

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 050 – DEFERRED COMPENSATION**

1 **459-050-0077**

2 **Loan Program**

3 (1) Definitions. For purposes of this rule:

4 **(a) “Automated Clearing House (ACH)” means an electronic funds transfer system**
5 **that enables the transfer of funds between financial institutions through a centralized**
6 **network, used for the purpose of processing loan repayments from a participant’s**
7 **designated financial account.**

8 **(b[a])** “Cure period” is that time from when a default occurs until the end of the quarter
9 following the quarter in which the default occurred.

10 **(c[b])** “Deferred Compensation Account” means the account described in OAR 459-050-
11 0001, but does not include any amount in the Self-Directed Brokerage Option.

12 **(d[c])** “Designated Roth Account” means the account described in OAR 459-050-0001, but
13 does not include any amount in the Self-Directed Brokerage Option.

14 **(e[d])** “Loan balance” means the outstanding principal and accrued interest due on the
15 loan.

16 **(f[e])** “Participant Loan” means a loan that affects the Deferred Compensation Account,
17 Designated Roth Account, or a combination of both, of a participant.

18 **(g[ff])** “Promissory note” means the agreement of loan terms between the Program and a
19 participant. **A promissory note may include authorization for repayment by payroll**
20 **deduction or by automatic electronic funds transfer through an Automated Clearing**
21 **House (“ACH”)**

22 **(h[g])** “Third Party Administrator (TPA)” means the entity providing record keeping and
23 administrative services to the Program.

24 (2) Eligibility for loan. Participants who are currently employed by a Plan Sponsor that has
25 agreed to participate in a Participant Loan program are eligible for a Participant Loan.
26 Retired participants, participants separated from employment, designated beneficiaries, and
27 alternate payees are not eligible.

28 (3) Application for loan: A participant must apply for a loan and meet the requirements set
29 forth in this rule.

1 (a) Once a loan is approved, a participant must execute a promissory note in the form
2 prescribed by the Program.

3 (b) If a participant is deceased before the disbursement of the proceeds of a loan, the
4 participant's loan application shall be void as of the date of death.

5 (4) Loan Types:

6 (a) General purpose loan — a loan not taken for the purpose of acquiring a principal
7 residence. General purpose loans must be repaid over a non-renewable repayment period of
8 up to five years.

9 (b) Residential loan — a loan made for the purpose of acquiring a principal residence,
10 which is, or within a reasonable time shall be, the principal residence of the participant.
11 Residential loans must be repaid over a non-renewable repayment period of up to 15 years.
12 A refinancing does not qualify as a residential loan. However, a loan from the Program that
13 will be used to repay a loan from a third party will qualify as a residential loan if the loan
14 would qualify as a residential loan without regard to the loan from the third party.

15 (5) Interest Rate: The rate of interest for a loan shall be fixed at one percent (1%) above the
16 prime interest rate as published by the Wall Street Journal on the last business day of the
17 month before the month in which the loan is requested.

18 (6) Loan Fees: A loan fee of \$75.00 shall be assessed when the loan is approved. The fee
19 shall be deducted from a participant's deferred compensation account on a pro-rata basis
20 from existing investments.

21 (7) Loan Limitations:

22 (a) The maximum loan amount is the lesser of:

23 (A) \$50,000; or

24 (B) One-half of the combined value of the participant's Deferred Compensation Account
25 and the Designated Roth Account on the date the loan is made.

26 (b) The minimum loan amount is \$1,000.

27 (c) A participant may only have one outstanding loan.

28 (d) A participant who has received a loan may not apply for another loan until *[12 months*
29 *from the date]* the previous loan was paid in full.

1 **(e) No loan may be issued to a participant if the participant has any Participant Loan**
2 **that has been treated as a deemed distribution under section (11) of this rule and that**
3 **has not been repaid or cancelled.**

4 (8) Source of Loan: The loan amount will be deducted from a participant's Deferred
5 Compensation Account, Designated Roth Account, or a combination of both.

6 (a) Loan amounts will be deducted first from the Deferred Compensation Account.

7 (b) Loan amounts will be deducted pro-rata from existing investments in a participant's
8 account(s).

9 (c) A participant may not transfer a loan to or from another retirement or deferred
10 compensation plan.

11 (9) Repayment Terms: The loan amount will be amortized over the repayment period of the
12 loan with interest compounded daily to calculate a level payment for the duration of the
13 loan.

14 (a) **A participant may elect loan payments by payroll deduction or by automatic**
15 **electronic transfer through ACH authorization.** *[Loan payments must be made by*

16 *payroll deduction.]* To receive a loan from the Program a participant must enter into a
17 payroll deduction agreement **or, if electing ACH repayment, execute an ACH**

18 **authorization agreement.** For the purposes of this rule, a promissory note or other
19 document that includes the payroll deduction amount **or ACH transfer amount** and is

20 signed by a participant as a requirement to obtain a loan may be a payroll deduction
21 agreement **or ACH authorization agreement.** Except as provided in this rule, a

22 participant may not submit a loan payment directly to the Program or the Third Party
23 Administrator.

24 (b) A participant is responsible for loan repayment even if the employer fails to deduct or
25 submit payments as directed under the payroll deduction agreement **or if a scheduled**

26 **payment is not completed under an ACH authorization.** To avoid defaulting on a loan
27 **due to a missed or failed payment, the participant must cure the payment by**

28 **submitting it in a form and manner acceptable to the Program or the Third Party**
29 **Administrator, including but not limited to ACH resubmission, money order, or**

30 **certified check.** *[by reason of the employer's failure to deduct or submit a payment a*

1 *participant may submit a loan payment by sending a money order or certified check to the*
2 *Third Party Administrator.]*

3 **(c) The Program or TPA may reinitiate returned ACH debits in accordance with**
4 **NACHA operating rules and Program procedures.**

5 **(d/c)** A participant may repay the loan balance in a single payment at any time before the
6 date the final loan payment is due.

7 **(e/d)** Partial payment of a scheduled payment and partial prepayment or advance payment
8 of future payments may not be permitted.

9 **(f/e)** Loan payments will be allocated in a participant's account(s) in the same manner as
10 the participant's current contribution allocation. If, for any reason, the allocation is not
11 known, the payment will be allocated to the Stable Value Option.

12 **(g/f)** Any overpayment will be refunded to the participant.

13 (10) Leave of Absence. Terms of outstanding loans are not subject to revision except as
14 provided in this section.

15 (a) Loan payments may be suspended up to one year during an authorized leave of absence
16 if a participant's pay from the employer does not at least equal the payment amount.

17 (A) Interest on a loan continues to accrue during a leave of absence.

18 (B) A participant must immediately resume payments by payroll deduction **or ACH** upon
19 return to work.

20 (C) The loan balance will be re-amortized upon the participant's return to work to be repaid
21 within the remaining loan repayment period.

22 (D) Loan payments may be revised to extend the remaining loan repayment period to the
23 maximum period allowed in the event the loan originally had a term shorter than the
24 maximum period allowed under section (4) of this rule.

25 (E) If a participant is on a leave of absence that exceeds one year, the loan shall be in
26 default unless repayment begins one year from the participant's last date worked or the date
27 the final payment is due under the promissory note, whichever is earlier.

28 (b) Military Leave. Loan payments for participants on military leave may be suspended for
29 the period of military service.

30 (A) A leave of absence for military service longer than one year will not cause a loan to be
31 in default.

1 (B) Loan payments by payroll deduction or ACH must resume upon the participant's
2 return to work.

3 (C) The original repayment period of a loan will be extended for the period of military
4 service or to the maximum repayment period allowed for that type of loan, whichever is
5 greater.

6 (D) Interest on a loan continues to accrue during a leave of absence for military service. If
7 the interest rate on the loan is greater than 6%, then under the provisions of the
8 Servicemembers Civil Relief Act of 2003, the rate shall be reduced to 6% during the period
9 of military service.

10 (E) The loan balance will be re-amortized upon the participant's return to work to be repaid
11 within the remaining loan repayment period as determined under paragraph (C) of this
12 subsection.

13 (c) A participant on an authorized leave of absence or military leave may submit loan
14 payments in a form and manner acceptable to the Program or the Third Party
15 Administrator, including but not limited to electronic payment, money order, or
16 certified check. *[by sending a money order or certified check to the Third Party*
17 *Administrator.]*

18 (11) Tax Reporting.

19 (a) The loan balance of a general purpose loan will be reported as a taxable distribution to
20 the participant on the earlier of the last day of the loan repayment period, as adjusted under
21 paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in default, the
22 last day of the cure period.

23 (b) The loan balance of a residential loan will be reported as a taxable distribution to the
24 participant on the earlier of the last day of the loan repayment period, as adjusted under
25 paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in default, the
26 last day of the cure period.

27 (c) If a participant dies before the loan balance being repaid, and the participant's
28 beneficiary does not repay the loan balance in a single payment within 90 days of the
29 participant's death, the loan balance will be reported as a taxable distribution to the estate
30 of the participant.

1 (d) If a participant is eligible to receive a distribution under the Program, the reporting of a
2 loan balance as a taxable distribution under this section will cancel the loan at the time the
3 taxable distribution is reported. A canceled loan is a distribution and is no longer
4 outstanding in a participant's account.

5 (e) If a participant is not eligible to receive a distribution under the Program, a loan balance
6 reported as a taxable distribution under this section will be a deemed distribution for tax
7 reporting purposes. A loan deemed distributed may not be canceled until the loan balance
8 is repaid or the participant becomes eligible to receive a distribution. The loan balance will
9 remain outstanding in the participant's account and will continue to accrue interest until
10 repaid or canceled.

11 (12) Default.

12 (a) A loan is in default if a payment is not paid as scheduled or under any of the provisions
13 set forth in this rule, the promissory note, or any related loan agreement.

14 (b) A loan is in default if the participant separates from employment with the plan sponsor
15 that administers the loan payment payroll deductions **and does not continue repayment**
16 **through ACH.**

17 (c) If a participant with a loan in default resumes loan payments by payroll deduction **or**
18 **ACH** before the end of the cure period, the default will be cured. The participant must pay
19 any missed payments and accrued interest before the end of the loan repayment period.

20 (d) Except as provided in subsection (c) of this section, if the participant does not cure a
21 default *[by repaying the loan balance]* before the end of the cure period, the loan balance
22 will be reported as a taxable distribution to the participant as provided in section (11) of
23 this rule.

24 (13) Notwithstanding any other sections of this rule, a participant who self-certifies through
25 a process provided by the Deferred Compensation Program as a "qualified individual" as
26 that term is defined in the Coronavirus Aid, Relief, and Economic Security Act of 2020,
27 will have any repayment due date between March 27 and December 31, 2020 delayed for
28 one year.

29 (a) A qualified individual means an individual:

30 (A) Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019
31 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

1 (B) Whose spouse or dependent (as defined in section 152 of the Internal Revenue Code of
2 1986) is diagnosed with such virus or disease by such a test; or
3 (C) Who experiences adverse financial consequences as a result of being quarantined,
4 being furloughed or laid off or having work hours reduced due to such virus or disease,
5 being unable to work due to lack of child care due to such virus or disease, closing or
6 reducing hours of a business owned or operated by the individual due to such virus or
7 disease, or other factors as determined by the Secretary of the Treasury (or the Secretary's
8 delegate).
9 (b) Interest will continue to accrue on the outstanding balance of the loan during the period
10 of repayment delay.

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Statutory/Other Authority: ORS 243.470

Statutes/Other Implemented: ORS 243.401–243.507 & Pub. L. No. 116-136

History:

[PERS 3-2022, amend filed 03/28/2022, effective 03/28/2022](#)

[PERS 13-2020, amend filed 07/31/2020, effective 07/31/2020](#)

[PERS 7-2020, temporary amend filed 05/29/2020, effective 05/29/2020 through 11/24/2020](#)

PERS 11-2014, f. & cert. ef. 7-25-14

PERS 10-2012, f. & cert. ef. 5-24-12

PERS 6-2011, f. & cert. ef. 8-4-11

PERS 8-2007, f. & cert. ef. 7-26-07

PERS 4-2007, f. 1-23-07, cert. ef. 5-1-07