

# OREGON PERS

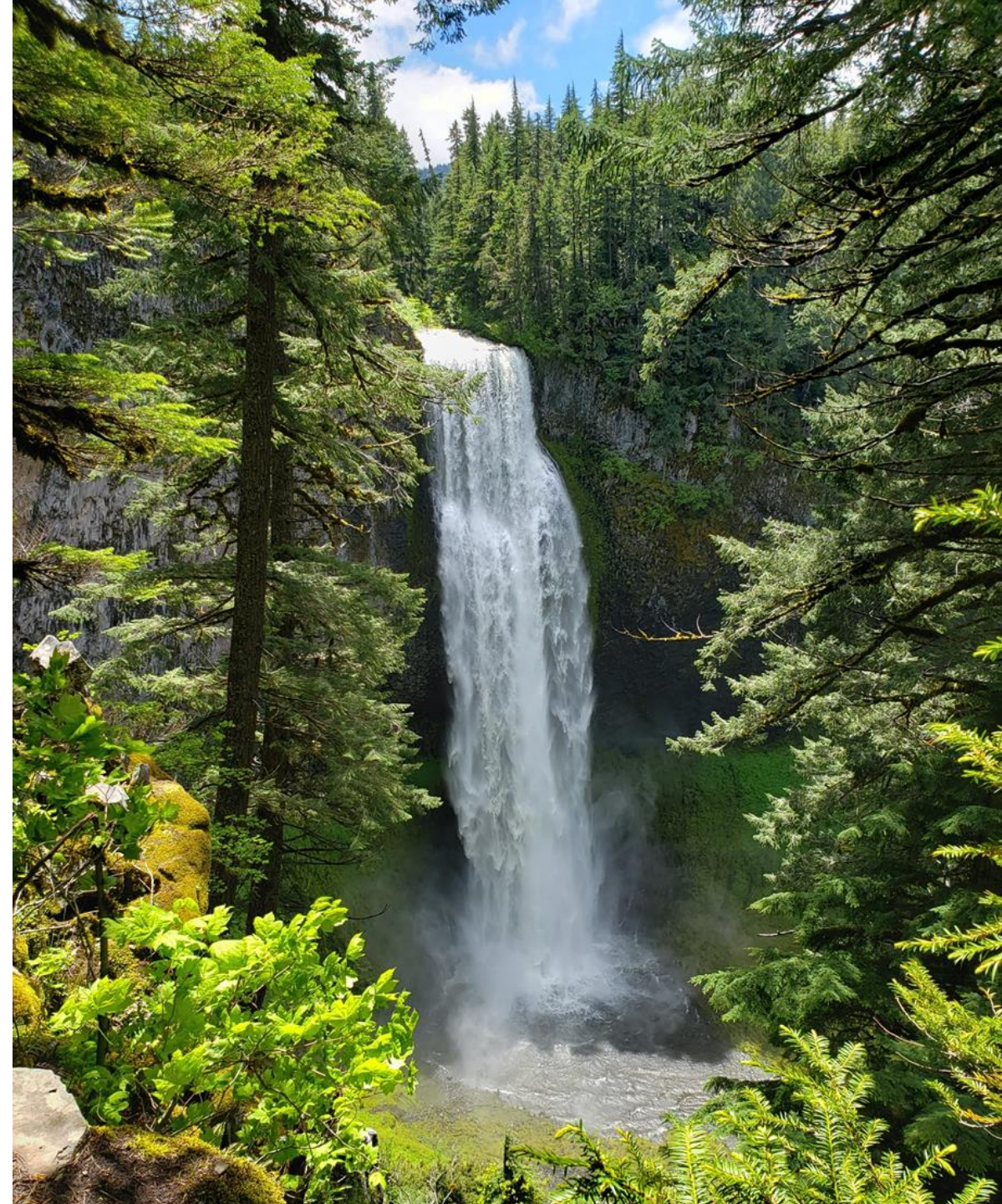
PUBLIC EMPLOYEES RETIREMENT SYSTEM



## **Overview of PERS Benefits for Substitute Teachers in Oregon**

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# PERS Program, Generally

# PERS Benefits

Different Benefits Depending on Date PERS Membership Established:

## Tier One/Tier Two Members

- Tier One: Public employees who became a PERS member before January 1, 1996.
- Tier Two: Public employees who became a PERS member between January 1, 1996, and August 28, 2003.

## OPSRP Membership Benefits

- Public employees who became a PERS member after August 28, 2003, including any new employees who establish membership today.

## What does being a PERS member mean?

- Retirement Benefits for Vested Members.
  - Defined pension benefits. Access to a specific PERS monthly pension amount upon retirement unless an eligible member opts for total lump sum payout.
  - Defined contribution benefits. Contributions to an Individual Account Program (IAP) account. Investment earnings crediting on IAP account yearly. Ability to distribute IAP account balance at retirement (including possible roll-over).
- Disability Benefits for Eligible Members.
  - Access to apply for PERS disability retirement if eligible member becomes disabled and unable to work.



# How can a substitute teacher become a PERS member?

## PERS membership requirements:

1. Substitute teacher must be employed with a PERS-participating public employer in a “qualifying position,” and meet the following waiting time requirements:
  - Employee must serve six months of uninterrupted waiting time (no break in service for 30 days or more), to become a PERS member.
  - Generally, a “qualifying position” is a position in which the employee works 600 hours a calendar year, or would work 600 hours in a calendar year if they are employed for less than a full calendar year, based upon the employer’s hire intent.
  - Substitute teachers must satisfy the waiting time requirement with one public employer (but they can also be working for other public employers at the same time).

# How can a substitute teacher become a PERS member?

PERS membership requirements, cont.:

## 2. Vesting Required to Receive PERS Benefits.

- To vest in their pension, a PERS member must work for 600 hours per year for five years. These years do not have to be consecutive, but you cannot have a gap of more than five consecutive years.
- Vesting includes hours served during the waiting time for OPSRP members.
- PERS members are vested in their Individual Account Program (IAP) account upon completing their six-month waiting time requirements, however contributions are not made until the person has earned salary as an active member (i.e.- after serving their waiting time).

# Employer/Employee Relationship

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- How does PERS determine if someone works for a PERS-Covered employer?

# How are Public Employees Reported to PERS?

## Employer Reporting

- Under PERS statutes, the data used to determine a public employee's benefit eligibility is based upon employer reporting of the employment data.
- Employers are required to report all eligible public employees to PERS, including their dates of employment, wages, and hours to the PERS system. If a person contacts PERS and questions whether their employment data is incomplete or incorrect, PERS will contact the employer to review the individual's request and allow the employer the opportunity resolve any incomplete or incorrect reporting issues.

# Challenges to Employer Reporting

- A PERS member may challenge an employer's non-reporting of them as an employee. For example, if a substitute teacher questions missing employment data, PERS will contact the employer to review their records and confirm whether the person is an eligible public employee as defined in ORS 238.005(8) or 238A.005(4), and should have been reported to PERS.
- If the person is not employed by the public employer because they were employed by a non-public employer (such as a third-party staffing agency) then the public employer will confirm that their reporting is correct, and the person was not a public employee based upon employment with that employer.
- If the employer informs PERS that the person is a public employee and there was a mistake, the employer can correct their reporting.



# Challenges to Employer Reporting, Cont.

- PERS will rely on the employer's reporting. However, a PERS member can raise a claim of worker misclassification as described in OAR 459-005-0020, in the context of a dispute. If a worker misclassification claim is raised, PERS will review the documentary evidence, including the W-2 employee reporting to the IRS and paycheck stubs, to determine whether the employer's reporting is correct.
- OAR 459-005-0020 indicates there is a presumption of public employment if the public employer reports the individual's wage and tax information to the IRS via a Form W-2.
  - There is also a presumption of independent contractor if public employer reports individual's data to the IRS via Form 1099.
- It should be noted that the burden is on the party challenging the W-2 reporting to rebut the W-2 employee presumption/independent contractor presumption.

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## Thank you

