

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

1 **459-050-0075**

2 **Distributions During Employment**

3 The purpose of this rule is to describe the types of distributions available to a
4 participant who has not had a severance of employment. Distributions made while a
5 participant is still employed are in-service distributions.

6 (1) De minimis distribution. A de minimis distribution is an in-service distribution of
7 the entire balance of a small account before the date a participant has a severance of
8 employment. A de minimis distribution may be made if all of the following conditions
9 are satisfied:

10 (a) No prior de minimis distribution was made to the participant;

11 (b) The total balance of the participant's account(s) within the Deferred
12 Compensation Program do(es) not exceed the limitations in the Internal Revenue Code
13 Section (IRC) 457(e)(9)(A) [*which is \$5,000*];

14 (c) Participant has not made any contributions to the Deferred Compensation
15 Program in the two-year period before the date of distribution; and

16 (d) Participant has applied for a de minimis distribution by using online account
17 access or other methods approved by the Deferred Compensation Program. No
18 distribution will be paid unless a complete application is filed with, and approved by, the
19 Deferred Compensation Program.

20 (2) Unforeseeable emergency withdrawal. An unforeseeable emergency withdrawal
21 is an in-service distribution made to a participant due to an unforeseeable emergency.

22 This withdrawal may be made before the date a participant has a severance of

1 employment and as defined in OAR 459-050-0150. A participant must apply for an
2 unforeseeable emergency withdrawal by using online account access or other methods
3 approved by the Deferred Compensation Program as provided for in OAR 459-050-0150.

4 (3) Military distribution. A participant is treated as having been severed from
5 employment during any period the participant is performing service in the uniformed
6 services while on active duty for a period of more than 30 days for the purposes of the
7 limitation on in-service distributions. For purposes of this rule, “uniformed services” has
8 the same meaning as given in OAR 459-050-0072. This section applies to distributions
9 made on or after January 1, 2009.

10 (4) Trustee-to-Trustee Transfers. A Trustee-to-Trustee Transfer for the purpose of
11 purchasing permissive service credit as described in Code Section 415(n) or a Trustee-to-
12 Trustee Transfer that meets the requirements of 26 CFR 1.457.10(b)(4) may be made
13 while a participant is still employed.

14 (5) *[Funds available for in-service distribution. Funds contributed to the Deferred*
15 *Compensation Program, and earnings on those contributions may be distributed in a de*
16 *minimis distribution or unforeseeable emergency withdrawal. Any funds directly*
17 *transferred or rolled over to the Deferred Compensation Program from any plan other*
18 *than an IRC 457 deferred compensation plan may not be distributed for a de minimis*
19 *distribution or an unforeseeable emergency withdrawal.] Rollover amount distribution.*
20 Any rollover amount in a separate account established under OAR 459-050-
21 0090(4)(c)(A) can be distributed while a plan participant is still employed.

22 (6) Notwithstanding any other sections of this rule, a participant who self-certifies
23 through a process provided by the Deferred Compensation Program as a “qualified

1 individual” as that term is defined in the Coronavirus Aid, Relief, and Economic Security
2 Act of 2020, may take an in-service distribution of no more than \$100,000 during
3 calendar year 2020.

4 (a) A qualified individual means an individual:

5 (A) Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019
6 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

7 (B) Whose spouse or dependent (as defined in section 152 of the Internal Revenue
8 Code of 1986) is diagnosed with such virus or disease by such a test; or

9 (C) Who experiences adverse financial consequences as a result of being
10 quarantined, being furloughed or laid off or having work hours reduced due to such virus
11 or disease, being unable to work due to lack of child care due to such virus or disease,
12 closing or reducing hours of a business owned or operated by the individual due to such
13 virus or disease, or other factors as determined by the Secretary of the Treasury (or the
14 Secretary’s delegate).

15 (b) A distribution taken under this section, or any portion thereof, may be
16 redeposited by the plan participant back into the participant’s Deferred Compensation
17 Account within three years beginning on the day after the date of the withdrawal.

18 Statutory/Other Authority: ORS 243.470

19 Statutes/Other Implemented: ORS 243.401 - 243.507 & Pub. L. No. 116-136