

**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