Adoption: 03/28/2022
Filed/Effective: 03/28/2022

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

459-050-0080
Distribution of Funds After a Severance of Employment
The purpose of this rule is to establish the criteria and process for obtaining a distribution of deferred compensation funds after a participant's severance of employment as defined herein. Distribution under the Deferred Compensation Program shall be made in accordance with any minimum distribution or other limitations required by Internal Revenue Code (IRC) section 401(a)(9), 26 U.S.C. 401(a)(9) and related regulations.
(1) Definitions. The following definitions apply for the purpose of this rule:
(a) "Commencement date" means the month and year that a participant will begin receiving a distribution(s) from the Deferred Compensation Program, whether by operation of the participant's election or under the terms of the plan. The commencement date is not the date that the necessary funds are liquidated for distribution.
(b) "Date of distribution" means the date funds are distributed to the participant, alternate payee, beneficiary, or other recipient in accordance with the plan, regardless of the mechanism by which those funds are distributed.
(c) "Intention to return to work" means a written or oral, formal or informal agreement has been made with the plan sponsor to return to work on a full time, part time or temporary basis at the time the severance is effective. If a participant returns to work with the plan sponsor within 30 calendar days of severance, then a rebuttable presumption exists that the participant intended to return to work as of the date of severance.
(d) "Liquidation date" means the date the Deferred Compensation Program designates for liquidation of funds. Generally, the liquidation date will not be earlier than the 25th day of the calendar month preceding the commencement date. The Deferred Compensation Program may determine the liquidation date based on normal business practices. The Deferred Compensation Program is not liable to a participant for failure to liquidate an investment on a specified date.
(e) "Liquidation of funds" means the conversion of the necessary funds from the investments in the Deferred Compensation Program into cash for payment under a specified manner of distribution.
(f) "Manner of distribution" means the manner elected by the participant, alternate payee, or beneficiary in accordance with the terms of the plan, in which a distribution is to be paid out of the Deferred Compensation Program.
(g) "Required beginning date" means April 1 of the calendar year following the later of:
(A) The calendar year in which the participant reaches 70-1/2 years of age if the participant was born before July 1, 1949, or age 72 if the participant was born after June 30, 1949; or
(B) The calendar year in which the participant retires.
(h) "Severance of Employment" means a participant has ceased rendering services as an employee or an independent contractor of a plan sponsor for a minimum of 30 consecutive days, including services as a temporary employee, and has no intention to return to work for the plan sponsor.
(2) Manner of distribution. Subject to the provisions of sections (3) through (5) set out below, a participant, surviving beneficiary, or alternate payee may elect a manner of distribution, designate one or more beneficiaries, and change beneficiaries at any time. The total amount

distributed may not exceed the total account value. The following manners of distribution are available:
(a) Total distribution of the account value in a lump sum;
(b) Single distribution of a portion of the account value in a lump sum. Funds not distributed shall continue to receive earnings or losses based on the performance of investment option(s) in which funds are held;
(c) Systematic withdrawal distribution for a specific number of years, which may be paid annually, semiannually, quarterly or monthly. Any funds remaining after each periodic payment shall continue to receive earnings or losses based on the performance of investment option(s) in which the funds are held. The remaining number of periodic distributions may not change. However, the amount of distributions shall be adjusted depending on the earnings or losses experienced;
(d) Periodic specified dollar amount distribution. This distribution may be paid annually, semiannually, quarterly or monthly, and may be paid in specific dollar amounts in $200 increments. Any funds remaining after each periodic payment shall continue to receive earnings or losses based on the performance of investment option(s) in which the funds are held. The amount of each periodic distribution will remain the same throughout the withdrawal period. However, the withdrawal period may vary depending on the earnings or losses experienced;
(e) Required minimum distribution, which will provide an annual distribution of the minimum amount required in IRC section 401(a)(9), 26 U.S.C. 401(a)(9). This manner of distribution is available only to those who defer distribution to age 70-1/2 [years of age] if the participant was born before July 1, 1949, or age 72 if the participant was born after June 30, 1949 (no later than April of the year following the year reaching 70-1/2 years of age or 72 years of age) or a participant who continues to work and severs employment after 70-1/2 years of age if the participant was born before July 1, 1949, or age 72 if the participant was born after June 30, 1949. Funds not distributed shall continue to receive earnings or losses based on the performance of investment option(s) in which funds are held; or
(f) Mandatory single lump-sum distribution of an account balance of less than $1,000. This distribution shall be made to any participant or alternate payee with an account balance of less than $1,000 within one year of the participant's severance of employment.
(3) Application Requirements. Application shall be made on forms provided by, or other methods approved by, the Deferred Compensation Program. No distribution may be paid unless a timely and complete application is filed with the Deferred Compensation Program as follows:
(a) An application for distribution or to change the manner of distribution will be considered filed in a timely manner if it is received in writing or other method approved by the Deferred Compensation Program at least 30 days before the requested commencement date. The commencement date may be no earlier than the second calendar month following the month of severance of employment.
(b) An application for distribution or to change the manner of distribution may be made by a participant, surviving beneficiary, or alternate payee or the authorized representative of a participant, surviving beneficiary or alternate payee. A valid document appointing an authorized representative such as a power of attorney, guardianship or conservatorship appointment, must be submitted to the Deferred Compensation Program. The Deferred Compensation Program retains the discretion to determine whether the document is valid for purposes of this rule.
(c) Except in the case of a qualified distribution as defined in section 402A(d)(2) of the Internal Revenue Code, the participant, surviving beneficiary, or alternate payee must file a tax-

withholding certificate with the Deferred Compensation Program at least 30 days before the requested commencement date. If the certificate is not filed, the Deferred Compensation Program shall withhold state income taxes based on a marital status of single and no dependents and federal income taxes based on a marital status of married and 3 dependents, or other federally mandated tax withholding requirements. A new certificate may be filed at any time, and will be applied to distributions paid on and after the first calendar month following the date received or as soon as reasonably possible.
(d) When direct deposit is permitted under the Deferred Compensation Program, a request for periodic distributions to be transmitted to a financial institution for direct deposit must be made using a Deferred Compensation Program Automatic Deposit Agreement.
(e) Distribution of deferred compensation funds will occur no later than five days following the date funds necessary for a specified payment were liquidated. Liquidation of funds will be done on a pro-rata basis determined by the investment allocation of an account at the time the funds are liquidated or from the Stable Value account, at the participant's election. The election must be filed before the participant begins receiving distributions. If the participant elects distribution from the Stable Value account and there are insufficient funds in that account on the date of each distribution (whether monthly, quarterly, semi-annually, or annually), the distribution will be done on the pro-rata basis described above regardless of the participant’s election.
(4) Denial of distribution election. The Deferred Compensation Program may deny any distribution election if that denial is required to maintain the status of the Deferred Compensation Program under the Internal Revenue Code and regulations adopted pursuant to the Internal Revenue Code and ORS Chapter 243.
(5) Changing the manner of distribution. A participant, surviving beneficiary or alternate payee may change or discontinue the manner of distribution only as follows and subject to the requirements of section (3) above:
(a) Manners of distribution under sections (2)(c), (2)(d) and (2)(e) of this rule may be changed at any time upon application as required under section (3) of this rule.
(b) Distributions under sections (2)(c) and (2)(d) of this rule may be discontinued upon written notification or by other methods approved by the Deferred Compensation Program. The participant, surviving beneficiary, or alternate payee must submit an application, as required in section (3) of this rule, to restart distributions and elect a manner of distribution for the remaining account.
(c) Subject to the requirements of this rule, a participant, surviving beneficiary or alternate payee who has commenced receiving a required minimum distribution may apply under the requirements of section (3) of this rule:
(A) For one or more additional distributions in a lump sum not to exceed the total value of the account; and
(B) To change the manner of distribution so long as future distributions will be continuous and equal to or greater than the minimum distribution required.

Stat. Auth.: ORS 243.470
Stats. Implemented: ORS 243.401–243.507, OL 2007 Ch. 54 & Pub. L. No. 116-136