



Oregon

Kate Brown, Governor

Public Employees Retirement System

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July 31, 2015

TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Adoption of Disability Application Rules:
OAR 459-015-0020, *Application Required*
OAR 459-076-0020, *Application Required*

OVERVIEW

- Action: Adopt modifications to the Disability Application rules.
- Reason: Housekeeping edits to OAR 459-015-0020 and 459-076-0020 to properly incorporate defined terms “date of termination,” “date of separation from service,” and “date of disability.”
- Policy Issue: No policy issues were identified.

BACKGROUND

These rules provide specific timeframes for a member to file an application for a disability retirement (Tier One/Tier Two) or benefit (OPSRP). The member cannot apply before they stop working, but they are not required to be terminated from employment. The definitions for “date of disability,” “date of separation from service,” and “date of termination” in OAR 459-015-0001 were updated and incorporated into the disability rules in October 2011. Given the way the rule was structured, the incorporation of the updated definitions did not cover all possible employment/membership scenarios. The current modifications restructure the rule and incorporate the definitions in a manner intended to cover all likely employment/membership scenarios.

The proposed update to OAR 459-076-0020 incorporates the defined term “date of disability” in one place where it was missed in 2011 and makes other minor edits for clarification.

SUMMARY OF MODIFICATIONS TO RULES SINCE FIRST READING

Modifications were made to the rules since they were last presented at the May 29, 2015 PERS Board meeting. The proposed rule modifications are:

OAR 459-015-0020: Merged section (6) into section (7), deleted sentence from section (5), page 1, line 22; subsection (9)(a) & (b) inserted “an inactive” before member to clarify status of the member, replaced “terminating employment” with “the date of separation from service” to clarify the date in which a member may file an application, replaced “termination” with “separation from service” to unify statute and rule terms, and reinstated the sentences regarding continuous total disability; other sections were renumbered.

OAR 459-076-0020: No modifications were made to this rule.

PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing on the rules noticed previously was held April 28, 2015 at 3:00 p.m. at PERS headquarters in Tigard. No members of the public attended. A second rulemaking hearing was held June 23, 2015 at 2:00 p.m. at PERS headquarters in Tigard. No members of the public attended. The public comment period for both rules ended July 1, 2015 at 5:00 p.m. No public comment was received.

LEGAL REVIEW

The attached 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: These edits conform to statute and disability rule definitions.

Cost: There are no discrete costs attributable to the rule changes.

RULEMAKING TIMELINE

March 13, 2015	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
March 30, 2015	PERS Board notified that staff began the rulemaking process.
April 1, 2015	<i>Oregon Bulletin</i> published the Notice. Notice was sent to employers, legislators, and interested parties. Public comment period began.
April 28, 2015	Rulemaking hearing held at 3:00 p.m. at PERS in Tigard.
May 6, 2015	Initial public comment period ended at 5:00 p.m.
May 15, 2015	Staff extended the public comment period by filing Notice of Rulemaking with the Secretary of State.
May 29, 2015	First Reading of the rules.
June 1, 2015	<i>Oregon Bulletin</i> published the second Notice. Notice was sent to employers, legislators, and interested parties. Public comment period continued.
June 23, 2015	Rulemaking hearing held at 2:00 p.m. at PERS in Tigard.
July 1, 2015	Public comment period ended at 5:00 p.m.
July 31, 2015	Board may adopt the permanent rule modifications.

BOARD OPTIONS

The Board may:

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

STAFF RECOMMENDATION

Staff recommends that Board choose Option #1.

- Reason: Clarifies the specific timeframes for filing a disability application.

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.3. Attachment 1 - OAR 459-015-0020, *Application Required*

B.3. Attachment 2 - OAR 459-076-0020, *Application Required*