

OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 076 – OPSRP DISABILITY BENEFIT

1 459-076-0030

2 Hearings on Denial or Discontinuance of Disability Benefit Allowances

- 3 (1) A final denial of an application for disability benefits, or any decision
4 discontinuing a previously granted disability benefit allowance may be
5 reviewed in a contested case hearing.
- 6 (2) A contested case hearing may be requested by a member by filing with the
7 Board a written request as provided for in OAR 459-001-0035.
- 8 (3) For contested case hearing requests submitted by a member employed as a
9 police officer or firefighter as defined in ORS 238A.005 to dispute the final
10 denial of a disability benefit application under ORS 238A.235:
- 11 (a) PERS must refer the case for contested case hearing no later than
12 180 days after PERS receives the member's request for a hearing
13 pursuant to OAR 459-005-0220, or, no later than 360 days after
14 the member requests the hearing if the member requests an
15 extension.
- 16 (b) If a case is not referred for a hearing within the required timeline,
17 the member prevails in disputing the final denial of the member's
18 application under ORS 238A.235.
- 19 (c) Contested case hearing extension requests must be submitted to
20 PERS in writing.
- 21 (d) A member who is eligible for OPSRP disability benefits under
22 ORS 238A.235 due to operation of the default contested case
23 deadlines remains subject to routine periodic reviews as provided
24 for in OAR 459-076-0050.
- 25 (4) The contested case hearing shall be heard before an administrative law judge
26 designated by the Office of Administrative Hearings and conducted in
27 accordance with the Attorney General's Model Rules of Procedure as
28 adopted by OAR 459-001-0005. The member may represent themselves or be
29 represented by legal counsel. An Assistant Attorney General will appear at

- 1 the hearing to assist PERS staff in presenting PERS' position, and to assist in
2 the development of a complete hearing record.
- 3 (5) The Board may deliberate and decide on final orders during regularly
4 scheduled board meetings. The Board may instead deliberate and decide at
5 any other time and place allowed by law, as determined on a case-by-case
6 basis, such as electronically or via a telephone conference.
- 7 (6) In accordance with OAR 459-001-0040, before initiating any judicial review
8 of a final order, an applicant may file with the Board a petition for
9 reconsideration.
- 10 (7) Any disputed claim concerning a disability benefit allowance or
11 discontinuance of such allowance may be voluntarily settled on a lump-sum
12 basis subject to recommendation of the assigned Assistant Attorney General
13 and final approval of the Board. Settlements approved by the Board shall be
14 paid upon receipt of a "Release and Covenant Not to Sue" signed by the
15 applicant and the applicant's attorney, if any.