



Oregon

Kate Brown, Governor

Public Employees Retirement System

Headquarters:
11410 S.W. 68th Parkway, Tigard, OR
Mailing Address:
P.O. Box 23700
Tigard, OR 97281-3700
(503) 598-7377
TTY (503) 603-7766
www.oregon.gov/pers

May 27, 2016

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Withdrawal Rules:
OAR 459-005-0001, *Definitions, Generally*
OAR 459-075-0020, *Withdrawal from OPSRP Pension Program*
OAR 459-080-0020, *Withdrawal of Individual Accounts*

OVERVIEW

- Action: Adopt modifications to the Withdrawal rules.
- Reason: Modify definition of “effective date of withdrawal” to reduce incidents of mandatory repayment, clarify items required to process a withdrawal, and housekeeping edit to definition of “effective date of retirement” to include OPSRP Pension Program reference.
- Policy Issue: No policy issues were identified.

BACKGROUND

A vested, inactive member of the Oregon Public Service Retirement Plan (OPSRP) Pension Program may withdraw from the program under ORS 238A.120. Upon withdrawal, the member receives the actuarial equivalent of their benefit in a lump sum. To withdraw from the OPSRP Pension Program, the member must be separated from all PERS covered employment, and the actuarial equivalent of their pension benefit must be less than \$5,000. To determine the actuarial equivalent of their pension benefit, a calculation is performed using the member’s age at the time of the withdrawal and the actuarial equivalency factor adopted by the PERS Board.

Submission of Last Completed Document Required from the Member/Proof of Age

The definition of “effective date of withdrawal” in OAR 459-005-0001, which applies to all programs, currently states:

“Effective date of withdrawal” means the later of:

- (a) The first day of the calendar month in which PERS receives the last completed document required from a member who requested a withdrawal; or
- (b) The first day of the second calendar month following the calendar month in which the member terminated employment with all participating employers and all employers in a controlled group with a participating employer.

When this definition was adopted, proof of age was not required¹. In 2012, PERS started to require that OPSRP Pension Program members present documentation to verify their age as part of the withdrawal process but did not amend corresponding administrative rules to reflect the change in practice. This created some confusion as to whether the proof of age was a required “completed document” or was merely part of the withdrawal process.

An OPSRP member providing their proof of age after the withdrawal application has been submitted is not uncommon. If the “effective date of withdrawal” does not occur by rule until the proof of age is received (i.e., the proof of age is required to consider the application a “completed document”), a mandatory repayment could be triggered if the member has subsequently returned to work with a participating employer prior to PERS’ receiving the member’s proof of age to complete the application.

Modifying the definition clarifies that the “effective date of withdrawal” is to be based on receipt of the completed application only; if proof of age is required and not submitted until later, the effective date will still be the date of the application. To further clarify, the modification to OAR 459-075-0020 reflects PERS’ practice and states that PERS will not process the withdrawal payment until proof of age is received.

Department of Motor Vehicles (DMV) Access

PERS is able to verify proof of age through DMV records for persons with a valid Oregon driver license, permit, or identification card. Because the DMV’s documentation process meets PERS’ standards for proof of age, we will accept information obtained from the DMV as proof of age as required in OAR 459-075-0020(7). For those members whose age cannot be verified through the DMV, the member must submit a valid proof of age before their withdrawal will be processed.

Cancellation If Required Items Not Submitted Within 180 Days of Application Submission

Further rule modifications would allow PERS to cancel the member’s withdrawal application if required items are not submitted within 180 days after submitting their withdrawal application. This has been our practice and is explained in the withdrawal application packet instructions. If cancelled, members may resubmit their application so long as they remain separated from PERS-covered employment.

Impact of “Withdraw From One, Withdraw From All”

Statute requires that a member who withdraws from the OPSRP Pension Program also withdraw from the IAP. IAP withdrawals are processed simultaneously with OPSRP Pension withdrawals, so these rule modifications reference that the OPSRP Pension withdrawal documentation requirements also pertain to an IAP withdrawal application. Consequently, if an OPSRP Pension member’s withdrawal is delayed or canceled because the required items are not timely submitted, then their IAP withdrawal will be similarly impacted.

¹ There is no change to Tier One or Tier Two member account withdrawals because they do not require “proof of age” documentation.

SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

The modifications to use the term “terminated” instead of “separated” were removed in order to be consistent with statute and to avoid any unnecessary confusion. The term “separated” appears in OAR 459-075-0020 paragraphs (2), (6), (7), and (9).

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held April 26, 2016, at 2:30 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period ended May 3, 2016, at 5:00 p.m. No public comment was received.

LEGAL REVIEW

The attached draft rules were submitted to the Department of Justice for legal review and any comments or changes are incorporated in the rules as presented for adoption.

IMPACT

Mandatory: No.

Impact: Reduces incidents of mandatory repayment and provides further clarification of the OPSRP Pension Program withdrawal process. Promotes administrative efficiency.

Cost: There are no discrete costs attributable to the rules.

RULEMAKING TIMELINE

| | |
|----------------|--|
| March 15, 2016 | Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State. |
| March 28, 2016 | PERS Board notified that staff began the rulemaking process. |
| April 1, 2016 | <i>Oregon Bulletin</i> published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began. |
| April 26, 2016 | Rulemaking hearing held at 2:30 p.m. at PERS in Tigard. |
| May 3, 2016 | Public comment period ended at 5:00 p.m. |
| May 27, 2016 | Board may adopt the permanent rule modifications. |

BOARD OPTIONS

The Board may:

1. Pass a motion to “adopt modifications to the Withdrawals rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

STAFF RECOMMENDATION

Staff recommends the Board choose Option #1.

Adoption – Withdrawals

05/27/16

Page 4 of 4

- Reason: Modify definition of “effective date of withdrawal” to reduce incidents of mandatory repayment, clarify items required to process a withdrawal, and housekeeping edit to definition of “effective date of retirement” to include OPSRP Pension Program reference.

If the Board does not adopt: Staff would return with rule modifications that more closely fit the Board’s policy direction if the Board determines that a change is warranted.

B.4. Attachment 1 – OAR 459-005-0001, *Definitions, Generally*

B.4. Attachment 2 – OAR 459-075-0020, *Withdrawal from OPSRP Pension Program*

B.4. Attachment 3 – OAR 459-080-0020, *Withdrawal of Individual Accounts*