manner to be specified by the Plan Administrator.
- (4) A Participating Employee who has not provided notice as specified in this section shall be enrolled in the following Standard Choices:

- a. Contribution to the Plan at an initial rate of 5% of Wages;
 - b. Auto-escalation at the rate of an additional 1% of Wages each year, beginning on a date to be specified by the Board; and
 - c. Investment of contributions in a professionally-managed fund containing a mix of investments generally suitable for those of the Participating Employee's age (commonly known as a "target date fund").
- (5) A Participating Employee may change the Participating Employee's choices at any time by _____.
- (6) An Employee of a Participating Employer who initially opted out of participation in the Plan may become a Participating Employee by _____.

**Division 25
Contributions**

- (1) On each payroll date following the Enrollment Date, the Participating Employer shall deduct from the Participating Employee's Wages:
- a. 5% of Wages; or
 - b. If the Participating Employee has elected an initial contribution rate different from the Standard Choices, the percentage of Wages specified by the Participating Employee.
- (2) When the Board has specified a date for the commencement of auto-escalation, then on each subsequent [January 1] [July 1], for each Participating Employee who has not opted out of auto-escalation, the Participating Employer shall increase the deduction specified in subsection (1) of this section by an additional 1% of Wages per year until the total deduction has reached 10% of Wages.
- (3) Amounts deducted by the Participating Employer pursuant to this section shall be transmitted to the Plan Administrator in a format and with such identifying information as shall be specified by the Board.

Rollover contributions. [Later Enhancement].
Nonpayroll contributions. [Later Enhancement].

**Division 30
Distributions**

Distribution Request.

- (1) An account owner may request a distribution of funds from an account by submitting to the Plan Administrator no less than three business days before the date of the requested distribution a completed distribution request form.
- (2) A distribution from an account shall be subject to any applicable state and federal tax withholdings.

Stat. Auth.: ORS 178.215(7)

Stats. Implemented: ORS 178.200 to 178.245; HB 2960 (2015) [ORS 178.220 to 178.245]

Hist.:

Rollover Distributions. [Later Enhancement].

Division 35

Withdrawals
[Reserved for further discussion.]

Division 40
Employer exemptions

- (1) An Employer may file a Certificate of Exemption with the Plan by certifying, in a form and manner specified by the Plan, that the Employer offers a Qualified Plan to all of its Employees.
- (2) An Employer may file a conditional Certificate of Exemption by certifying, in a form and manner specified by the Plan, that the Employer offers a Qualified Plan to some but not all of its Employees. An Employer with a conditional Certificate of Exemption may be required to register with the Plan at a later time.
- (3) The Certificate of Exemption will identify
 - a. the type of Qualified Plan offered by the Employer;
 - b. the date the Qualified Plan was established;
 - c. the number of Employees employed by the Employer;
 - d. the number of Employees to whom the Qualified Plan is offered;
 - e. the number of Employees enrolled in the Plan; and
 - f. such other information as the Plan may require.
- (4) A Certificate of Exemption is valid for ___ years. A Certificate of Exemption may be renewed by _____.

Division 45
Reserved

Division 50
Fees

Board Administration Fees. The Board may charge a fee in an amount necessary to defray the costs of operating the program. This fee shall accrue daily and shall be remitted monthly to the Board by the Plan Administrator. The Board may from time to time review and adjust this fee.
 Stat. Auth.: ORS 178.225
 Stats. Implemented: ORS 178.200 to 178.245; HB 2960 (2015) [ORS 178.220 to 178.245]
 Hist.:

Division 55
Distribution of Materials to Employees

- (1) At least ___ days before the Enrollment Date, the Plan will provide to a Participating Employer and the Participating Employer shall distribute to each Employee a set of informational materials about the Plan. The Plan will provide the materials to the Participating Employer by supplying the web location where such materials may be downloaded or, upon request of the Employer, will provide the materials in hard copy.
- (2) The informational materials will include at least the following information, either directly or by supplying the Employee with the web location where the information may be found

and instructions about how to obtain the information if the Employee does not have web access:

- a. The benefits and risks associated with making contributions to the Plan;
 - b. Instructions for making contributions to the Plan, including the Standard Choices applicable if the Participating Employee does not opt for other choices;
 - c. How to opt out of the Plan;
 - d. How to participate in the Plan with a level of contributions other than the Standard Choices;
 - e. The process for withdrawal of retirement savings;
 - f. How to obtain additional information about the Plan;
 - g. That employees seeking financial advice should contact financial advisers, that Participating Employers are not in a position to provide financial advice and that Participating Employers are not liable for decisions Employees make regarding the Plan;
 - h. That the Plan is not an employer-sponsored retirement plan; and
 - i. That the Plan accounts and rate of return are not guaranteed by the state, the Employer, or anyone else.
- (3) The Employer shall document that the informational materials were given to the Employee, which may consist of a notation in the Employer's records identifying the Employee and the date the materials were distributed. The Employer may request that the Employee acknowledge receipt of the informational materials but shall not request or require that the Employee take any additional steps, including returning any forms to the Employer.

**Division 60
Enforcement**

[Reserved for further discussion.]

**Division 65
Confidentiality**

Confidentiality. Individual account information may be disclosed by the Plan if the individual to whom the information pertains executes and delivers written consent to the Plan on a form provided by the Plan Administrator.

Stat. Auth.: ORS 178.220

Stats. Implemented: ORS 178.200 to 178.245; HB 2960 (2015) [ORS 178.220 to 178.245]

Hist.: