

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

459-050-0150

Unforeseeable Emergency Withdrawal

The purpose of this rule is to establish the criteria and process for a participant to obtain a distribution of deferred compensation funds before separation from employment due to an unforeseeable emergency.

(1) Definitions. For purposes of this rule:

(a) “Deferred Compensation Account” means the account described in OAR 459-050-0001, but does not include any amount in the Self-Directed Brokerage Option.

(b) “Designated Roth Account” means the account described in OAR 459-050-0001, but does not include any amount in the Self-Directed Brokerage Option.

(c) “Emergency withdrawal” means a payment to the participant from the participant’s Deferred Compensation Account, Designated Roth Account, or a combination of both, in an amount directly related to and reasonably necessary to satisfy a financial obligation attributable to an unforeseeable emergency.

(d) “Unforeseeable emergency” or “Unforeseen emergency” means: a severe financial hardship to a participant resulting from a sudden and unexpected illness or accident of the participant, or of a dependent of the participant as defined in 26 CFR 1.152-1; a loss of the participant’s property due to casualty; or other similar extraordinary and unforeseeable circumstance beyond the control of the participant.

(2) Eligibility for emergency withdrawals. Only a participant who established a deferred compensation account as an eligible employee and has not terminated from employment with their plan sponsor may apply to receive an unforeseeable emergency

1 withdrawal. An alternate payee of a participant may not be eligible to receive an
2 emergency withdrawal.

3 (3) A participant must, if eligible, apply for a loan under the provisions of OAR 459-050-
4 0077 before application for an unforeseen emergency withdrawal unless, as determined
5 by the Deferred Compensation Manager, the participant would suffer additional financial
6 hardship by complying with the loan application requirement.

7 (4) Source of emergency withdrawals. The amount of an emergency withdrawal will be
8 deducted first from the participant's Deferred Compensation Account unless otherwise
9 indicated by the participant on the emergency withdrawal application.

10 (5) A plan participant requesting an emergency withdrawal must certify that the
11 withdrawal is not being used for the following c[C]ircumstances that do not constitute
12 an unforeseeable emergency: *[. An emergency withdrawal may not be approved for any*
13 *reason other than an unforeseeable emergency. Circumstances that do not constitute an*
14 *unforeseeable emergency including, but are not limited to:]*

15 (a) Participant or dependent school expenses;

16 (b) The purchase of a home or costs associated with a voluntary relocation of housing;

17 (c) The reduction of personal credit liabilities not associated with an unforeseeable
18 emergency;

19 (d) Expenses associated with a legal separation or the dissolution of a marriage;

20 (e) Expenses associated with medical procedures that are elective or not medically
21 required;

22 (f) Expenses associated with establishing or managing a personal business;

23 (g) Recreational expenses;

1 (h) Travel expenses not associated with an unforeseeable emergency; and
2 (i) Usual and customary tax obligations.

3 (6) Limitations on amount of emergency withdrawal. The amount of an emergency
4 withdrawal may not exceed the combined balance of the participant's Deferred
5 Compensation Account and Designated Roth Account. The maximum amount that may
6 be approved as an emergency withdrawal shall be limited to what is reasonably needed to
7 satisfy the immediate financial obligation related to the unforeseeable emergency,
8 including taxes anticipated on the distribution. The amount of the emergency withdrawal
9 shall be limited to the extent that the financial obligation can or may be satisfied by:

10 (a) Reimbursement or compensation by insurance or otherwise;
11 (b) Liquidation of the participant's assets, to the extent the liquidation of such assets
12 would not itself cause severe unforeseeable emergency; or
13 (c) Cessation of participant contributions to the Deferred Compensation Program.

14 (7) Application for an emergency withdrawal. A participant must submit an *[completed]*
15 unforeseen emergency withdrawal self-certification form authorized by the
16 Deferred Compensation Program *[emergency withdrawal application and financial*
17 *information and related documentation sufficient to satisfy the provisions of this rule.]*
18 The self-certification form *[emergency withdrawal application]* may be returned if the
19 form is incomplete *[or if insufficient financial information or related documentation is*
20 *submitted]*.

21 (a) The self-certification form *[application]* may be obtained from the Deferred
22 Compensation Program or the third party administrator (TPA) retained to administer a
23 portion of the Deferred Compensation Program.

(b) The completed *[application, financial information, and related documentation]* self-certification form shall be submitted by using online account access or other methods approved by the Deferred Compensation Program.

[(8) Cancellation of future contributions. Contributions by a participant to the Deferred Compensation Program shall immediately be cancelled upon receipt of an application for an emergency withdrawal from the participant. A participant who receives a denial for an emergency withdrawal may enroll to make elective deferrals and contributions to the Deferred Compensation Program at any time.]

(8[9]) Approval or denial notification. The Deferred Compensation Manager or an authorized designee shall approve or deny a request for an emergency withdrawal within three working days after receipt of an accepted application. The participant will be notified by mail within 10 working days after a decision is made.

[(10) Release of payment upon approval of an emergency withdrawal. The Deferred Compensation Manager or an authorized designee TPA shall determine the method of payment. The Deferred Compensation Program shall immediately notify the TPA to release the requested funds.]

(11) A participant may appeal a denial of an emergency withdrawal to the Unforeseeable Emergency Withdrawal Appeals Committee as provided in OAR 459-050-0040. The appeal shall be in writing and must include:

(a) A request for review by the Unforeseeable Emergency Withdrawal Appeals Committee;

(b) A short statement of the facts that are the basis of the appeal; and

- 1 *(c) Any additional information or documentation to support the request for an emergency*
2 *withdrawal.]*
- 3 (9[12]) Number of emergency withdrawal requests. The number of times a participant
4 may apply for an emergency withdrawal is unlimited and is unaffected by previous
5 applications.