

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

1   **459-076-0005**

2   **Eligibility for Disability Benefits**

3    (1) **Eligibility Standards:**

4       **(a) A member who was employed as other than a police officer or**  
5       **firefighter** must be totally, not partially, disabled and unable to perform  
6       any work for which qualified for an extended duration to be eligible for a  
7       disability benefit.

8       **(b) A member who was employed as a police officer or firefighter as**  
9       **defined in ORS 238A.005 must be unable to perform the work the**  
10       **member performed at the time the member became disabled for an**  
11       **extended duration to be eligible for a disability allowance.**

12       **(A) This standard applies to members applying for disability**  
13       **benefit who were last employed in a qualifying position as a**  
14       **police officer or firefighter.**

15       **(B) This standard is applicable to duty and non-duty disability**  
16       **applications under ORS 238A.235.**

17       **(C) For members who are concurrently employed by two or**  
18       **more employers in qualifying positions as a police officer or**  
19       **firefighter and as other than a police officer or firefighter,**  
20       **the “work performed at the time the member became**  
21       **disabled” standard only applies to the qualifying position**  
22       **worked as a police officer or firefighter member.**

23    (2) A member with disabilities arising after the member’s date of termination from a  
24       qualifying position(s) is not eligible for a disability benefit.

25    (3) In determining a member’s eligibility for disability benefits, the burden of proof is  
26       upon the applicant. The Board is not required to prove whether the applicant is or  
27       is not eligible for disability benefits.

28    (4) Eligibility requirements for duty disabilities.

29       (a) To be eligible for a duty disability a member must prove:

- 1 (A) The mental or physical incapacitation arose out of and in the  
2 course of duty and was not intentionally self-inflicted; and
- 3 (B) The on the job injury must be the material contributing cause of  
4 the disability, even if the member has a pre-existing condition.
- 5 (b) For work related stress to be considered the material contributing cause of  
6 the disability all of the following criteria must be met:
- 7 (A) The employment conditions producing the work related stress  
8 exist in a real and objective sense;
- 9 (B) The employment conditions producing the work related stress  
10 are conditions other than conditions generally inherent in every  
11 working situation or reasonable disciplinary, corrective or job  
12 performance evaluation actions by the employer, or cessation of  
13 employment or employment decisions attendant upon ordinary  
14 business or financial cycles;
- 15 (C) There is a diagnosis of a mental or emotional disorder which is  
16 generally recognized in the medical or psychological  
17 community; and
- 18 (D) There is evidence that the work related stress arose out of and in  
19 the course of employment.
- 20 (5) Eligibility requirements for non-duty disabilities. A member applying for non-  
21 duty disability benefits must meet the 10 or more years of service requirements  
22 pursuant to ORS 238A.235(2)(a) or (b).
- 23 (6) Termination of OPSRP membership. Disability benefits are available only to  
24 OPSRP Pension Program members who have not terminated membership  
25 pursuant to ORS 238A.110.
- 26 (7) Return to work. If a member who is receiving a disability benefit becomes  
27 employed or receives earned income in any month in an irregular or  
28 unpredictable manner that exceeds 10 percent of the monthly salary of the  
29 member determined as of the last full month of employment before the  
30 disability commenced, the member's disability benefit will be terminated,  
31 effective the first of the month following employment or issuance of earned

1 income. PERS will invoice the member for, or recover under ORS 238.715, any  
2 overpayment of benefits.

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

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

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