



# Oregon

Kate Brown, Governor

## Public Employees Retirement System

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March 28, 2022

TO: Members of the PERS Board  
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section  
SUBJECT: Adoption of Document Submission Requirements Rules:  
OAR 459-005-0210, *Transmittal of Reports and Documents*  
OAR 459-001-0010, *Filing Papers* (repeal)

### OVERVIEW

- Action: Adopt the Document Submission Requirements rules.
- Reason: Modify rule to incorporate additional methods for submission of appeals documents.
- Policy Issue: None identified.

### BACKGROUND

OAR 459-001-0010 provides guidance on how filing papers such as petitions, written requests, or other documents related to the appeal of a staff or board action may be submitted to PERS. The rule has not been updated since 2000, and does not allow the submission of appeals documents by fax or email, even though PERS current practice does allow for such methods of transmittal. The proposed repeal of OAR 459-001-0010 and amendments to 459-005-0210 align the rules with PERS current practice.

OAR 459-005-0210 provides guidance on the acceptable methods of transmitting information, reports, and documents. The proposed rule amendments clarify that filing papers related to an appeal of a staff or board action under OAR 459-001-0030, 459-001-0032, or 459-001-0035 are included as “documents” covered under the rule. However, subpoenas, garnishments, summons, and other legal documents that require service on PERS continue to be excluded as “documents” under the rule. Service of such documents remains subject to applicable law.

The proposed amendments also address staff concerns related to the submission of unsolicited emails to PERS that could contain confidential information. PERS discourages email submissions that contain confidential information, and the rule provides information on protected disclosures and warns members of potential risks from email transmissions and inadvertent public record disclosures.

OAR 459-001-0010 is being repealed because it becomes redundant with the amendments to OAR 459-005-0210.

### SUMMARY OF MODIFICATIONS TO RULES SINCE NOTICE

No modifications were made to the rules.

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely on February 22, 2022, at 2:00 p.m. No members of the public attended. The public comment period ended March 7, 2022, 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, the board need not adopt the rule modifications.

Benefit: Members and staff will benefit from the updated submission requirements for filing documents.

Cost: There are no discrete costs attributable to the rules.

### RULEMAKING TIMELINE

January 28, 2022	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
January 31, 2022	PERS Board notified that staff began the rulemaking process.
February 1, 2022	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice sent to employers, legislators, and interested parties. Public comment period began.
February 22, 2022	Rulemaking hearing held remotely at 2:00 p.m.
March 7, 2022	Public comment period ended at 5:00 p.m.
March 28, 2022	Board may adopt the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

### BOARD OPTIONS

The PERS Board may:

1. Pass a motion to “adopt the Document Submission Requirements rules, as presented.”
2. Direct staff to make other changes to the rules or explore other options.

### STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.6. Attachment 1 - 459-005-0210, *Transmittal of Reports and Documents*

B.6. Attachment 2 - 459-001-0010, *Filing Papers* (repeal)