

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

459-015-0045

Return to Work

(1) The Public Employees Retirement Board allows a member who is receiving a disability retirement allowance to return to work as follows:

(a) Returning to work in a PERS qualifying position. A member who was employed as other than a police officer or firefighter and who has not been medically released for any work for which qualified or a police officer or firefighter member who has not been deemed able to perform the work the member performed at the time they became disabled, may return to work in a PERS qualifying position, as defined by OAR 459-010-0003, for a 90-day trial period without losing disability retirement status. While the member is working during this trial period:

(A) The disability retirement allowance and supplemental benefits will be suspended.

(B) Any wages earned during the trial period are excluded from the definition of salary for purposes of computing PERS contributions or determining PERS retirement benefits unless the member continues the employment beyond 90 days. If the member continues beyond the 90 days, the period will be considered qualifying as of the first day the member returned to work and retroactive contributions, without interest, are required.

(b) Returning to work in a PERS non-qualifying position. A member who was employed as other than a police officer or firefighter and who has not been medically released for any work for which qualified or a police officer or firefighter member who has not been deemed able to perform the work the member performed at the time they became disabled, may return to work with a PERS participating employer in a position not qualifying for PERS active membership, as defined by OAR 459-010-0003. Unless the member has reached normal retirement age, the

1 monthly disability retirement will be adjusted by any earned income
2 issued during that month which, when added to the disability retirement
3 allowance, exceeds the gross monthly salary earned at the date of
4 disability.

5 (c) Returning to work in a non-PERS position. A member who was employed
6 as other than a police officer or firefighter and who has not been
7 medically released for any work for which qualified or a police officer or
8 firefighter member who has not been deemed able to perform the
9 work the member performed at the time they became disabled, may be
10 employed by other than a PERS participating employer in a position that is
11 not similar in compensation. Unless the member has reached normal
12 retirement age, the monthly disability retirement allowance shall be
13 adjusted by any earned income issued during that month which, when
14 added to the disability retirement allowance, exceeds the gross monthly
15 salary earned at the date of disability.

16 (d) If a member who was employed as other than a police officer or
17 firefighter and is able to generate income that is similar in compensation
18 for a period of three calendar months in six consecutive calendar months,
19 PERS shall initiate a review under the periodic review standard in OAR
20 459-015-0050.

21 (2) Termination of benefits due to medical documentation.

22 (a) *[A member's]* The disability retirement allowance for a member who
23 was employed as other than a police officer or firefighter will be
24 terminated if the member has been medically and psychologically
25 released for any work for which qualified, whether the member returns to
26 work or not, and PERS will invoice the member for, or recover under ORS
27 238.715, any overpayment of benefits.

28 (b) A police officer or firefighter member's disability retirement
29 allowance will be terminated if determined, by one or more physicians
30 selected by PERS, to be medically and psychologically able to perform
31 the work the member performed at the time the member became

disabled, whether the member returns to work or not, and PERS will invoice the member for, or recover under ORS 238.715, any overpayment of benefits.

(3) If a member returns to work as provided in section ~~[s]~~ (1) ~~[or (2)]~~ of this rule, the member must:

(a) Notify PERS in writing of the reemployment within 30 days of such reemployment; and

(b) Report monthly to PERS the amount of any earned income issued.

(4) PERS may contact other public or private agencies, such as the Oregon Employment Department, the Oregon Department of Revenue, or the U.S. Internal Revenue Service to obtain employment information.

(5) Upon request by PERS, a member must provide PERS with a copy of the member's federal income tax returns, together with copies of IRS forms: W-2 and 1099.

(6) The Board may require medical examination reports or vocational evaluations for any member receiving a disability retirement allowance who is reemployed.

(7) If the member is reemployed under section (1) of this rule and is unable to continue employment due to the disabling injury or disease as confirmed by medical documentation, the member or employer must notify PERS. If medical documentation substantiates that the disability prevents the completion of the trial period, the disability retirement allowance will be reinstated at the end of the 90 day period, or as of the date the member leaves the trial employment, whichever is sooner.

(8) A disability retirement allowance shall not be discontinued solely by reason of the retired member entering a training or vocational rehabilitation program as defined in OAR 459-015-0001(24).

(9) Restoration of member account after return to work. If a member who was employed as other than a police officer or firefighter returns to work in a PERS qualifying position after the 90-day trial period described in section (1)(a) of this rule, or is medically released at any time for any work for which they are qualified, or a police officer or firefighter member has been deemed medically

1 and psychologically able to perform the work the member performed at the
2 time they became disabled, the disability claim will be closed.

3 (a) The member's regular and variable PERS account(s) will be restored to
4 the dollar amount of the account as of the effective date of disability
5 retirement. If a variable account transfer was elected at the time of
6 disability retirement, the amounts transferred from the variable account to
7 the regular account will remain in the regular account.

8 (b) Earnings crediting will resume as of the first of the month following the
9 last month for which a disability retirement allowance was paid.

10 (10) Creditable service. A member does not receive creditable service while
11 drawing a disability retirement allowance. If, however, the member returns to
12 work for a PERS participating employer, their disability claim is closed, and they
13 subsequently retire under a service retirement, service time for the period of
14 disability will be restored as follows

15 (a) For duty disabilities, creditable service will be granted to the member at
16 no cost to the member.

17 (b) For non-duty disabilities, creditable service may be purchased by the
18 member under the provisions of ORS 238.175.

19 (11) For purposes of calculating retirement credit accrued under ORS 238.175,
20 the period of disability for a member who receives workers' compensation
21 payments under ORS Chapter 656 and later returns to work with a PERS
22 participating employer shall be deemed to end upon the earlier of:

23 (a) The date on which the member's workers' compensation payments end; or

24 (b) The date on which the member returns to work with a PERS participating
25 employer.

26
27