

**OREGON ADMINISTRATIVE RULE  
PUBLIC EMPLOYEES RETIREMENT BOARD  
CHAPTER 459  
DIVISION 076 – DISABILITY BENEFIT**

**459-076-0001**

**Definitions**

The words and phrases used in this division have the same meaning given them in ORS Chapter 238A and OAR 459-070-0001. Additional terms are defined as follows unless the context requires otherwise.

- (1) Any work for which qualified: A job, not necessarily the last or usual job, which the applicant for disability benefits:
  - (a) Is physically and psychologically capable of performing; and
  - (b) Has, or may obtain with reasonable training, the knowledge, skills and abilities, to perform the job.
- (2) Certified vocational consultant: A person who satisfies the criteria set forth under either of the following:
  - (a) A Master's Degree in vocational rehabilitation, and one year of experience in performing vocation evaluations or developing individualized return-to-work plans; or a Bachelor's Degree and two years of such experience. All degrees must have been earned at an accredited institution; or
  - (b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification; as a Certified Disability Management Specialist (CDMS) by the Certification of Disability Management Specialists Commission; or a Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.
- (3) Confidential information: Information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.
- (4) Date of disability: The day an active member ceased to work because of injury or disease.
- (5) Effective date of disability benefit: The first of the month following the later of:
  - (a) The last day the member worked for a participating employer;
  - (b) The last day the member was on paid leave; or
  - (c) The last day the member received any salary or paid leave benefits from a participating employer, exclusive of the cash pay-off for accrued vacation or compensatory time, as long as that payment is made within the 31 days after the member separates from PERS covered employment.
- (6) Extended duration: A period of not less than 90 consecutive calendar days unless the disability is expected to result in the death of the disabled member in less than 90 days.
- (7) Independent medical exam: An exam or exams conducted by a physician chosen by PERS for purposes other than for treatment which results in the issuance of a report or reports based on those exams, giving an opinion regarding the claimed injury or disease.
- (8) Material contributing cause: The efficient, dominant, and proximate cause of the disability, without which the member would not be disabled.
- (9) Monthly salary: Salary as defined in ORS 238A.005(16) that is earned in the last full calendar month of employment and includes a differential wage payment, as defined in OAR 459-005-0001:

(a) Retroactive payments or payments made due to clerical errors, paid in accordance with ORS 238A.005(16)(b)(E), are allocated to the period the salary was earned or should have been earned.;

(b) Payments of salary paid within 31 days of separation are allocated to the period the salary was earned and should be considered as paid on the last date of employment.

(10) Monthly salary received is the greater of the salary paid, as defined in section (9) of this rule for the last full calendar month of:

(a) Employment before the date of disability; or

(b) Differential wage payments made before the date of disability. This subsection is effective January 1, 2009.

(11) Normal retirement age: The age at which a member can retire without a reduced benefit as set forth under ORS 238A.160.

(12) Other income: Includes, but is not limited to:

(a) Salary or wages received as an employee;

(b) Self-employment income from:

(A) Services industry;

(B) Sales;

(C) Assembly or manufacturing;

(D) Consulting;

(E) Property management;

(F) Hobby income; or

(G) Book advances.

(c) "Other income" does not include:

(A) Investment income;

(B) Rent; and

(C) Royalties.

(13) Physician: A medical doctor, a doctor of osteopathy, a doctor of oral surgery, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only within the purview of their license issued by the designated authority of a state.

(14) Periodic review: A review of a member receiving a disability benefit to determine whether or not a continued benefit is warranted.

(15) Performance of duty: Mental or physical incapacitation arising out of and in the course of duty and is not intentionally self-inflicted. The injury or disease must be initially caused, aggravated or accelerated to cause incapacitation by the performance of the member's duties in the employment of a participating public employer. The job must be the material contributing cause of the injury or disease. Performance of duty includes whatever an employee may be directed, required or reasonably expected to do in connection with his or her employment, and not solely the duties peculiar to his or her position.

(16) Pre-existing condition: A condition that was not sustained in actual performance of duty with the current employer.

(17) Protected health information: Health information created or received by a health care provider, health plan, or health care clearinghouse, where an individual has a reasonable belief that the information can identify the individual, which relates to:

(a) The past, present, or future physical or mental health of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual.

- (18) Qualifying position: One or more positions with a participating employer, in a participating class, which requires performance of 600 or more hours in a calendar year.
- (19) Separation from all service: The date a member terminates from employment such that an employee/employer relationship no longer exists; the last day worked (physically on the job), the last day of paid leave, or the last day of an official leave of absence, whichever is the later.
- (20) Similar in compensation: Salary or income, excluding overtime, equaling at least 80 percent of the monthly salary, as defined in section (9) of this rule.
- (21) Similar location: A position in the same general area of the applicant's residence or last employment location.
- (22) Vocational evaluation: An evaluation conducted by a certified vocational consultant, to determine the ability of an applicant to perform any work for which they are qualified.
- (23) Work related stress: Conditions or disabilities resulting from, but not limited to:
- (a) Change of employment duties;
  - (b) Conflicts with supervisors;
  - (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
  - (d) Relationships with supervisors, coworkers, or the public;
  - (e) Specific or general job dissatisfaction;
  - (f) Work load pressures;
  - (g) Subjective perceptions of employment conditions or environment;
  - (h) Loss of job or demotion for whatever reason;
  - (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
  - (j) Objective or subjective stresses of employment; or
  - (k) Personnel decisions.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235