



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459
OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM

FILED

12/03/2025 1:54 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update to rule 459-005-0220

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2026 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/20/2026

TIME: 2:00 PM

OFFICER: Joel Mellor

IN-PERSON HEARING DETAILS

ADDRESS: PERS Headquarters Boardroom, 11410 SW 68th Parkway, Tigard, OR 97223

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-300-4342

CONFERENCE ID: 447494203

SPECIAL INSTRUCTIONS:

Meeting ID: 223 481 961 128 48

Passcode: NX7fS7yD

NEED FOR THE RULE(S)

Receipt dates play an important role in determining the timeliness of filings and the validity of documents, including in appeals, contested case hearings and disputes. OAR 459-005-0220 explains how PERS determines when various types of submissions (i.e., a report, document, remittances, payments, data submissions, and other requests) are received by PERS.

Under the current rule, once PERS staff notify members and employers that a required submission was not timely received, the member or employer has 30 days to submit a claim that the submission was deposited for delivery or transmission on or before the date due for filing, and was correctly addressed to PERS, and request that it be considered timely received.

Some members who file an appeal, contested case hearing, or dispute miss this 30-day deadline because they mistakenly believe that the appeal, hearing or dispute deadlines also apply to lost or delayed transmission claims as part

of the appeal, hearing or dispute process.

The proposed rule extends the deadline to submit a lost or delayed transmission claim to align with potentially conflicting deadlines that apply to an appeal, contested case hearing, or dispute. This ensures that the member or employer is not time-barred from submitting evidence that could be relevant to their underlying appeal, hearing or dispute.

The second proposed amendment addresses some technical aspects of what information is shown on a fax transmission. It defines "transmission data," and clarifies that the receipt date for a document received via fax transmission shall be deemed the date reflected by the transmission data that is automatically generated by the fax machine or fax server and embedded on the fax transmission (file or document) or the imaged date of the fax. It also clarifies that metadata from the sender's fax machine/electronic device, or fax/email server showing the date and time that the fax or email was transmitted by the sender, may be submitted to support a lost or delayed transmission claim.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 238.650 & ORS 238A.450

These documents are available on the Internet at: https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Adoption of the rule will not affect racial equity.

FISCAL AND ECONOMIC IMPACT:

There are no discrete costs attributable to the rules.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The rules do not affect small businesses and therefore small businesses were not involved in the development of the rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A public hearing will be held and the PERS Board solicits input on rules from any interested or affected parties.

AMEND: 459-005-0220

RULE SUMMARY: Update rule to clarify data used to determine when a lost in transmission file is checked.

CHANGES TO RULE:

459-005-0220

Receipt Date for Reports, Documents, Remittances, Payments, Data, and Requests ¶¶

(1) As used in this rule:¶¶

(a) "Imaged date" means the date on which a report, document, remittance, or payment is imaged and stored

electronically to a dedicated network server.¶

(b) "OMS" means PERS' Online Member Services.¶

(c) "Online submission date" means the date on which data or a request successfully submitted through OMS is saved to PERS' system.¶

(d) "Private express carrier" has the same meaning as in ORS 293.660(2).¶

(e) "Settlement date" means the date on which the participating Depository Financial Institution (DFI) or its correspondent is scheduled to be debited or credited by the Federal Reserve.¶

(f) "Transmission data" means details such as the sender and receiver's fax numbers or email addresses, the time and date of transmission, the duration of transmission, the number of pages sent, and whether the transmission was successful.¶

(2) If the due date of a report, document, remittance, or payment falls on a weekend or legal holiday, the due date is deemed to be the next business day.¶

(3) Except as otherwise provided in this rule, any report, document, or remittance required by PERS shall be deemed filed and received on the date of the receipt ~~stamp~~recorded, stamped or affixed to the report, document, or remittance when received by PERS. ¶

(a) In the case of a check or cash submission, the payment shall be deemed filed and received on the date recorded in PERS' daily cash receipts log or check log.¶

(b) In the case of a fax transmission, the document shall be deemed filed and received on the receipt date as reflected by the transmission data that is automatically generated by the fax machine or fax server and embedded on the fax transmission or the imaged date of the fax, unless the sender submits evidence that meets the requirements of subsection (5) that the fax transmission was sent earlier. ¶

(4) Except as otherwise provided in this rule, any report, document, remittance, or payment that does not display a PERS receipt record, stamp, or affixation, or has not been recorded in PERS' daily cash receipts log or check log, shall be deemed filed and received on the imaged date. If the imaged date, cash receipts, log date, or check log date is later than the due date, the report, document, remittance, or payment shall be deemed filed and received one business day before the imaged date, cash receipts log date, or check log date.¶

(5) Any report, document, remittance, payment, data, or request required by PERS which is lost or delayed in transmission, shall be deemed filed and received on the date it was mailed or deposited for transmittal to USPS or a private express carrier, or the date it was transmitted by fax, email, or OMS if the sender:¶

(a) Can establish by evidence satisfactory to PERS that the report, document, remittance, payment, data, or request was deposited for delivery or transmission on or before the date due for filing, and was correctly addressed to PERS.¶

(A) Evidence satisfactory to PERS for USPS or a private express carrier may include, but is not limited to, documentation provided by USPS or the private express carrier, such as a receipt or delivery confirmation.¶

~~(B) Evidence satisfactory to PERS for a fax communication or email transmission that is lost in or email~~
transmission may include, but is not limited to, an affidavit by the sender verifying that the fax or email was correctly addressed and sent to PERS, together with a copy of any transmission data, activity report, or metadata from the sender's fax ~~or machine~~, electronic device, or fax/email server showing the date and time that the fax or email was transmitted by the sender, and a duplicate of the original report or document.¶

~~(C) Evidence satisfactory to PERS for an OMS submission that is lost in transmission~~ may include, but is not limited to, an affidavit by the member verifying that the member submitted the data through OMS, together with a printout of the confirmation message displayed on the member's screen that the online submission was successful.¶

(b) Files with PERS a duplicate of the lost or delayed report, document, remittance, payment, data, or request in accordance with the transmittal requirements of OAR 459-005-0210 or 459-005-0215; and¶

(c) Satisfies the requirements of subsections (a) and (b) of this section ~~w:~~¶

(A) Within 30 days after PERS notifies the sender in writing of failure to receive the report, document, remittance, or payment; or¶

(B) By the due date for filing a request for review under OAR 459-001-0030, OAR 459-001-0032, OAR 459-001-0035, or dispute under ORS 238.285 or ORS 238.450, whichever is later.¶

(6) An electronic funds transfer (EFT) shall be deemed received on the settlement date of the transfer. A settlement date specified by an employer for an EFT shall be no later than the due date specified by PERS for a remittance or a payment.¶

(7) Any report or document that PERS accepts by e-mail transmission as specified in OAR 459-005-0210(5), which is transmitted by e-mail to any office of PERS shall be deemed received as of the system-generated date and time stamp that is displayed on the email header line of the email that is received by PERS.¶

(8) An electronic submission of data made through OMS shall be deemed received on the online submission date.¶

(9) A report, document, or data transmitted by fax, e-mail, or OMS must be transmitted in accordance with the provisions of this rule and OAR 459-005-0215, and must be received by PERS before midnight on the due date.¶

(10) When transmitting a report, document, or data by fax, e-mail, or OMS, the sender bears the risk of failure of the transmission.

Statutory/Other Authority: ORS 238.650, ORS 238A.450

Statutes/Other Implemented: ORS 238, ORS 238A