

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

1 **459-005-0015**

2 **Leave of Absence without pay.**

3 (1) For purposes of this rule:

4 (a) “Major fraction of a month” means more than one-half of the total calendar days in a
5 calendar month;

6 (b) “The period of time when school is not normally in session” means the period of time
7 outside the dates that school is presumed to be in session as described in OAR 459-010-
8 0014 and OAR 459-075-0150.

9 (2) Employer/Employee Agreement. An official leave of absence without pay for any
10 purpose must have the following in order to be considered bona fide:

11 (a) An agreement in writing;

12 (b) Accordance with the applicable law, rules and regulations;

13 (c) The duration specifically stated at the time of granting; and

14 (d) Certification to PERS by the employer granting such leave.

15 (3) Creditable Service and Retirement Credit.

16 (a) A leave of absence without pay occurring on or after July 1, 1987, which constitutes the
17 major fraction of a month:

18 (A) May not be used to calculate “years of membership” under ORS 238.300; and

19 (B) May not be used to determine “creditable service” or “retirement credit” under ORS
20 238.005.

21 (b) A leave of absence without pay occurring before July 1, 1987, which constitutes the
22 major fraction of a month:

23 (A) Must be used to calculate “years of membership” under ORS 238.300; and

24 (B) Must be used to determine “creditable service” and “retirement credit” under ORS
25 238.005.

26 (c) A leave of absence without pay occurring on or after January 1, 2004, which constitutes
27 the major fraction of a month may not be used to determine “retirement credit” under ORS
28 238A.140 for any period of employment after the date membership is established under
29 ORS 238A.100.

1 (4) Reporting Requirement. Unless otherwise agreed upon by PERS, the employer shall
2 report the following in a format acceptable to PERS:

3 (a) Any period, or periods, of leave of absence without pay, which constitute(s) the major
4 fraction of a month, for each member at the time the leave begins. The reported period(s) of
5 leave of absence without pay must include an end date.

6 (b) Any amendment or extension to (a) previously reported period(s) of leave of absence
7 without pay.

8 (5) A PERS member on an official leave of absence without pay is not considered
9 terminated from service with a participating employer.

10 (6) An employee on an official leave of absence without pay on the date the employer
11 begins to participate in PERS, shall be considered to be an employee on such date for the
12 purpose of determining eligibility for participation in PERS.

13 (7) A layoff from employment does not constitute a leave of absence without pay.

14 (8) Reporting Leave of Absence Without Pay for School Employees.

15 (a) Except as provided by subsection (8)(b), a school employee who is on leave of absence
16 without pay during the period of time when school is not normally in session should not be
17 reported to PERS under section (4) of this rule.

18 (b) An employee of an institution of higher education, Department of Human Services, the
19 Oregon Youth Authority, the Department of Corrections or the State Board of Education
20 who is on leave of absence without pay during the period of time when school is not
21 normally in session may be reported to PERS if:

22 (A) The employee is not engaged in teaching or other school activity at an institution
23 supervised by the authority, board or department, and

24 (B) The employee was required to provide service during the period under the terms of
25 their employment agreement.

26
27 **Statutory/Other Authority:** 238.650 & 238A.450

28 **Statutes/Other Implemented:** 238.300 & 238A.140

29 **History:**

30 [PERS 16-2025, amend filed 12/05/2025, effective 12/05/2025](#)

31 [PERS 3-2025, adopt filed 03/31/2025, effective 03/31/2025](#)