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

459-005-0350

Membership Status of Persons in Concurrent Employment Eligible to Participate in an Optional or Alternative Retirement Plan

(1) **Definitions.** For the purpose of this rule:

(a) "Alternative retirement plan" (ARP) means a retirement plan offered by Oregon Health and Science University (OHSU) that is authorized under ORS 353.250, or a retirement plan offered by Harney County Health District (HCHD) that is authorized under ORS 237.750.

(b) "C[*c*]oncurrent employment**"** means employment with two or more different employers participating in the Public Employees Retirement System (PERS) at the same time.

(c) "Controlled group" means a group of employers treated as a single employer for purposes of maintaining qualified status under federal law.

(d) "Employer group" means the group of similarly situated employers, such as the group of public university employers, or the group of community college employers.

(e) "Optional retirement plan" (ORP) means a retirement plan offered by a public university that is authorized under ORS 243.815, or a retirement plan offered by a community college that is authorized under ORS 341.551.

(2) If a person employed by a public university**, community college, HCHD,** or by **OHSU**[*the Oregon Health and Science University*] is concurrently employed by another

PERS [*or Oregon Public Service Retirement Plan (OPSRP)*] participating employer, eligibility for PERS [*or OPSRP*] membership shall be based on the following:

(a) If the person elects to participate in an **ORP** [*Optional Retirement Plan offered by a public university under ORS 243.800,*]or an **ARP** [*alternative retirement plan offered by the Oregon Health and Science University under ORS 353.250*], and **is** concurrently employed with other PERS [*or OPSRP*]participating employers in a non-qualifying position(s) as defined in OAR chapter 459, the person:

(A) Shall not be eligible to establish membership in PERS [*or OPSRP*]as an employee of a public **employer, the employer group, or any of the employers of the employer's controlled group, that offers the ORP in which the person has elected participation**[*university or the Oregon Health and Science University*], and

(B) Shall not be eligible to establish membership in PERS [*or OPSRP*]as an employee of the other concurrent PERS employer or employers.

(b) If the person **who** elects to participate in an **ORP**[*Optional Retirement Plan*] offered by a public university under ORS 243.8**15**[*00*], or an **ARP offered by OHSU or HCHD**[*alternative retirement plan offered by the Oregon Health and Science University under ORS 353.250,*] and **is** concurrently employed with other PERS [*or OPSRP*] participating employers [*is*] in a qualifying position(s) as defined in OAR chapter 459, the person:

(A) Shall not be eligible to establish membership in PERS [*or OPSRP*] as an employee of **the**[*a*] public **employer or employer group that offers the ORP or ARP in which the person has elected participation**[*university or the Oregon Health and Science University*]; and

(B) Shall establish membership in OPSRP as an employee of the other concurrent PERS [*or OPSRP*] employer or employers**, if all other membership conditions are met.**

(c) If the person who elects to participate in an ORP offered by a community college under ORS 341.551, is concurrently employed with other PERS participating employers in a qualifying position(s) as defined in OAR chapter 459, the person shall not be eligible to establish membership in PERS as an employee of the public employer or employer group that offers the ORP in which the person has elected participation, or as an employee of the other concurrent PERS employer or employers, unless the person withdraws from the ORP.

(3) A member of PERS **with concurrent employment who**[*or OPSRP who is concurrently employed and*] establishes PERS [*or OPSRP*] membership under the provisions of paragraph (2)(b)(B) of this rule shall not be eligible to have **any funds** [*the member's account*] transferred to an **ORP**[*Optional*] or **ARP**[*alternative retirement plan*] **under OAR 459-005-0310 or OAR 459-005-0370**.

Stat. Auth: ORS 238.650

Stats. Implemented: ORS **237.750,** 238.015, 243.**815, 341.551**[*775*] & 353.250