

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

459-005-0015

LEAVE OF ABSENCE WITHOUT PAY

(1) For purposes of this rule:

(a) “major fraction of a month” means *[a minimum of 11 business days in a calendar month]* more than one-half of the total calendar days in a calendar month;

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

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

(a) An agreement in writing;

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

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

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

(3) Creditable Service and Retirement Credit.

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

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

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

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

- 1 (A) Must be used to calculate “years of membership” under ORS 238.300; and
- 2 (B) Must be used to determine “creditable service” and “retirement credit” under ORS
- 3 238.005.
- 4 (c) A leave of absence without pay occurring on or after January 1, 2004, which
- 5 constitutes the major fraction of a month may not be used to determine “retirement
- 6 credit” under ORS 238A.140 for any period of employment after the date membership is
- 7 established under ORS 238A.100.
- 8 (4) Reporting Requirement. Unless otherwise agreed upon by PERS, the employer shall
- 9 report the following in a format acceptable to PERS:
- 10 (a) Any period of leave of absence without pay, which constitutes the major fraction of a
- 11 month, for each member at the time the leave begins. The reported period of leave of
- 12 absence without pay must include an end date.
- 13 (b) Any amendment or extension to a previously reported period of leave of absence
- 14 without pay.
- 15 (5) A PERS member on an official leave of absence without pay is not considered
- 16 terminated from service with a participating employer.
- 17 (6) An employee on an official leave of absence without pay on the date the employer
- 18 begins to participate in PERS, shall be considered to be an employee on such date for the
- 19 purpose of determining eligibility for participation in PERS.
- 20 (7) A layoff from employment does not constitute a leave of absence without pay.
- 21 (8) Reporting Leave of Absence Without Pay for School Employees.

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

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

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

10 (B) the employee was required to provide service during the period under the terms of
11 their employment agreement.

12