



**OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM**  
**BOARD MEETING AGENDA**

<b>Friday</b> <b>April 24, 2020</b> <b>1:00 P.M.</b>	<b>PERS</b> <b>11410 SW 68<sup>th</sup> Parkway</b> <b>Tigard, OR</b>
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	ITEM	PRESENTER
<b>Administrative Rulemaking</b>		
1.	<a href="#">Temporary Adoption of COVID-19 Mitigation Rule</a>	VAUGHN
2.	<a href="#">Notice of Member Redirect Rules</a>	

*PERS Board members will be utilizing a conference call option for this meeting.*

*The public will not be able to attend the meeting in person. They can listen by telephone only.  
 Listen only phone number: 888-363-4734 Access Code: 4880827*

*Public testimony will be taken on action items at the Chair's discretion.  
 Please submit written testimony to [PERS.Board@state.or.us](mailto:PERS.Board@state.or.us) (three days in advance of the meeting is preferred.)*

<http://www.oregon.gov/PERS/>

**2020 Meetings:** April 24, May 29, June 23, July 31\*, October 2, December 4\*  
 \*Audit Committee planned for post-Board meeting



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

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April 24, 2020

TO: Members of the PERS Board  
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section  
SUBJECT: Temporary Adoption of COVID-19 Mitigation Rule:  
OAR 459-001-0100, *Temporary Rule Relating to Executive Order 20-03  
Declaration of Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon*

### OVERVIEW

- Action: Adopt temporary rule for COVID-19 mitigation.
- Reason for Temporary Rule: Adopt temporary administrative rule necessary to mitigate the impact of the Coronavirus (COVID-19) Outbreak on PERS members.
- Policy Issue: None identified.

### BACKGROUND

On March 8, 2020, Governor Kate Brown issued Executive Order 20-03 instructing state agencies to develop and implement procedures designed to prevent or alleviate the public health threat caused by the Coronavirus (COVID-19) Outbreak in Oregon. PERS staff evaluated, and continues to evaluate, the agency's administrative rules and PERS' internal processes to determine how members might be negatively impacted due to the COVID-19 outbreak and what, if anything, can be done at the agency level to mitigate that effect. At this time we have identified the following areas for temporary rulemaking efforts:

#### Health Insurance Premium Payments

While Governor Brown's Executive Order 20-03 is in place, no person's PERS-sponsored health insurance coverage shall be terminated for failure to make payment of monthly contributions by the applicable due date.

We do anticipate updating this rule in May to include any immediate changes necessary to implement the federal CARES Act and any additional exceptions identified as necessary to accommodate Governor Brown's Executive Order.

### JUSTIFICATION FOR TEMPORARY RULEMAKING

Due to the nature of the COVID-19, exceptions to certain timelines are necessary to accommodate Governor Brown's Executive Order.

### LEGAL REVIEW

The attached draft rule was submitted to the Department of Justice for legal review.

### EFFECTIVE DATE

The temporary rule will become effective upon filing. The maximum period the rule can remain in effect is 180 days.

### IMPACT

Mandatory: No, but the Governor has advised agencies to develop and implement procedures, including waiving rules or adopting temporary rules within the agency’s authority to prevent or alleviate the public health threat.

Effect: The new temporary rule will mitigate the impact of the Coronavirus (COVID-19) Outbreak on PERS members.

Cost: There are no discrete costs attributable to the rule.

### BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt a new temporary rule regarding the mitigation of the impact of the Coronavirus (COVID-19) Outbreak on PERS members.”
2. Direct staff to make other changes to the rule or explore other options.

### STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

- Reason: Adopt temporary administrative rule necessary to mitigate the impact of the Coronavirus (COVID-19) Outbreak on PERS members.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board’s policy direction if the Board determines that a change is warranted.

A.1. Attachment 1 – OAR 459-001-0100, *Temporary Rule Relating to Executive Order 20-03 Declaration of Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon*

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 1 – PROCEDURAL RULES**

1 **459-001-0100**

2 **Temporary Administrative Rule Relating to Executive Order 20-03 Declaration of**  
3 **Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon**

4 **Authorized by Executive Order 20-03 (Section 5), instructing that State**  
5 **agencies shall develop and implement procedures, including waiving rules or**  
6 **adopting temporary rules within the agency’s authority, consistent with**  
7 **recommendations from the state Public Health Director, designed to prevent or**  
8 **alleviate the public health threat, and in response to Executive Order 20-03 Section**  
9 **1(d) limitations put upon employers and members that are affected by guidelines**  
10 **issued by the Governor for private businesses and public buildings regarding**  
11 **appropriate work restrictions, and in response to Executive Order 20-03 Section**  
12 **3 limitations put on members that are affected by heeding the advice of emergency**  
13 **officials regarding the outbreak, temporary rules are adopted as follows:**

14 **Health Insurance Premium Payments**

15 **During the period in which the Governor’s Executive Order No. 20-03**  
16 **(Declaration of Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon)**  
17 **remains in effect, no person’s PERS-sponsored health insurance coverage shall be**  
18 **terminated under OAR 459-035-0090(4) for failure to make payment of monthly**  
19 **contributions by the applicable due date. Any person whose payments are received**  
20 **in full by the Third Party Administrator within 30 days after the state of emergency**  
21 **is no longer in effect shall be deemed to have submitted timely payments during the**  
22 **state of emergency for purposes of OAR 459-035-0090.**

1 [Stat. Auth.: ORS Chapters 238 & 238A](#)

2 [Stats. Implemented: ORS Chapters 238 & 238A](#)



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April 24, 2020

TO: Members of the PERS Board

FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section

SUBJECT: Notice of Rulemaking for Rules to Implement SB 1049 Member Redirect:  
 OAR 459-005-0370, *Date of Participating and Transfer of Employee Funds to an Alternative Retirement Plan – OHSU*  
 OAR 459-007-0001, *Definitions*  
 OAR 459-007-0005, *Annual Earnings Crediting*  
 OAR 459-007-0320, *Crediting Earnings for IAP Account Lump Sum Payments*  
 OAR 459-007-0335, *Crediting Earnings for IAP Account Pre-Retirement Death Benefit Payments*  
 OAR 459-007-0350, *Crediting Earnings to the Employee Pension Stability Account at Retirement*  
 OAR 459-007-0360, *Crediting Earnings to the Employee Pension Stability Account at Death*  
 OAR 459-007-0370, *Crediting Earnings to the Employee Pension Stability Account on Withdrawal*  
 OAR 459-010-0055, *Withdrawal of Contributions*  
 OAR 459-070-0001, *Definitions*  
 OAR 459-075-0020, *Withdrawal from OPSRP Pension Program*  
 OAR 459-080-0020, *Withdrawal of Individual Accounts*  
 OAR 459-080-0200, *IAP Account Adjustments for Earnings or Losses*  
 OAR 459-080-0400, *Employee Pension Stability Account (EPSA)*

### OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Implement Senate Bill (SB) 1049 legislation.
- Policy Issue: None identified.

### BACKGROUND

During the 2019 Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1049, which made significant amendments to ORS Chapters 238 and 238A. The Member Redirect portion of the bill requires that, effective July 1, 2020, a portion of the member six percent mandatory contribution will be directed to a new Employee Pension Stability Account (EPSA) when the funded status of the plan is below 90% (including side accounts) and the member's monthly salary is more than \$2,500 (indexed for inflation). When those conditions are met, 2.5% of Tier 1 and Tier 2 members' subject salary will be redirected to the EPSA and 0.75% of OPSRP members' subject salary will be redirected to the EPSA.

Once the funded status of the plan is 90% or greater, member contributions will be deposited at the full 6% contribution level into members' regular IAP accounts. The redirect, or non-redirect, of member contributions will be based on the funded status of the plan, as determined in a rate setting valuation, and will be applicable until the next rate setting valuation.

While there are many rules included in this package, most are edited only for clarification. The new EPSA is an additional account under the Individual Account Program statutes and the edits are necessary to distinguish it from the existing IAP accounts. Four new rules are added; one to outline the EPSA and three others to explain the earnings crediting to the EPSA in different circumstances (retirement, withdrawal, and death).

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing is tentatively scheduled for May 26, 2020, at 2:00 p.m. at PERS headquarters in Tigard. The public comment period ends June 1, 2020, at 5:00 p.m.

### LEGAL REVIEW

The attached draft rules were submitted to the Department of Justice for legal review and any comments or changes will be incorporated before the rules are presented for adoption.

### IMPACT

Mandatory: No, but statute authorizes the board to update its rules as necessary to implement Member Redirect.

Effect: Clarifies the implementation of Member Redirect.

Cost: There are no discrete costs attributable to the rules.

### RULEMAKING TIMELINE

April 24, 2020	Staff began the rulemaking process by filing a Notice of Rulemaking with the Secretary of State. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
April 24, 2020	PERS Board notified that staff began the rulemaking process.
May 1, 2020	Secretary of State publishes the Notice in the Oregon Administrative Rules Database.
May 26, 2020	Rulemaking hearing tentatively scheduled to be held at 2:00 p.m. at PERS in Tigard. This hearing is subject to cancelation.
June 1, 2020	Public comment period ends at 5:00 p.m.
June 23, 2020	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

### NEXT STEPS

The rules are scheduled to be brought before the PERS Board for adoption at the June 23, 2020 PERS Board meeting.

- A.2. Attachment 1 – OAR 459-005-0370, *Date of Participating and Transfer of Employee Funds to an Alternative Retirement Plan – OHSU*
- A.2. Attachment 2 – OAR 459-007-0001, *Definitions*
- A.2. Attachment 3 – OAR 459-007-0005, *Annual Earnings Crediting*
- A.2. Attachment 4 – OAR 459-007-0320, *Crediting Earnings for IAP Account Lump Sum Payments*
- A.2. Attachment 5 – OAR 459-007-0335, *Crediting Earnings for IAP Account Pre-Retirement Death Benefit Payments*
- A.2. Attachment 6 – OAR 459-007-0350, *Crediting Earnings to the Employee Pension Stability Account at Retirement*
- A.2. Attachment 7 – OAR 459-007-0360 – *Crediting Earnings to the Employee Pension Stability Account at Death*
- A.2. Attachment 8 – OAR 459-007-0370, *Crediting Earnings to the Employee Pension Stability Account on Withdrawal*
- A.2. Attachment 9 – OAR 459-010-0055, *Withdrawal of Contributions*
- A.2. Attachment 10 – OAR 459-070-0001, *Definitions*
- A.2. Attachment 11 – OAR 459-075-0020, *Withdrawal from OPSRP Pension Program*
- A.2. Attachment 12 – OAR 459-080-0020, *Withdrawal of Individual Accounts*
- A.2. Attachment 13 – OAR 459-080-0200, *IAP Account Adjustments for Earnings or Losses*
- A.2. Attachment 14 – OAR 459-080-0400, *Employee Pension Stability Account (EPSA)*

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 005 – ADMINISTRATION**

1 **459-005-0370**

2 **Date of Participation and Transfer of Employee Funds to an Alternative Retirement**

3 **Plan — OHSU**

4 (1) For the purposes of this rule:

5 (a) “PERS account” means the member's regular account in the Fund as defined in  
6 ORS 238.250, and the member's account in the Variable Annuity Account in the Fund as  
7 defined in ORS 238.260;

8 (b) “OPSRP pension account” means the member’s benefit eligible for withdrawal  
9 under the provisions of ORS 238A.120; and

10 (c) “IAP account” means the member’s accounts, to the extent the member is vested,  
11 as set forth under ORS 238A.350 [and 238A.353](#).

12 (2) If an employee elects to participate in an alternative retirement plan authorized  
13 under ORS 353.250:

14 (a) Unless otherwise agreed upon, the effective date of an election to participate in  
15 an alternative retirement plan shall be certified by Oregon Health and Science University  
16 (OHSU) to PERS within 30 days of that effective date.

17 (b) If the employee is a member of PERS, and is eligible for and elects to transfer the  
18 balance of the member’s PERS, OPSRP Pension, or IAP accounts to the alternative  
19 retirement plan, OHSU shall forward a copy of that election together with the  
20 certification required in subsection (a) of this section.

21 (c) In the event an eligible employee is disabled or deceased and an election to  
22 participate in an alternative retirement plan has not been signed by the employee, the

1 employee shall be deemed to be an active member of PERS, if all other conditions of  
2 ORS 238.015 are met.

3 (3) In accordance with ORS 238A.100 and 238A.300:

4 (a) An employee who is serving a six-month waiting period shall establish active  
5 membership in accordance with ORS 238A.100 and 238A.300 unless PERS receives  
6 notification of an election to participate in an alternative retirement plan prior to the  
7 completion of that six-month waiting period.

8 (b) Notwithstanding subsection (a) of this section, if PERS receives a notification of  
9 an election to participate in an alternative retirement plan, active membership in PERS or  
10 OPSRP shall cease as of the effective date of the election.

11 (4) A PERS or OPSRP member electing to participate in an alternative retirement  
12 plan, authorized under ORS 353.250, and who is not concurrently an active member of  
13 PERS or OPSRP with another PERS or OPSRP participating employer, may petition  
14 PERS to have the member's PERS, OPSRP Pension, or IAP accounts transferred directly  
15 to an alternative retirement plan.

16 (a) A transfer of a member's account as provided in this section shall be transferred  
17 directly to the alternative retirement plan by PERS and shall not be made available to the  
18 employee while remaining in the employ of OHSU.

19 (b) A transfer of a member's PERS OPSRP Pension, or IAP accounts as provided in  
20 subsection (a) of this section shall not include any reserves of any PERS-participating  
21 employer.

1 (5) A PERS or OPSRP member electing to participate in an alternative retirement  
2 plan who has not separated from service in any position at OHSU shall be not be eligible  
3 to withdraw the member’s accounts, except as provided in section (4) of this rule.

4 (6) A transfer of a member’s PERS, OPSRP Pension, or IAP accounts to an  
5 alternative retirement plan established under provisions of ORS 353.250 shall be in  
6 compliance with all applicable Internal Revenue Code provisions and related Treasury  
7 regulation governing qualified pension plans. The transfer may occur only if the  
8 alternative retirement plan:

9 (a) Is a qualified plan under the Internal Revenue Code;

10 (b) Is capable of accepting funds transferred under provisions of section (4) of this  
11 rule without the transfer being treated as a taxable event under the Internal Revenue  
12 Code; and

13 (c) Is willing to accept those transfers.

14 (7) The date of distribution of a member’s PERS or OPSRP Pension accounts to an  
15 alternative retirement plan, authorized under ORS 353.250, as provided for in section (4)  
16 of this rule shall be the later of:

17 (a) The first of the calendar month following the date of receipt by PERS of a copy  
18 of the election if such copy is received by PERS on or before the fifteenth of a calendar  
19 month; or

20 (b) The first of the second calendar month following the date of receipt by PERS of a  
21 copy of the election if such copy is received on or after the 16th of a calendar month.

1            (8) The date of distribution of a member’s OPSRP IAP account(s) to an alternative  
2 retirement plan, authorized under ORS 353.250, as provided for in section (4) of this rule  
3 will be the date of the actual distribution.

4            Stat. Auth.: ORS 238.650 & 238A.450

5            Stats. Implemented: ORS 238.015 & 353.250

**OREGON ADMINISTRATIVE RULE**  
**PUBLIC EMPLOYEES RETIREMENT BOARD**  
**CHAPTER 459**  
**DIVISION 7 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0001**

2 **Definitions**

3 The words and phrases used in this division have the same meaning given them in  
4 ORS Chapter 238, 238A and OAR 459-005-0001. Specific and additional terms for  
5 purposes of this division are defined as follows unless context requires otherwise:

6 (1) “Annual rate” means the rates determined by the Board for crediting earnings to  
7 Tier One regular accounts, Tier Two regular accounts, IAP accounts, judge member  
8 regular accounts and member variable accounts, effective as of December 31 of each  
9 year.

10 (2) “Assumed rate” means the actuarial assumed rate of return on investments as  
11 adopted by the Board for the most recent actuarial valuation.

12 (3) “Average annualized rate” means the monthly rate provided by the Oregon State  
13 Treasury representing the rate credited to cash accounts.

14 (4) “Benefits-in-Force Reserve” or “BIF Reserve” means the reserve established  
15 under ORS 238.670(2).

16 (5) “Capital Preservation Reserve” means the reserve established under ORS  
17 238.670(3).

18 (6) “Contingency Reserve” means the reserve established under ORS 238.670(1).

19 (7) “Date of distribution” is the date inscribed on the check, warrant, or electronic  
20 transfer issued to or on behalf of the member, the member’s beneficiary, or an alternate  
21 payee.

1 (8) “Date of payment” means the date a payment is received by PERS.

2 (9) “Earnings” means all income or losses to the Fund from investments and other  
3 sources, but does not include member or employer contributions.

4 **(10) “Employee Pension Stability Account” and “EPSA” mean the account**  
5 **established in ORS 238A.353.**

6 **(11) “Member account” means the account established in ORS 238.250.**

7 ~~[(10)]~~**(12)** “Retirement allocation fund” means the particular target date fund so  
8 designated by the Oregon State Treasury when it determines the investment allocation for  
9 all the target date funds.

10 ~~[(11)]~~**(13)** “Retirement installments fund” means the fund so designated by the  
11 Oregon State Treasury and is separate and apart from target date funds.

12 ~~[(12)]~~**(14)** “Target date fund” means a fund with an investment allocation that is  
13 aligned with the member’s birth year.

14 ~~[(13)]~~**(15)** “Tier One Member Rate Guarantee Reserve” and “Rate Guarantee  
15 Reserve” mean the reserve referenced in ORS 238.255(1) that enables the Board to credit  
16 earnings at or above the assumed rate under the conditions specified in 238.255.

17 ~~[(14)]~~**(16)** “Year-to-date calculation” means the rates used to credit a pro-rata  
18 distribution of year-to-date earnings, allowing for reserves and expenses, to Tier One  
19 regular accounts, Tier Two regular accounts, IAP accounts, judge member regular  
20 accounts or member variable accounts. These rates are calculated by staff on a monthly  
21 basis using the market value of investments in the Fund as supplied by the Oregon State

1 Treasury. Year-to-date calculations for Tier One member regular accounts will be  
2 determined in accordance with OAR 459-007-0003.

3 Stat. Auth.: ORS 238.650

4 Stats. Implemented: ORS 238

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0005**

2 **Annual Earnings Crediting**

3 (1) For purposes of this rule, “remaining earnings” means earnings available for  
4 distribution to a particular account or reserve after deduction of amounts required or  
5 authorized by law for other purposes.

6 (2) Except as otherwise specified in this division, earnings on all accounts and  
7 reserves in the Fund shall be credited as of December 31 of each calendar year in the  
8 manner specified in this rule.

9 (3) Health insurance accounts. All earnings attributable to the Standard Retiree  
10 Health Insurance Account (SRHIA), Retiree Health Insurance Premium Account  
11 (RHIPA) or Retirement Health Insurance Account (RHIA) shall be credited to the  
12 account from which they were derived, less administrative expenses incurred by each  
13 account, as provided in ORS 238.410, 238.415 and 238.420, respectively.

14 (4) Employer lump sum payments. All earnings or losses attributable to the  
15 employer lump sum payment accounts established under ORS 238.229 shall be credited  
16 to the accounts from which they were derived.

17 (5) Member variable accounts. Earnings on the Variable Annuity Account shall first  
18 be used to pay a pro rata share of administrative expenses in accordance with ORS  
19 238.260(6). If the annual earnings from the Variable Annuity Account are insufficient to  
20 pay for the pro rata share of administrative expenses, those administrative expenses shall  
21 be paid from earnings on other accounts within the Public Employees Retirement Fund  
22 (PERF), if available. If earnings from those accounts within the PERF are insufficient to

1 pay for the administrative expenses, those expenses shall be paid from employer accounts  
2 as required by ORS 238.610. All remaining earnings or losses attributable to the Variable  
3 Annuity Account shall be credited to the participants of that account, as provided under  
4 238.260(6) and (7)(b).

5 (6) Individual Account Program accounts. Earnings on the Individual Account  
6 Program accounts [established under ORS 238A.350](#) shall first be used to pay a pro rata  
7 share of administrative expenses in accordance with ORS 238A.350(1). Losses on  
8 Individual Account Program target date funds shall be increased by a pro rata share of  
9 administrative expenses. After administrative expenses, each Individual Account  
10 Program account [established under ORS 238A.350](#) shall be credited with the earnings  
11 or losses of the specific target date fund to which the account is allocated, except for  
12 account balances allocated to the retirement installments fund, which shall be credited  
13 with earnings or losses on a monthly basis.

14 (7) Administrative expenses. Earnings attributable to Tier One regular accounts, the  
15 Tier One Rate Guarantee Reserve, Tier Two member regular accounts, judge member  
16 regular accounts, the OPSRP Pension Program reserve, [Employee Pension Stability](#)  
17 [accounts](#), employer contribution accounts, the Contingency Reserve, the Benefits-in-  
18 Force Reserve and the Capital Preservation Reserve shall first be used to pay the system's  
19 remaining administrative expenses under ORS 238.610.

20 (8) Contingency Reserve.

21 (a) In any year in which total earnings on the Fund equal or exceed the assumed rate,  
22 an amount not exceeding seven and one-half percent of remaining earnings attributable to  
23 Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular  
24 accounts, judge member regular accounts, the OPSRP Pension Program reserve,

1 [Employee Pension Stability accounts](#), the Benefits-in-Force Reserve, employer  
2 contribution accounts, the Capital Preservation Reserve and the Contingency Reserve  
3 shall be credited to the Contingency Reserve to the level at which the Board determines it  
4 is adequately funded for the purposes specified in ORS 238.670(1).

5 (b) The portion of the Contingency Reserve allowed under ORS 238.670(1)(a) for  
6 use in preventing a deficit in the fund due to employer insolvency may only be credited  
7 using earnings attributable to employer contribution accounts.

8 (9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to  
9 Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, judge member  
10 regular accounts, the Benefits-in-Force Reserve, and the Contingency Reserve may be  
11 credited to the Tier One Member Rate Guarantee Reserve established under ORS  
12 238.255(1).

13 (10) Capital Preservation Reserve. Remaining earnings attributable to the Tier Two  
14 member regular accounts, judge member regular accounts, OPSRP Pension Program  
15 reserve, [Employee Pension Stability accounts](#), employer contribution accounts, the  
16 Benefits-in-Force Reserve, the Contingency Reserve and the Capital Preservation  
17 Reserve may be credited from those sources to one or more reserve accounts that may be  
18 established under ORS 238.670(3) to offset gains and losses of invested capital.

19 (11) Tier One regular accounts. All remaining earnings attributable to Tier One  
20 regular accounts and the Tier One Rate Guarantee Reserve shall be credited to Tier One  
21 member regular accounts at the assumed rate in any year in which the conditions set out  
22 in ORS 238.255 have not been met. Crediting under this subsection shall be funded first  
23 by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate  
24 Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

1 (12) Judge member regular accounts. All remaining earnings attributable to judge  
2 member regular accounts shall be credited to all active and inactive judge member  
3 regular accounts at the judge member rate. Crediting under this subsection shall be  
4 funded first by all remaining earnings attributable to the judge member regular accounts  
5 and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee  
6 Reserve.

7 (13) Tier Two member regular accounts. All remaining earnings or losses  
8 attributable to Tier Two member regular accounts shall be credited to all active and  
9 inactive Tier Two member regular accounts under ORS 238.250.

10 **(14) Employee Pension Stability Account (EPSA). All remaining earnings or**  
11 **losses attributable to the EPSAs shall be credited to all active and inactive EPSAs**  
12 **under ORS 238A.353.**

13 ~~[(14)]~~**(15)** OPSRP Pension Program Reserve. Remaining earnings attributable to the  
14 OPSRP Pension Program Reserve, the Contingency Reserve, and the Capital Preservation  
15 Reserve may be used to credit the OPSRP Pension Program reserve.

16 ~~[(15)]~~**(16)** Benefits-in-Force Reserve. Remaining earnings attributable to the  
17 Benefits-in-Force Reserve, the Contingency Reserve, the Capital Preservation Reserve  
18 and employer contribution accounts, in that order, shall be used, to the extent available, to  
19 credit the Benefits-in-Force Reserve with earnings up to the assumed rate for that  
20 calendar year in accordance with ORS 238.670(2).

21 ~~[(16)]~~**(17)** Employer contribution accounts. All remaining earnings attributable to  
22 employer contribution accounts shall be credited to employer contribution accounts.

23 ~~[(17)]~~**(18)** Remaining earnings. Any remaining earnings shall be credited to  
24 accounts and reserves in the Fund at the Board's discretion.

*DRAFT*

*DRAFT*

*DRAFT*

*DRAFT*

*DRAFT*

*DRAFT*

1 Stat. Auth.: ORS 238.650, 238A.450

2 Stats. Implemented: ORS 238, 238A.350

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0320**

2 **Crediting Earnings for IAP Account Lump Sum Payments**

3       When an IAP member elects to withdraw their account(s) established under ORS  
4 238A.350 according to [under] ORS 238A.375 or retires and elects to receive a lump  
5 sum payment of *[their]* those account(s) under ORS 238A.400(1), earnings will be  
6 credited in the manner specified in this rule.

7       (1) If earnings for the calendar year before the date of distribution have not been  
8 credited, earnings for that year will be credited based on the member’s target date fund’s  
9 latest IAP year-to-date calculation available for that year.

10       (2) Earnings credited for the calendar year of distribution will be credited based on  
11 the member’s target date fund’s latest IAP year-to-date calculation as of the first day of  
12 the calendar month of the date of distribution.

13       Stat. Auth.: ORS 238A.450

14       Stats. Implemented: ORS 238A.350, 238A.375 & 238A.400

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1   **459-007-0335**

2   **Crediting Earnings for IAP Account Pre-Retirement Death Benefit Payments**

3       (1) For the purposes of this rule, “monthly change rate” means the monthly earnings  
4 rate for IAP account(s) invested in the retirement installments fund.

5       (2) When a beneficiary or beneficiaries receive(s) pre-retirement death benefit  
6 payments under ORS 238A.410, earnings will be credited to the accounts established  
7 under ORS 238A.350 in the manner specified in this rule.

8       (a) For payments made in the first month of distribution:

9           (A) If earnings for the calendar year before the date of distribution(s) have not been  
10 credited, earnings for that year shall be credited based on the member’s target date fund’s  
11 latest IAP year-to-date calculation available for that year.

12           (B) Earnings credited for the calendar year of distribution will be credited based on  
13 the member’s target date fund’s latest IAP year-to-date calculation as of the first day of  
14 the calendar month of the initial date of distribution.

15       (b) After the first month of distribution, any remaining account balance from a  
16 deceased non-retired member’s IAP account will be moved to the retirement installments  
17 fund. Earnings for the remaining account balance will be credited monthly using the  
18 latest monthly change rate beginning with the first of the month after the first month of  
19 distribution.

20       Stat. Auth.: ORS 238A.450

21       Stats. Implemented: ORS 238A.350 & 238A.410

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0350**

2 **Crediting Earnings to the Employee Pension Stability Account at Retirement**

3 **Upon the retirement of an Individual Account Program member, earnings from**  
4 **the effective date of the last annual rate to the effective retirement date shall be**  
5 **credited to the Employee Pension Stability account in the manner specified in this**  
6 **rule.**

7 **(1) Earnings shall be credited to the member’s Employee Pension Stability**  
8 **account as follows:**

9 **(a) If earnings for the prior calendar year have not yet been credited, earnings**  
10 **for that year shall be credited based on the Employee Pension Stability account**  
11 **latest year-to-date calculation for that year.**

12 **(b) Earnings for the calendar year of the effective retirement date shall be**  
13 **credited based on the Employee Pension Stability account latest year-to-date**  
14 **calculation for that year.**

15 **Stat. Auth.: ORS 238.650 & 238A.450**

16 **Stats. Implemented: ORS 238A.353**

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 7 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0360**

2 **Crediting Earnings to the Employee Pension Stability Account at Death**

3 **(1) When a beneficiary or beneficiaries receive(s) pre-retirement death benefit**  
4 **payments under ORS 238A.410, earnings will be credited to the member's**

5 **Employee Pension Stability account as follows:**

6 **(a) If earnings for the calendar year before the date of the member's death have**  
7 **not yet been credited, earnings shall be applied for that year based on the latest**  
8 **year-to-date Employee Pension Stability account calculation for that year.**

9 **(b) Earnings for the calendar year of distribution shall be credited based on the**  
10 **latest Employee Pension Stability account year-to-date calculation for that year as**  
11 **of the first of the month of the initial distribution.**

12 **(2) Any amount that is not applied to the cost of a monthly benefit will be paid**  
13 **to the beneficiary in a lump sum. Any remaining lump sum that is not paid out in**  
14 **the first month of distribution will be moved to the retirement installments fund.**  
15 **Earnings for the remaining account balance will be credited monthly using the latest**  
16 **monthly change rate beginning with the first of the month after the first month of**  
17 **distribution.**

18 **Stat. Auth.: ORS 238.650**

19 **Stats. Implemented: ORS 238A.353 & 238A.410**

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 007 – EARNINGS AND INTEREST DISTRIBUTION**

1 **459-007-0370**

2 **Crediting Earnings to the Employee Pension Stability Account on Withdrawal**

3 **When a member of the Individual Account Program withdraws his or her**

4 **Employee Pension Stability account (EPSA) under ORS 238A.375, earnings or**

5 **losses from the effective date of the last annual rate to the date of distribution shall**

6 **be credited in the manner specified in this rule.**

7 **(1) Earnings or losses on the member’s EPSA shall be credited as follows:**

8 **(a) If earnings or losses for the calendar year prior to the effective date of**

9 **withdrawal have not been credited, earnings or losses for that year shall be credited**

10 **to the member’s EPSA based on the latest year-to-date calculation for that year.**

11 **(b) Earnings or losses from January 1 of the calendar year of the effective date**

12 **of withdrawal to the effective date of withdrawal shall be credited to the member’s**

13 **EPSA based on the latest year-to-date calculation as of the effective date of**

14 **withdrawal.**

15 **Stat. Auth.: ORS 238.650**

16 **Stats. Implemented: ORS 238.265 & 238A.353**

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 010 – MEMBERSHIP**

1 **459-010-0055**

2 **Withdrawal of Contributions**

3 (1) Definitions. **For purposes of this rule:**

4 (a) A “controlled group” is a group of employers treated as a single employer for  
5 purposes of maintaining qualified status under federal law.

6 (b) “Effective date of withdrawal” has the same meaning as given the term in OAR  
7 459-005-0001(8).

8 **(c) “Member account” means the account established under ORS 238.250.**

9 (2) An inactive member may withdraw the member account balance under ORS  
10 238.265 if:

11 (a) The member has separated from employment with all participating employers  
12 and all employers in a controlled group with a participating employer;

13 (b) PERS receives the member’s request for withdrawal of the member account  
14 before the member reaches earliest service retirement age;

15 (c) The member has been absent from service with all participating employers and  
16 all employers in a controlled group with a participating employer for at least one full  
17 calendar month following the month of separation; and

18 (d) The member complies with the requirements of section 1, chapter 52, Oregon  
19 Laws 2007.

20 (3) Under no circumstance may a member withdraw less than the entire balance in  
21 the member account.

1 (4) A member who withdrew the member account and received an additional 50  
2 percent of the member account pursuant to section 2, chapter 276, Oregon Laws 2003  
3 may not subsequently restore the creditable service forfeited by the withdrawal under  
4 ORS 238.105 or 238.115.

5 (5) The member may revoke the request for withdrawal of the member account if  
6 PERS receives a written request to revoke before the earlier of:

7 (a) The date of distribution; or

8 (b) The date PERS receives a valid court order requiring PERS to pay the  
9 distribution to someone other than the withdrawing member.

10 (6) If a member withdraws the member account under this rule, membership in the  
11 PERS Chapter 238 Program shall be terminated as of the effective date of withdrawal.  
12 Membership rights accrued under ORS chapter 238 before the effective date of  
13 withdrawal, including any service rights attributable to employment before the effective  
14 date of withdrawal, are forfeited.

15 (7) If a former member who has withdrawn the member account under this rule  
16 returns to employment with any participating employer or an employer in a controlled  
17 group with a participating employer before the first day of the second calendar month  
18 following the month of the separation described in subsection (2)(a) of this rule, the  
19 withdrawal is cancelled and membership is restored. The member must repay to PERS in  
20 a single payment the total amount of the payments attributable to the withdrawal within  
21 30 days following the effective date of employment. Upon receipt by PERS of repayment  
22 under this section, service rights forfeited under section (6) of this rule are restored as of

1 the effective date of withdrawal. The repayment amount will be credited pro rata to the  
2 accounts from which the withdrawal amount was derived.

3 (8) If the member fails to repay as provided in section (7) of this rule, PERS shall  
4 take all reasonable steps to recover the repayment amount due, including any interest,  
5 costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR  
6 459-005-0610. Upon receipt by PERS of repayment under this section, service rights  
7 forfeited under section (6) of this rule are restored effective the first day of the month  
8 following the date of repayment. The repayment amount will be credited pro rata to the  
9 accounts from which the withdrawal amount was derived effective the first day of the  
10 month following the date of repayment.

11 (9) The effective date of this rule is January 1, 2008.

12 Stat. Auth.: ORS 238.650

13 Stats. Implemented: ORS 238.265, OL 2003 Ch. 276 & OL 2007 Ch. 52

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459**

**DIVISION 70 – OREGON PUBLIC SERVICE RETIREMENT PLAN, GENERALLY**

1 **459-070-0001**

2 **Definitions**

3 The words and phrases used in divisions 070, 075, 076, and 080 of OAR Chapter  
4 459 have the same meaning given them in ORS 238A.005 to 238A.475, unless otherwise  
5 indicated. Specific and additional terms for purposes of divisions 070, 075, 076 and 080  
6 are defined as follows unless context requires otherwise:

7 (1) “Academic employee of a community college” means an instructor who teaches  
8 classes offered for college-approved credit or on a non-credit basis.

9 (a) Librarians, counselors, and aides in non-teaching positions, tutors, or other non-  
10 teaching faculty, and classified, professional or nonprofessional support staff are not  
11 academic employees for the purposes of ORS 238A.142, but are subject to the  
12 membership requirements under ORS 238A.100 and OAR 459-075-0010.

13 (b) The governing body of a community college must determine who is an academic  
14 employee in its employ under this rule. In making that determination, a community  
15 college must consider all disciplines (academic activity) collectively when an employee’s  
16 assignment includes multiple disciplines.

17 (2) “Business day” means a day Monday through Friday when PERS is open for  
18 business.

19 (3) “Calendar month” means a full month beginning on the first calendar day of a  
20 month and ending on the last calendar day of the same month.

21 (4) “Calendar year” means 12 consecutive calendar months beginning on January 1  
22 and ending on December 31.

1 (5) “Employee” has the same meaning as “eligible employee” in ORS 238A.005  
2 and shall be determined in accordance with OAR 459-010-0030.

3 (a) For the purposes of ORS 238A.005 to 238A.475, the term “employee” includes  
4 public officers whether elected or appointed for a fixed term.

5 (b) The term “employee” does not include:

6 (A) An individual who performs services for a public employer as a contractor in an  
7 independently established business or as an employee of that contractor in accordance  
8 with OAR 459-010-0032; or

9 (B) An individual providing volunteer service to a public employer without  
10 compensation for hours of service as a volunteer.

11 (6) “Employee class” means a group of similarly situated employees whose positions  
12 have been designated by their employer in a policy or collective bargaining agreement as  
13 having common characteristics.

14 (7) “Employee contributions” means contributions made to the individual account  
15 program by an eligible employee under ORS 238A.330, or on behalf of the employee  
16 under ORS 238A.335.

17 **(8) “Employee Pension Stability Account” has the same meaning given in ORS**  
18 **238A.353.**

19 **(9)**~~(8)~~ “Final Average Salary” (FAS) has the same meaning given the term in:

20 (a) ORS 238A.130(1) for OPSRP Pension Program members who are not employed  
21 by a local government as defined in ORS 174.116; or

22 (b) ORS 238A.130(3) for OPSRP Pension Program members who are employed by a  
23 local government as defined in ORS 174.116.

1 [\(10\)](#)~~[(9)]~~ “Member” has the same meaning given the term in ORS 238A.005.

2 [\(11\)](#)~~[(10)]~~ “Member account” means the account of a member of the individual  
3 account program.

4 [\(12\)](#)~~[(11)]~~ “Member of PERS” has the same meaning as “member” in ORS 238.005,  
5 but does not include retired members.

6 [\(13\)](#)~~[(12)]~~ “OPSRP” means the Oregon Public Service Retirement Plan.

7 [\(14\)](#)~~[(13)]~~ “Overtime” means the salary or hours, as applicable, that an employer has  
8 designated as overtime.

9 [\(15\)](#)~~[(14)]~~ “Partial year of hire” means a period in the calendar year the employee  
10 begins employment after the first working day of the year, and continues employment  
11 through December 31.

12 [\(16\)](#)~~[(15)]~~ “Partial year of separation” means a period in the calendar year the  
13 employee separates from employment that begins on January 1 of the year, and ends  
14 before the last working day of the year.

15 [\(17\)](#)~~[(16)]~~ “Qualifying position” has the same meaning as provided in ORS  
16 238A.005 and means a position designated by the employer as qualifying, including a  
17 position in a partial year of hire, partial year of separation, or short segment, except:

18 (a) A position or concurrent positions in which an employee performs at least 600  
19 hours of service in a calendar year is qualifying regardless of employer designation.

20 (b) A position in a partial year of separation is qualifying regardless of employer  
21 designation if the position is continued from an immediately preceding calendar year in  
22 which the employee performed at least 600 hours of service in the position or concurrent  
23 positions.

1 (c) A position with one employer in which the employee is employed for the entire  
2 calendar year and fails to perform at least 600 hours of service in that position or  
3 concurrent positions in the calendar year is non-qualifying regardless of employer  
4 designation.

5 (18)~~[(17)]~~ “Salary” has the same meaning given the term in ORS 238A.005 and  
6 includes a differential wage payment, as defined in OAR 459-005-0001(9).

7 (19)~~[(18)]~~ “School employee” has the meaning given the term in ORS 238A.140(7).

8 (20)~~[(19)]~~ “Service” means a period in which an employee:

9 (a) Is in an employer/employee relationship, as determined in accordance with OAR  
10 459-010-0030; and

11 (b) Receives a payment of “salary,” as defined in ORS 238A.005.

12 (21)~~[(20)]~~ “Short segment” means a period in the calendar year during which the  
13 employee is hired after the first working day of the year, and separated from employment  
14 before the last working day of the same calendar year.

15 (22) “Voluntary contributions” means additional contributions made to the  
16 individual account program by an eligible employee under ORS 238A.330(3).  
17 Voluntary contributions must be equal to the amount credited to the employee  
18 pension stability account and may not be paid by the employer under ORS  
19 238A.335.

20 (23)~~[(21)]~~ “Volunteer” means an individual who performs a service for a public  
21 employer, and who receives no compensation for the service performed. The term  
22 “volunteer” does not include an individual whose compensation received from the same

1 public employer for similar service within the same calendar year exceeds the reasonable  
2 market value for such service.

3        ~~(24)~~~~[(22)]~~ “Working day” means a day that the employer is open for business.

4 Unless the employer communicates this information to PERS, PERS will presume an  
5 employer’s “working day” is the same as a “business day,” as defined in section (2) of  
6 this rule.

7        Stat. Auth.: ORS 238A.450

8        Stats. Implemented: ORS 238A

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 75 – OPSRP PENSION PROGRAM**

1 **459-075-0020**

2 **Withdrawal from OPSRP Pension Program**

3 (1) Definitions. For the purposes of this rule:

4 (a) “Controlled group” means a group of employers treated as a single employer for  
5 purposes of maintaining qualified status under federal law.

6 (b) “Effective date of withdrawal” has the same meaning as given the term in OAR  
7 459-005-0001(10).

8 (c) “Inactive member” has the same meaning given the term in ORS 238A.005.

9 (d) “Pension program” has the same meaning given the term in ORS 238A.005.

10 (2) An inactive member may withdraw from the OPSRP Pension Program under  
11 ORS 238A.120 if:

12 *[(a) The member is vested in the pension program under ORS 238A.115;]*

13 *[(b)]*(a) The member has separated from employment with all participating  
14 employers and all employers in a controlled group with a participating employer;

15 *[(c)]*(b) The member has been absent from service with all participating employers  
16 and all employers in a controlled group with a participating employer for at least one full  
17 calendar month following the month of separation; and

18 *[(d)]*(c) The member files with PERS a written request for withdrawal on a form  
19 acceptable to PERS.;*]*

20 *[(e) The actuarial equivalent of the member’s pension benefit is \$5,000 or less on*  
21 *the effective date of withdrawal. The actuarial equivalent may not include any value*  
22 *attributable to cost-of-living adjustments under ORS 238A.210; and]*

1 *[(f) The member complies with the requirements of ORS 238A.120(4).]*

2 (3) *[Any amount payable to the member under the provisions of this rule must be*  
3 *paid to the member in a single lump-sum payment.]* **For members with a withdrawal**

4 **date on or after July 1, 2020:**

5 **(a) Vested OPSRP members will receive the value of their IAP account, the**  
6 **value of their Employee Pension Stability account (EPSA) (if applicable), and the**  
7 **value of their Optional Employer Contribution account (if applicable).**

8 **(b) Members who are not vested in the OPSRP pension will receive the value of**  
9 **their IAP account and the value of their EPSA (if applicable).**

10 (4) A member may revoke a request for withdrawal from the pension program if  
11 PERS receives the member’s written revocation of the request before the earlier of:

12 (a) The date of distribution; or

13 (b) The date PERS receives a valid court order requiring PERS to pay the  
14 distribution to someone other than the withdrawing member.

15 (5) A member who withdraws from the pension program terminates membership in  
16 the pension program as of the effective date of withdrawal.

17 (6) A member who withdraws from the pension program forfeits any service  
18 performed by the member before the date of the separation described in subsection  
19 (2)~~[(b)]~~**(a)** of this rule and may not use that service for any purpose including, but not  
20 limited to, establishing membership under ORS 238A.100, vesting under ORS 238A.115,  
21 and the accrual of retirement credit under ORS 238A.140, 238A.150, or 238A.155.

22 (7) The withdrawal shall be processed following receipt by PERS of all the items in  
23 subsections (a) and (b) of this section:

1        (a) From the member:

2        (A) Completed withdrawal application; and

3        (B) Proof of member’s age.

4        (b) From the employer: Financial and demographic information indicating the  
5 member has separated from employment with all participating employers and all  
6 employers in a controlled group with a participating employer.

7        (8) PERS may cancel a member’s request for withdrawal if PERS does not receive  
8 all the items specified in section (7) of this rule within 180 days of PERS’ receipt of the  
9 original withdrawal application.

10       (9) If a former member who has withdrawn from the pension program returns to  
11 employment with a participating employer or an employer in a controlled group with a  
12 participating employer before the first day of the second calendar month following the  
13 month of the separation described in subsection (2)~~[(b)]~~(a) of this rule, the withdrawal is  
14 cancelled and membership is restored. The member must repay to PERS in a single  
15 payment the total amount of all payments attributable to the withdrawal within 30 days  
16 following the effective date of the employment. Upon receipt by PERS of repayment  
17 under this section, service forfeited under section (6) of this rule is restored as of the  
18 effective date of withdrawal.

19       (10) If the member fails to repay as provided in section (9) of this rule, PERS shall  
20 take all reasonable steps to recover the repayment amount due, including any interest,  
21 costs, or penalties assessed by PERS, under the provisions of ORS 238.715 and OAR  
22 459-005-0610. Upon receipt by PERS of repayment under this section, service forfeited

1 under section (6) of this rule is restored effective the first day of the month following the  
2 date of repayment.

3 (11) The effective date of this rule is January 1, 2008.

4 Stat. Auth.: ORS 238A.450

5 Stats. Implemented: ORS 238A.120, OL 2007 Ch. 52

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 80 – OPSRP INDIVIDUAL ACCOUNT PROGRAM**

1 **459-080-0020**

2 **Withdrawal of Individual Accounts**

3 (1) Definitions. For the purposes of this rule:

4 (a) “Controlled group” means a group of employers treated as a single employer for  
5 purposes of maintaining qualified status under federal law.

6 (b) “Effective date of withdrawal” has the same meaning as given the term in OAR  
7 459-005-0001(10).

8 (c) “Inactive member” has the same meaning given the term in ORS 238A.005(8).

9 (d) “Individual account program” has the same meaning given the term in ORS  
10 238A.005(9).

11 (e) “Individual accounts” means the employee account, [employee pension stability](#)  
12 [account](#), rollover account, and employer account of a member of the Individual Account  
13 Program (IAP) to the extent the member is vested in those accounts under ORS  
14 238A.320.

15 (2) An inactive member may withdraw the individual accounts under ORS 238A.375  
16 if:

17 (a) The member has separated from employment with all participating employers  
18 and all employers in a controlled group with a participating employer;

1 (b) The member has been absent from service with all participating employers and  
2 all employers in a controlled group with a participating employer for at least one full  
3 calendar month following the month of separation;

4 (c) The member files with PERS a written request for withdrawal on a form  
5 acceptable to PERS; and

6 (d) The member complies with the requirements of ORS 238A.375(4).

7 (3) A member may revoke a request for withdrawal of the individual accounts if  
8 PERS receives the member’s written revocation of the request before the earlier of:

9 (a) The date of distribution; or

10 (b) The date PERS receives a valid court order requiring PERS to pay the  
11 distribution to someone other than the withdrawing member.

12 (4) A member who withdraws the individual accounts terminates membership in the  
13 IAP as of the effective date of withdrawal.

14 (5) An employer account not included in the withdrawn individual accounts by  
15 reason of the member’s failure to vest in the employer account is permanently forfeited as  
16 of the date of distribution.

17 (6) A member who withdraws the individual accounts and is subsequently employed  
18 with a participating employer forfeits any service performed by the member before the  
19 separation described in subsection (2)(a) of this rule for the purpose of vesting in an  
20 employer account.

21 (7) If a former member who has withdrawn the individual accounts returns to  
22 employment with a participating employer or an employer in a controlled group with a

1 participating employer before the first day of the second calendar month following the  
2 month of the separation described in subsection (2)(a) of this rule the withdrawal is  
3 cancelled and membership is restored. The member must repay to PERS in a single  
4 payment the total amount of all payments attributable to the withdrawal within 30 days  
5 following the effective date of the employment. Upon receipt by PERS of repayment  
6 under this section, account(s) forfeited under section (5) and service forfeited under  
7 section (6) of this rule are restored effective the date of distribution. The repayment  
8 amount received will be credited pro rata to the accounts from which the withdrawal  
9 amount was derived.

10 (8) If the member fails to repay as provided in section (7), PERS shall take all  
11 reasonable steps to recover the repayment amount due, including any interest, costs, or  
12 penalties assessed by PERS, under the provisions of ORS 238.715 and OAR 459-005-  
13 0610. Upon receipt by PERS of repayment under this section, account(s) forfeited under  
14 section (5) of this rule, and service forfeited under section (6) of this rule are restored  
15 effective the first day of the month following the date of repayment. The repayment  
16 amount received will be credited pro rata to the accounts from which the withdrawal  
17 amount was derived effective the first day of the month following the date of repayment.

18 (9) The effective date of this rule is January 1, 2008.

19 Stat. Auth.: ORS 238A.450

20 Stats. Implemented: ORS 238A.375 & OL 2007 Ch. 52

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 80 – OPSRP INDIVIDUAL ACCOUNT PROGRAM**

1   **4059-080-0200**

2   **IAP Account Adjustments for Earnings or Losses**

3   (1) Earnings and losses on employee, employer, and rollover contributions under the  
4   OPSRP Individual Account Program (“IAP”) shall be credited annually in accordance  
5   with OAR 459-007-0005(6). In no event shall earnings or losses be credited to individual  
6   accounts until funds are actually received by PERS and have been successfully reconciled  
7   with the corresponding wage and contribution record.

8   (2) When a member elects to withdraw their accounts under ORS 238A.375, earnings or  
9   losses for their employee and employer accounts shall be credited in accordance with  
10   OAR 459-007-0320(2) and earnings for the Employee Pension Stability account  
11   (EPSA) will be credited in accordance with OAR 459-007-0370.

12   (3) When a member retires and elects to receive a lump sum payment of their accounts  
13   under ORS 238A.400(1), earnings or losses for their employee and employer accounts  
14   shall be credited in accordance with OAR 459-007-0320(1) and earnings for the EPSA  
15   will be credited in accordance with OAR 459-007-0350.

16   (4) When a member retires and elects to receive installment payments under ORS  
17   238A.400(2), earnings or losses for their employee and employer accounts shall be  
18   credited in accordance with OAR 459-007-0330 and earnings for the EPSA will be  
19   credited in accordance with OAR 459-007-0350.

20   (5) The provisions of this rule are effective January 1, 2004.

21   Stat. Auth.: ORS 238A.450

1 Stats. Implemented: ORS 238A.350, 238A.375, 238A.400 [& ORS 238A.353](#)

OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 080 – OPSRP INDIVIDUAL ACCOUNT PROGRAM

1 459-080-0400

2 Employee Pension Stability Account (EPSA)

3 (1) The Employee Pension Stability Account (EPSA) is a member account under  
4 the IAP as established in ORS 238A.353. A portion of the member contributions are  
5 credited to the member’s EPSA when the member’s monthly salary exceeds the  
6 threshold amount and the system funded status is below 90%.

7 (2) The monthly salary threshold amount:

8 (a) Is \$2,500 for calendar year 2020;

9 (b) Includes salary from all PERS covered employment during the calendar  
10 month; and

11 (c) Is determined based on the date the salary is paid.

12 (3) Though part of the IAP, EPSA funds are not invested in target date funds.

13 EPSA funds are held in a separate member account that will be credited annually  
14 with earnings or losses in accordance with OAR 459-007-0005. There is no  
15 guaranteed rate of return on a member’s EPSA.

16 (4) Unless withdrawn prior to earliest retirement age, a member’s EPSA will be  
17 applied to the cost of the member’s retirement or other pension benefit attributable  
18 to service on and after July 1, 2020. The amount of the member’s benefit  
19 attributable to service on and after July 1, 2020 will be determined by dividing the  
20 number of months of service after July 1, 2020, by the total months of service.

21 Stat. Auth.: ORS 238A.450

1 [Stats. Implemented: ORS 238A.050, OL 2019, Ch. 355, Sec. 2, & OL 2018, Ch.](#)

2 [118](#)