

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 015 – DISABILITY RETIREMENT ALLOWANCES**

459-015-0030

Hearings on Denial or Discontinuance of Disability Retirement Allowances

- (1) A final denial of an application for disability benefits, or any decision discontinuing a previously granted disability retirement allowance may be reviewed in a contested case hearing.
- (2) A contested case hearing may be requested by a member by filing with the Board a written request as provided for in OAR 459-001-0035.
- (3) For contested case hearing requests submitted by a member last employed as a police officer or firefighter as defined in OAR 238.005 to dispute the final denial of a disability retirement application under ORS 238.320:**
- (a) PERS must refer the case for contested case hearing no later than 180 days after PERS receives the member's request for hearing pursuant to OAR 459-005-0220, or, no later than 360 days after the member requests the hearing if the member requests an extension.**
- (b) If a case is not referred for a hearing within the required timeline, the member prevails in disputing the final denial of the member's application under ORS 238.320.**
- (c) Contested case hearing extension requests must be submitted to PERS in writing.**
- (d) A member who is eligible for ORS 238 disability retirement benefits under ORS 238.320 due to operation of the default contested case deadlines remains subject to routine periodic reviews as provided for in OAR 459-015-0050.**
- [(3)] (4)** The contested case hearing shall be heard before an administrative law judge designated by the Office of Administrative Hearings and conducted in accordance with the Attorney General's Model Rules of Procedure as adopted by OAR 459-001-0005.
- The member may represent *[himself/herself]* **themselves** or be represented by legal counsel.

1 An Assistant Attorney General will appear at the hearing to assist the staff in presenting
2 its position, and to assist in the development of a complete hearing record.

3 (a) The Board *[generally deliberates]* may deliberate and decide~~[s]~~ on
4 final orders during regularly scheduled board meetings. The Board
5 may instead deliberate and decide at any other time and place allowed
6 by law, as determined on a case-by-case basis, such as electronically
7 or via a telephone conference.

8 (b) In accordance with OAR 459-001-0040, before initiating any judicial
9 review of a final order, an applicant may file with the Board a petition
10 for reconsideration.

11 (c) Any disputed claim concerning a disability retirement allowance or
12 discontinuance of such allowance may be voluntarily settled on a
13 lump-sum basis subject to recommendation of the assigned Assistant
14 Attorney General and final approval of the Board. Settlements
15 approved by the Board shall be paid upon receipt of a “Release and
16 Covenant Not to Sue” signed by the applicant and the applicant’s
17 attorney, if any.
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