

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 005 – ADMINISTRATION**

459-005-0560

Required Minimum Distributions, Generally

(1) Applicable Law. Distributions under the Public Employees Retirement System (PERS) shall be made in accordance with Internal Revenue Code (IRC) Section 401(a)(9), including IRC Section 401(a)(9)(G), and the Treasury Regulations and Internal Revenue Service rulings and other interpretations issued thereunder, including Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9. The provisions of this administrative rule and any other statute or administrative rule reflecting the required minimum distribution requirements of IRC Section 401(a)(9) shall override any distribution options that are inconsistent with IRC Section 401(a)(9).

(2) Distributions to Members. Each member's entire benefit under PERS shall be distributed to the member, beginning no later than the required beginning date, over the member's lifetime (or the joint lives of the member and a designated beneficiary), or over a period not extending beyond the member's life expectancy (or the joint life expectancies of the member and a designated beneficiary).

(a) Required Beginning Date. For purposes of this section, the "required beginning date" is April 1 of the calendar year after the later of the following:

(A) The calendar year in which the member reaches age 70 1/2 years of age if the member was born before July 1, 1949, or age 72 if the member was born after June 30, 1949; or

(B) The calendar year in which the member retires.

(b) Designated Beneficiary. For purposes of this section, a "designated beneficiary" means any individual designated as a beneficiary by the member. If the member designates a trust as a beneficiary, the individual beneficiaries of the trust shall be treated as designated beneficiaries if the trust satisfies the requirements set forth in Treasury Regulation Section 1.401(a)(9)-4.

(c) Calculation of Life Expectancies. For purposes of this section and Chapter 238 benefits and the Pension Program, which are part of the DB component of PERS, life expectancies shall not be recalculated after the initial determination, unless otherwise required by Treasury Regulation Section 1.401(a)(9)-5, Q&A-4 and Q&A-5. For purposes of this section and the Individual Account Program, life expectancies shall be recalculated but no more frequently than annually, unless otherwise required by Treasury Regulation Section 1.401(a)(9)-5, Q&A-5.

(d) Limitations on Benefit Changes. A retired member who has had a required beginning date shall not change a beneficiary designation, benefit option election, or any other designation or election except as permitted under Treasury Regulation Sections 1.401(a)(9)-4 and 1.401(a)(9)-6.

(e) Limitations on Conversion of Joint Annuity to Single Life Annuity Following Divorce. A retired member who has had a required beginning date may elect to convert a joint and survivor annuity under Option 2A or 3A under Chapter 238 to a single life annuity by reason of the member's divorce from the joint annuitant, subject to the provisions of Treasury Regulation Section 1.401(a)(9)-6. This section applies to ORS Chapter 238 benefits notwithstanding ORS 238.305(5) and 238.325(3).

(f) Limitations on Survivor Annuity Elections. Except as otherwise required by a domestic relation order under ORS 238.465, if a member elects a 100 percent (100%) joint and survivor annuity (Option 2 or 2A under ORS 238.305(1) and under 238A.190(1)(a)) and designates a nonspouse beneficiary who is more than ten years younger than the member as calculated under

Treasury Regulation Section 1.401(a)(9)-6, Q&A-2, the benefit shall be actuarially adjusted to provide for a reduced survivor annuity benefit to the extent necessary to comply with federal requirements for qualified retirement plans.

(g) Limitation on Period-Certain Annuity Election (Chapter 238 only). If a member elects a 15-year certain option (Option 4 under ORS 238.305(1)), and attains age 85 or older during the calendar year in which the benefits commence, the benefit shall be actuarially adjusted to provide for a shorter payout period to the extent necessary to comply with federal requirement for qualified retirement plans.

(h) Limitation on Selection of IAP Benefit Options. Benefit payment options selected under the Individual Account Program shall be considered as payment options under a DC plan and must comply with the requirements of Treasury Regulation Section 1.401(a)(9)-5.

(3) Distributions to Beneficiaries of Retired Members. If a retired member dies after annuity benefit payments have begun under Chapter 238 or the Pension Program or other benefit payments are required to begin under section (2) of this rule, any death benefits shall be distributed at least as rapidly as under the distribution method being used at the member's death.

(4) Distributions to Beneficiaries of Active and Inactive Members. If an active or inactive member dies before annuity payments have begun under Chapter 238 or the Pension Program or other benefit payments are required to begin under section (2) of this rule, any death benefits shall be distributed by December 31 of the calendar year that contains the fifth anniversary of the member's death, except as provided in the following:

(a) Distributions to Designated Beneficiaries. The five-year rule shall not apply to any death benefit that is payable to a member's designated beneficiary, if:

(A) The benefit is distributed over the designated beneficiary's lifetime or over a period not extending beyond the designated beneficiary's life expectancy; and

(B) The distributions begin no later than December 31 of the calendar year that contains the first anniversary of the member's death.

(b) Distributions to Spouse Designated Beneficiaries. Notwithstanding subsection (a) of this section, if the designated beneficiary is the member's surviving spouse as defined by the Internal Revenue Code:

(A) The commencement of distributions under subsection (a)(B) of this section may be delayed until December 31 of the calendar year in which the member would have reached the age specified in section (2)(a)(A) of this rule; and

(B) If the surviving spouse dies after the member's death but before the distributions to the spouse have begun, the rules of this section shall apply to any death benefit payable to any contingent beneficiary as if the spouse were the member. Notwithstanding the foregoing, however, this subsection shall not apply to any death benefit payable to a surviving spouse of the deceased member's surviving spouse.

(5) The provisions of this rule are effective on January 1, 2003.

Stat. Auth.: ORS 238.630, 238.650, 238A.130, 238A.170 & 238A.410

Stats. Implemented: ORS 238.005 - 238.715