



Oregon

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May 30, 2025

TO: Members of the PERS Board

FROM: Melanie Chandler, Research Policy Coordinator, Policy Analysis and Compliance Section
Stephanie Vaughn, Manager, Policy Analysis and Compliance Section

SUBJECT: Notice of Rulemaking for Divorce Rules:
 OAR 459-045-0010 *Tier One/Tier Two Division of Benefits*
 OAR 459-045-0012 *OPSRP Pension Program Division of Benefits*
 OAR 459-045-0014 *Individual Account Program (IAP) Division of Benefits*
 OAR 459-045-0020 *Court Orders*

OVERVIEW

- Action: None. This is notice that staff has begun rulemaking.
- Reason: Update and clarify rules pertaining to court-ordered divorce awards that are administered for members and alternate payees.
- Policy Issue: None identified.

BACKGROUND

In Oregon Revised Statute (ORS) 238.465, the Legislature provided a means for PERS to pay Tier One, Tier Two, OPSRP, or IAP benefits to an alternate payee to the extent expressly provided for in the terms of any court order or court-approved property settlement agreement incident to the dissolution of marriage, dissolution of a registered domestic partnership, or legal separation. The statute specifically directs the PERS Board to adopt rules to provide for the creation of separate accounts under ORS 238 and 238A, establish the criteria to determine whether domestic relations judgments, orders and agreements comply with statute, and provide the requisite definitions and procedures for the administration of this section. As statutorily directed, the PERS Board has put in place rules to clarify divorce provisions so members and legal practitioners can develop court orders that can be administered by PERS.

Before payments can be paid to an alternate payee, PERS must receive an administrable court document, signed by a judge, with proof that the decree has been filed in court. PERS reviews all court orders to determine if the language in the order can be administered under PERS laws and rules.

Very often court orders, as submitted to the agency, were not clear as to how PERS is to determine the alternate payee award and must be rejected as not administrable. Beginning in 2010, in an effort to simplify internal processes and provide better service, PERS staff created divorce forms to be completed and attached as exhibits to court orders. The forms were designed for specific programs and intended to cover all the information needed by PERS staff

to administer a final court order with the goal of reducing the need for PERS to reject final court orders as not administrable.¹

Even with divorce forms available to members and legal practitioners, in 2024, PERS received 228 divorce-related court orders that were returned to members as non-administrable; in the same year, 609 court orders were confirmed as administrable.² With a goal of providing additional clarity into the complicated process of dividing PERS accounts and benefits and to reduce the number of unadministrable court orders received, PERS staff is preparing an update to PERS divorce forms to add detail and outline options available to members and their alternative payees.

This rulemaking seeks to provide additional clarity to established rules regarding how court orders and court-approved property settlement agreements are evaluated by agency staff and what makes them administrable versus non-administrable.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing will be held remotely on June 24, 2025, at 2:00 p.m. The public comment period ends June 27, 2025, at 5:00 p.m.

LEGAL REVIEW

The attached 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.

Benefit: Provide clarity to members and legal practitioners about available options related to the division of PERS benefits in the divorce process.

Cost: None identified.

RULEMAKING TIMELINE

May 28, 2025:	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
June 2, 2025:	Secretary of State publishes the Notice in the Oregon Administrative Rules Database. Notice is sent to employers, legislators, and interested parties. Public comment period begins.
May 30, 2025:	PERS Board notified that staff began the rulemaking process.
June 24, 2025:	Rulemaking hearing to be held remotely and at the PERS headquarters at 2:00 p.m.

¹ Current versions of the divorce forms can be found at <https://www.oregon.gov/pers/mem/pages/divorce-forms.aspx>.

² These numbers may include multiple actions for the same divorce decree. e.g., PERS staff notified a member that the submitted decree was un-administrable, and the member corrected the deficiency and returned an administrable decree to the agency in the same calendar year.

Notice of Rulemaking for Divorce Rules

Page 3 of 3

June 27, 2025:	Public comment period ends at 5:00 p.m.
July 25, 2025:	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

NEXT STEPS

A rulemaking hearing will be held remotely on June 24, 2025. The rule is scheduled to be brought before the PERS Board for adoption at the July 25, 2025, board meeting.

- B.1. Attachment 1 – OAR 459-045-0010 *Tier One/Tier Two Division of Benefits*
- B.1. Attachment 2 – OAR 459-045-0012 *OPSRP Pension Program Division of Benefits*
- B.1. Attachment 3 – OAR 459-045-0014 *Individual Account Program (IAP) Division of Benefits*
- B.1. Attachment 4 – OAR 459-045-0020 *Court Orders*
- B.1. Attachment 5 – 459-531 *IAP Non-Retired Separate Account CURRENT*
- B.1. Attachment 6 – 459-531 *IAP Non-Retired Separate Account REVISED*