

INTERIM STUDY PROPOSAL 2011-196

REQUESTING THAT THE INTERIM JOINT COMMITTEE ON PUBLIC RETIREMENT & SOCIAL SECURITY PROGRAMS STUDY THE EFFECT OF AUTOMATICALLY ENROLLING NEW STATE EMPLOYEES IN A DEFERRED COMPENSATION PLAN SUBJECT TO CERTAIN OPT-OUT PROVISIONS.

WHEREAS, the life expectancy for males and females continues to increase; and

WHEREAS, the average life expectancy in the United States is seventy-eight (78) years; and

WHEREAS, the average retirement age in the United States is sixty-four (64) for men and sixty-two (62) for women; and

WHEREAS, longer life spans increase the need for income during the retirement years; and

WHEREAS, Arkansans should be encouraged to begin saving for their retirement early; and

WHEREAS, deferred compensation plans are an important component of a total retirement benefits package; and

WHEREAS, participation in a deferred compensation plan is important for Arkansans' financial security in retirement; and

WHEREAS, the General Assembly should encourage public employees to make a deferred compensation plan part of their retirement benefits package, supplemental to the benefits public employees receive under the Arkansas Public Employees' Retirement System,

NOW THEREFORE,

BE IT PROPOSED BY THE INTERIM JOINT COMMITTEE ON PUBLIC RETIREMENT & SOCIAL SECURITY PROGRAMS OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

THAT the Interim Joint Committee on Public Retirement & Social Security Programs study the effect of automatically enrolling new state employees in a deferred compensation plan that would require contributions of at least three percent (3%) of the employee's annual compensation subject to certain opt-

1 out provisions.

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3 Respectfully submitted,

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7 Senator Johnny Key

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13 By: JLL/JLL

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APERS November 2012 Amendment to Regulation 214

REGULATION 214 -DROP PROVISIONS

CONTRIBUTIONS TO DROP ACCOUNT:

- For a member who has 30 or more years of actual service, the contribution shall be 75% of the member's computed benefit after election of a straight life or option benefit, as required by Subchapter 8 of Chapter 3 of Title 24 of the Arkansas Code, and including the temporary annuity, if applicable. For a member who has 28 years but less than 30 years of actual service, the contribution shall 75% reduced by 0.5% for each month that the DROP election precedes the date the member would complete 30 years of actual service.
- Contributions to the account shall be increased for COLA's and Ad Hoc increases granted to retirees.

INTEREST ON THE DROP ACCOUNT:

- Interest shall be credited on a monthly basis compounded annually to the date of actual retirement. The Board shall reevaluate the DROP interest rate annually at its regular February meeting and may modify it by a simple majority vote without promulgating additional regulations.

DROP PAYMENT METHODS:

- Member may elect a lump sum or lifetime monthly annuity. If the member elects a lump sum, the member may request that the lump sum be transferred to another qualified plan in a trustee-to-trustee transfer. If the member elects a monthly annuity for life, the monthly amount shall remain constant for the life of the member. That is, COLA's and Ad Hoc increases will not be added to this monthly annuity and the balance in the account will not earn interest after the effective date of retirement.

DEATH OF A DROP PARTICIPANT:

- In the event a DROP participant dies during the period of participation, the benefit payable from APERS shall be determined as though the participant had separated from service and been found eligible for monthly benefits by the Board on the day prior to the death, with death following immediately thereafter (per Act 1052). The balance in the DROP account shall be paid to the designated beneficiary.

DEATH OF A RETIREE RECEIVING A MONTHLY ANNUITY FROM DROP:

- Upon the death of a retiree who was receiving a monthly annuity from the DROP, the DROP annuity will be treated as if it had been a straight life benefit, and the undistributed remaining balance in the DROP account, if any, will be paid to the designated beneficiary. The regular monthly retirement benefit will be treated according to the election made by the retiree at his/her entry into the DROP.

FAILURE TO TERMINATE COVERED EMPLOYMENT WITHIN SEVEN YEARS OF DROP ENTRY:

- If a DROP participant fails to terminate employment within seven years of entry into the DROP, the participant shall forfeit the balance in the DROP account. The participant's employer shall be required to pay all contributions, with interest, that would have been paid on behalf of the member had he/she not participated in the DROP. The employer will acknowledge this requirement on the member's application for participation in the DROP. **Retirement credit will be added to the member's record for the time of participation in the DROP in the same manner as if the member had not participated in the DROP.**

REVIEW OF PROVISIONS:

- The provisions of the DROP program will be reviewed at three year intervals, or more frequently if necessary. Based on the actuary's review, the contribution and interest rate provisions may be adjusted prospectively as the Board of Trustees considers such action to be actuarially appropriate.

PROHIBITION AGAINST RETURNING TO COVERED EMPLOYMENT:

In compliance with section 9 of Act 38 of 2011, on or after February 16, 2011, a member whose participation in the DROP ceases for any reason (other than cancelling that participation under Regulation 207), shall not be eligible for reemployment in any position covered by the plans identified in A.C.A. 24-2-401(3), except as provided for in A.C.A. 24-4-520. Notwithstanding the foregoing, a member whose DROP participation has ceased shall not be prohibited from thereafter seeking and taking a publically-elected office that otherwise is covered under APERS but that member shall not be eligible to rejoin this system.

DEFERRED RETIREMENT OPTION PLAN (DROP) PROVISIONS FOR MEMBERS CALLED TO ACTIVE DUTY:

Generally:

- a. A DROP participant who is called to active duty will provide APERS with a copy of his/her Orders that will be maintained in the member's file. A copy of the Orders will be utilized to verify the date that the member is called to active duty.
- b. The employer will continue to report the DROP participant on the monthly DROP report. The Agency representative will indicate that the member is on "Military Leave".
- c. When the member is released from active duty, he/she will submit a copy of the DD214 Form or other appropriate documents to APERS to verify that the member has returned to covered employment and/or been released from active duty.

Maximum Participation Period:

- a. A DROP participant who is on active duty shall continue to receive his/her monthly DROP payment (which includes any benefit enhancements awarded to eligible retirees) until the maximum allowable time in the DROP has occurred or the member requests retirement and distribution of his/her DROP account, whichever occurs first.
- b. If the member has participated in the DROP for at least five (5) years, he/she must complete a retirement application packet and DROP Distribution Form(s) prior to his/her departure for active duty and deliver the completed forms to the APERS Office along with a copy of his/her Orders. The retirement application and DROP Distribution Forms will be held and processed on the effective date indicated unless he/she returns to covered employment within the seven year DROP term.
- c. Should the DROP member not deliver a retirement application packet and DROP Distribution Form(s) to APERS and the maximum period of DROP participation (7 years) expires prior to the member returning to covered employment and/or requesting retirement:
 - 1. The monthly DROP accrual will cease on the seventh anniversary of the member's beginning DROP date and no additional interest will be paid;
 - 2. The monthly retirement benefit will not become effective until the member files a completed retirement application and complies with applicable deadlines; and the DROP account balance shall be distributed upon the member's filing of the required DROP Distribution Form(s).

Death While on Active Duty:

- a. In the event a DROP participant on active duty dies during the period of DROP participation, the benefit payable from APERS shall be determined as though the participant had separated from service and been found eligible for monthly benefits on the day prior to his/her death, with death following immediately thereafter.
- b. If survivor benefits are payable in accordance with A.C.A. 24-4-606, the surviving spouse (who has been married to the participant for at least one year), dependent children or dependent parents will receive monthly benefits. The spousal benefit will be computed as if the member had elected Option B75.
- c. The balance in the participant's DROP account will be adjusted to reflect a balance as if the member had chosen Option B75 upon entering the DROP. The DROP balance will then be paid to the designated beneficiaries.

Becoming Eligible For DROP Participation While On Active Duty:

If a member becomes eligible to participate in the DROP while on active duty, he/she will be placed in the plan retroactive to the date of initial eligibility providing the application is

received within one (1) month of the member returning to covered employment. Such participation will also be contingent upon the necessary employee (if applicable) and employer contributions being made to the System for the period of active duty prior to the employee entering the DROP.

Reemployment:

After release from active duty, should a DROP member fail to apply for reemployment or fail to accept reemployment pursuant to the provisions of 38 U.S.C. § 4312 as amended, the employer shall promptly notify APERS. After notice to the member and opportunity for hearing, should APERS determine that the member failed to apply for or accept reemployment as provided above, APERS shall:

- a. determine that the member's retirement application and DROP distribution form required under Maximum Participation Period, subparagraph b are void as of the date of the member's release from active duty;
- b. terminate payments of the deferred benefit into the member's DROP account;
- c. deduct any payments of the deferred benefit into the member's DROP account after date of the member's release from active duty and interest thereon and pay said amount of the deferred benefit without interest thereon to the member as accumulated monthly annuity payments upon the member's filing a completed retirement application and DROP Distribution Form in compliance with applicable deadlines;
- d. not pay interest on the member's DROP account after the date of the member's release from active duty and hold said account balance pending the member's filing of the DROP Distribution Forms;
- e. pay the member's monthly retirement annuity to the member upon his/her filing a completed retirement application and in compliance with applicable deadlines.

Procedures Applicable to DROP/Active Duty Issues:

- a. The Executive Director shall determine all issues of interpretation or implementation of this regulation in regard to DROP members and active military duty and shall conduct any hearings provided for herein or required by other law.
- b. If the member is not satisfied with the Executive Director's decision on matters that were not decided in conjunction with a hearing, the member may request that the issue be presented to the Board. The Board shall review the member's request for review, the record considered by the Executive Director and the Executive Director's decision, shall afford the member the opportunity to present additional information or documentation and to appear before the Board, and determine whether to affirm or modify the Executive Director's decision or to return the case to the Executive Director for further consideration.

c. A member who was a party to a hearing by the Executive Director concerning DROP/active duty issues and who is not satisfied with the Executive Director's decision, may file an appeal to the Board. The member shall file notice of appeal in writing, stating the grounds therefore, with the Executive Director on or before thirty (30) days following the date of record of the Executive Director's decision. The Executive Director's written decision shall be mailed to the member by certified mail, return receipt requested, restricted delivery to the member's last known address of record.

d. Upon appeal, the review by the board shall be confined to the record considered by the Executive Director; provided, however:

1. The member may apply to present additional evidence and should the Board find that the evidence is material and that there were good reasons for failure to present it in the proceeding before the Executive Director, the Board may order that the additional evidence be taken before the Executive Director upon any conditions that may be just. The Executive Director may modify the findings and decision by reason of the additional evidence and shall file that evidence and any modification, new findings or decisions with the Board;

2. Should the member assert any alleged irregularity in procedure before the Executive Director not shown in the record, the Board may hear testimony on that issue or in its discretion may remand the matter to the Executive Director to conduct further proceedings on the record on the member's allegation of procedural irregularity; after any further proceeding by the Executive Director regarding any procedural irregularity, the Executive Director may modify the findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the Board. The member may request the opportunity to make an oral presentation to the Board.

e. The Board may affirm or reverse the Executive Director's decision or remand the case for further proceedings.

ATRS Proposed Rule Change

a. SUBJECT: Organization & Operation (Rule 0-1)

DESCRIPTION: This amendment clarifies and expands the existing language without expanding the scope of the rule, and it directs the reader to the procedures set forth under another ATRS rule.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b).

ATRS RULES OF ORGANIZATION AND OPERATION

A.C.A. §§ 25-15-203 and 25-15-703

I. INFORMATION FOR PUBLIC GUIDANCE

The Arkansas Teacher Retirement System ("ATRS") is located at 1400 West Third Street, Little Rock, AR 72201. Questions about ATRS may be addressed by visiting the ATRS website (www.artrs.gov), emailing ATRS at info@artrs.gov; phoning ATRS at 1-800-666-2877 or 501-682-1517; or sending a fax to ATRS at 1-800-682-2663. Visits may be made to the ATRS office between 8:00 a.m. and 4:30 p.m. Monday through Friday, except on holidays. Appointments are not required but are suggested.

ATRS makes available a list of persons holding certain responsibilities for handling FOIA requests and requests by the public so that the public may obtain information about ATRS or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the ATRS office or website.

The ATRS policies, rules and regulations, and official forms may be obtained from the ATRS office or from the ATRS website.

2. DESCRIPTION OF THE ARKANSAS TEACHER RETIREMENT SYSTEM

The Arkansas Teacher Retirement System ("ATRS") is a cost-sharing multiple-employer, defined benefit pension plan established on March 17, 1937, by authority of the Arkansas General Assembly under Act 266 of 1937 (Ark. Code Ann. § 24-7-101 *et seq.*). ATRS is operated as a "qualified trust" under section 401(a) of the Internal Revenue Code. ATRS is a component unit of the State of Arkansas.

The General Assembly is responsible for setting benefits and contributions and amending plan provisions.

Ultimate authority, general administration and responsibility for the proper operation of ATRS, and for making effective the provisions of A.C.A. §§ 24-7-201 *et seq.* are vested in the fifteen-member Board of Trustees. Eleven members are elected, and four members serve as ex officio members by virtue of their elected positions in state government. The Board appoints the executive director of ATRS who serves as its chief executive officer.

The Board of Trustees promulgates rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System

For administrative purposes, the agency is comprised of several divisions: Administration, Membership Services, Data Processing, Investments, and Fiscal Affairs.

3. ORGANIZATION AND OPERATION OF THE ATRS BOARD OF TRUSTEES

The officers of the ATRS Board of Trustees are a chair and vice chair. Election of officers is held in the odd numbered years at the first regular meeting after the beginning of the fiscal year. These officers perform the duties prescribed by applicable law, this rule, and *Robert's Rules of Order*.

The business of ATRS is conducted in public meeting pursuant to *Robert's Rules of Order*. All meetings are conducted in conformity with the Arkansas Freedom of Information Act. Regular meetings are held at least quarterly. Special meetings may be held on the call of the chair or as scheduled by action of the Board in a regular meeting.

A quorum for the transaction of business is a majority of the number of voting members of the Board.

The ATRS Board of Trustees may create standing and ad hoc committees whose membership is determined by the chair of the Board. A quorum for the transaction of committee business is a majority of the number of voting members of the committee.

The Executive Director prepares the agenda for regular and special meetings. The agenda is distributed to Board members and made available to the public in advance of the meeting. The agenda may be amended by appropriate motion.

Trustees, members, and other individuals wishing to have additional items considered for the agenda should submit a request to the Executive Director prior to a regularly scheduled meeting.

4. RULEMAKING

The ATRS Board has been authorized by the Legislature to promulgate rules. ATRS follows the procedural requirements of the Arkansas Administrative Procedure Act, in particular A.C.A. § 25-15-203 and A.C.A. § 25-15-204. Additionally, ATRS is required to abide by the provisions of A.C.A. §10-3-309.

The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to as "rulemaking") may be initiated by request of the Board

or the ATRS staff. Additionally, persons outside the agency may petition for the issuance, amendment, or repeal of any rule.

ATRS will give public notice of proposed rulemaking to be published pursuant to A.C.A. § 25-15-204. The notice will set any written comment period and will specify the time, date, and place of a public hearing, if any.

Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, ATRS will receive public input through written comments and/or oral submissions. ATRS will designate in the public notice the format and timing of public comment.

A public hearing may be held; if so, it will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the agency to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings.

Thirty days before the public comment period ends, ATRS will file with the Bureau of Legislative Research the text of the proposed rule or amendment, as well as a financial impact statement and a Bureau of Legislative Research questionnaire as provided by A.C.A. § 10-3-309. In addition, a copy of the public notice, the text of the proposed rule or amendment, and a summary will be filed with the Secretary of State. Also, a copy of the public notice and the text of the proposed rule or amendment will be published on the ATRS website, if available.

Generally proposed rules or amendments will be reviewed by the appropriate committee of the ATRS Board of Trustees for recommendation prior to submission to the full Board for consideration and final action.

ATRS will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired.

After the ATRS Board formally adopts a new rule or amends a current rule or repeals an existing rule, and after the rule change has been reviewed by the Legislative Council, ATRS staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, or as otherwise provided by A.C.A. § 25-15-204(d).

Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research will be kept in a file maintained by the Executive Director's office.

Notice of the rule change will be posted on the agency website, if available, and rules will be made available to interested persons.

5. EMERGENCY RULEMAKING

Upon receipt of a written statement requesting emergency rulemaking or other evidence to support an assertion that an emergency exists, ATRS will make an independent judgment whether the circumstances and facts constitute an imminent peril to the public health, safety, or welfare requiring adoption of the rule with fewer than 30 days notice. If it is determined that the circumstances warrant emergency rulemaking, a written determination setting out the reasons for the finding that an emergency exists will be made. Upon making this finding, the ATRS Board may proceed to adopt the rule without any prior notice or hearing, or it may determine to provide an abbreviated notice and hearing.

The emergency rule will be effective immediately upon filing, or at a stated time less than ~~ten (10)~~ thirty (30) days thereafter, if ATRS finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. ATRS will file with the rule its written findings justifying the determination that emergency rulemaking is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten days after the filing of the rule pursuant to A.C.A. § 25-15-204(e).

6. APPEALS

An ATRS member, beneficiary, survivor, retiree, or employer may request a ~~review of an administrative decision made by the Executive Director or an ATRS staff member concerning membership, benefits, service, contributions, or refunds~~ staff determination letter from an ATRS staff member responsible for staff decisions relating to the member's, beneficiary's, survivor's retiree's or employer's issues. If the member disagrees with the staff determination letter, then the member may seek a review by the executive director using the procedures set forth in Section 13 of the ATRS rules. The executive director's decision upon review may be appealed to the ATRS Board of Trustees using the procedures set forth in Section 13 of the ATRS rules. A description of the appeals process may be obtained by contacting ATRS or from the ATRS website.

NOTE: These are general rules for the organization and operation of the system. Additional and more specific information is provided in the Policies, Rules and Regulations of ATRS, which may be found on the ATRS website (www.atrs.gov under "Publications") or which may be obtained by contacting the Executive Director's office at 501-682-1517 or 1-800-666-2877).

Adopted: December 6, 2005

Amended: April 26, 2007

Adopted by Board:

Amended:

Effective:

ATRS Proposed Rule Change

b. SUBJECT: Proof of Service Credit (Rule 7-2)

*****Running Concurrently as an Emergency Rule beginning April 2, 2012*****

DESCRIPTION: This places a rule in effect, consistent with the existing law and ATRS procedures regarding the calculation of hours worked in one day in order for that employee to receive a full day of service credit.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments. **The rule went into emergency effect on April 2, 2012.** The proposed permanent effective date is June 14, 2012.

Mary Cameron, Attorney with the Bureau of Legislative Research, asked the following question:

Why was subsection "G" removed?

Response: The rule changes how certain credit is accrued. Credit is accrued according to number of days that equal a quarter or more of a year. These days do not have to all be accrued in the same "calendar quarter". For instance, since many employees of school districts work only 9 months, ATRS allows a member to obtain a year of service credit in about 6 months if the member is working full time. Subsection "G" refers to the calculation of service credit based upon the calendar quarter, and only related to a retirement in the last fiscal year as an active member and was redundant with subsection (F) which better states the application of the rule to prevent a member from getting a full year of service credit by days worked and leaving the ATRS employer before the end of the school year, thus depriving students of the teacher that they started with at the beginning of the school year.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: This rule implements, in part, Section 3 of Act 974 of 2011. The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. §§ 24-7-305(b) and Ark. Code Ann. § 24-7-601(a).

PROOF OF SERVICE CREDIT

A.C.A. §§ 24-7-601—611, A.C.A. § 24-7-406,
and A.C.A. § 24-7-705

REGULATIONS

The Board shall determine the number of years and fractions thereof for paid service credited to members of the System. No fewer than one hundred sixty (160) days of employee service in a fiscal year (ending June 30) shall be credited as a full year of service.

Members employed less than one fourth ($\frac{1}{4}$) of a fiscal year are not eligible for credit or benefits in ATRS that fiscal year—provided however, a contributory member's service days beginning in the 2011-2012 fiscal year, are carried forward from previous fiscal years until at least one quarter year of service is obtained by the member. If a contributory member obtains at least a quarter year of service in a fiscal year, whether using regular service days or accumulated service days, or both, the member begins the next fiscal year with no days of service carried forward.

RULES

1. FOR MEMBERS WITH SERVICE AFTER JULY 1, 1971

- A. Actual service credited to a member's account shall be determined in accordance with the following table:

Number of Days Worked in a Fiscal Year	Service Credit Earned
1 –39	None
40-79	0.25 year
80-119	0.50 year
120-159	0.75 year
160 days or over	1.00 year

- B. ~~Four (4) hours in a day shall be required as the minimum for a "day of service" for all members.~~ All contracts between an ATRS employer and member that specify the number of days worked by the member shall be used by ATRS to establish the number of days of service worked. If a member is employed in a position that a regular and typical work day includes eight (8) hours or more of work time (full-day position), then four (4) hours of work in a day shall be required for a "day" of service. For "full-

day" members who do not work four (4) hours or more a day, the total number of hours worked in a fiscal quarter divided by four (4) will determine the number of days to be credited. ATRS employers have specialized support positions that include work as bus drivers, custodial workers, cafeteria workers, and similar positions that a typical day of service by the member will be less than eight (8) hours of work a day. Effective for the 2011-2012 fiscal year, a member employed, without a contract specifying the number of days of service to be worked, in a specialized support position shall receive a full day of service credit, even if the member works less than four (4) hours in a service day, if the ATRS employer reasonably determines that the member performed the regular and usual service expected of a member in that position during the service day.

- C. For purposes of days counted toward service credit, absences shall be counted as service if for paid leave including paid sick leave. However, for administrative leave, the member must be on call by the employer for the service to be counted.
- D. The System shall not give service credit to a member until all required contributions and interest, if any, are remitted to the System.
- E. The participating employers shall certify proof of service on such forms with any documentation required by the System.
- F. If a member is retiring with an effective date other than October 1, January 1, April 1, or July 1, service credited for the year in which a member retires shall not exceed $\frac{1}{4}$ year for each full calendar quarter worked during the fiscal year.
- ~~G. If a member has signed an employment contract for a fiscal year and the member does not work for the full period covered by the contract, the member shall receive service credit for only the full calendar quarters worked during the fiscal year.~~
- ~~H~~G. In any case of question as to service credit of a member, the Board of Trustees has the final authority to decide the amount of service creditable to a member.

Amended: July 18, 2005
June 16, 2009 (Emergency)
October 5, 2009 (Permanent)
July 1, 2011 (Emergency)
Adopted: August 8, 2011
Effective: November 11, 2011

Board Approved:

Amended:

Effective:

ATRS Proposed Rule Change

c. SUBJECT: Reporting Employee & Employer Contributions (Rule 7-4)

DESCRIPTION: This allows an underpaid balance of an employee or employer contribution of less than \$10 to be written off for accounting purposes. This change saves ATRS time and money since the cost of collection of such a de minimis amount would far exceed the underpayment.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no comments received.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b). Reporting Employee and Employer Contributions (Rule 7-4)

REPORTING EMPLOYEE AND EMPLOYER CONTRIBUTIONS

A.C.A. §§ 24-7-401, 411, 708, 1303 and A.C.A. § 24-2-701

RULES FOR THE EMPLOYER CONTRIBUTION RATE

(A.C.A. § 24-7-401 as amended by Act 468 of 2009 and A.C.A. § 24-2-701)

1. The employer contribution rate shall be the rate established by the Board of Trustees of the Arkansas Teacher Retirement System prospectively for each year pursuant to A.C.A. § 24-2-701 and A.C.A. § 24-7-401.
2. The Arkansas Teacher Retirement System shall annually notify participating employers of the employer contribution rate established by the Board for the upcoming fiscal year.
3. Pursuant to A.C.A. § 24-7-103, participating employers shall pay the Teacher Retirement employer contributions for eligible employees in accordance with these rules and regulations.

RULES FOR EMPLOYEE AND EMPLOYER REMITTANCES AND REPORTS

(A.C.A. §§ 24-7-401, 411)

1. Remittances of employee and employer contributions are due monthly.
2. Employer reports required by the System are due on a monthly and quarterly basis.
3. The employer reports required by the System must be on forms or electronic media either furnished by the Teacher Retirement System or approved by the System, and shall be accompanied by supporting documentation as determined by the System.
4. An employer report or remittance by an employer shall not be delinquent if received by the System on the 15th day of the month in which it is due or postmarked by the 14th day of the month. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next business day.
5. A \$150.00 late report penalty will be assessed on any required employer report not received by its due date.
6. If an employer fails to remit employee or employer contributions by the date due under No. 4 above, an interest penalty of 6% shall be assessed with daily interest accrual until paid.

7. The Board or its designee may, but is not required, to waive penalties and interest due from an employer if in its discretion it finds:
 - A. The delinquency was not the result of the employer's nondisclosure, fraud, or other misrepresentation; and
 - B. Based on the facts and circumstances, the required payment of the penalties and/or interest would be unduly penal, burdensome, or manifestly unjust.
8. The Board designates the Executive Director to waive penalties and interest from an employer in an amount not to exceed \$1,000 per fiscal year. The Executive Director shall report to the Board any amounts excused under this section. Any request to waive employer penalties and interest exceeding \$1,000 per fiscal year shall be submitted to the ATRS Board for consideration.
9. Annual billings for underpayments of employee or employer contributions that result in a balance of \$10 or less may be written off by the system.

RULES FOR REPORTING EMPLOYER CONTRIBUTIONS FOR ACTIVE MEMBERS (A.C.A. §§ 24-7-401, 411)

1. The active employer contributions to be paid each fiscal year by participating employers shall be the current employer contribution rate multiplied by the active employees' total salaries.
2. The Department of Education shall pay from the Public School Fund, in accordance with rules established by the Board, the ATRS employer contributions due for eligible employees of Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals, and the school operated by the Department of Correction. ATRS shall certify to the Department of Education at the close of each quarterly report the amount of employer contributions due. The amount will be based on the employers' reported salaries.
3. The System may certify to the state's Chief Fiscal Officer the names of participating employers who are delinquent in reporting and remitting contributions under this policy. Upon notification, the Chief Fiscal Officer may direct a transfer of funds on deposit in the State Treasurer's Office for any delinquent employer payments plus the six percent (6%) interest penalty to the System. (A.C.A. § 19-5-106)
4. Supplemental salary payment reports for previous years will be accompanied by the employer contributions due.

5. The Arkansas Teacher Retirement System shall return to participating employers overpaid contribution amounts due to erroneous submission of payments or incorrect reporting of Salary Option 2 (first \$7,800.00) member salaries. If an overpayment of a contribution amount is less than \$25.00, the refund will not be issued to the employer unless requested in writing by the employer.
6. The Arkansas Teacher Retirement System shall not collect from participating employers an underpayment of employer contribution amount if less than \$25.00.
7. For members retiring and who are employed by agencies or other institutions that use the state's 26-week payroll schedule, employers should adhere to and report the salary, contributions, and actual days worked through the state's fiscal year payroll schedule and for the termination date of employment. Contributions should not be withheld on any salary earned after the close of the current year's payroll, nor should any salary or days of service be reported for that period of time.

RULES FOR REPORTING EMPLOYER CONTRIBUTIONS FOR T-DROP MEMBERS (A.C.A. § 24-7-401, 1303 as amended by Act 743 of 2009 and A.C.A. § 24-2-701)

1. The T-DROP employer contributions shall be the employer contribution rate multiplied by the total T-DROP participant's salaries.
2. Effective July 1, 2009, the employer contribution rate for T-DROP participants shall be the percentage rate established by the Board pursuant to A.C.A. § 24-7-401 for the fiscal year.

RULES FOR REPORTING EMPLOYER CONTRIBUTIONS FOR RETIREES (A.C.A. § 24-7-708 as amended by Act 743 of 2009)

1. The retiree contribution rate shall be the employer contribution rate multiplied by the total retirees' salaries employed by participating employers for that fiscal year.
2. Effective July 1, 2009, the employer contribution rate shall be the percentage rate established by the Board pursuant to A.C.A. § 24-7-401 for the fiscal year.

Amended:	June 17, 2003 April 6, 2004
Reaffirmed:	June 15, 2004
Amended:	July 18, 2005 April 26, 2007 February 11, 2008

December 18, 2009

Approved by Board:

Amended:

Effective:

ATRS Proposed Rule Change

d. SUBJECT: Purchase of Service Credit/Repayment of Refunds (Rule 8-1)

DESCRIPTION: This sets out the procedure for a member who wants to buy service with ATRS, including the signing of a commitment statement, which, once fulfilled, is irrevocable. It also sets out who is eligible to repay to ATRS an amount previously refunded to the member, for a member who wants to reestablish service credit and member contributions in ATRS.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. No public comments were made.

Mary Cameron, Attorney with the Arkansas Bureau of Legislative Research, asked the following question:

“Interest” was included in Rule 8-3. However, Rule 8-3 was repealed and included in this rule (8-1). Rule 8-1 does not include interest in the Special Provisions #2 (page 8-1-2). What is the reason for the interest being dropped?

Response: Interest is not dropped. In order to buy back service, a member must pay the actuarial equivalent of their service, which is explained in 24-7-612, as amended. ATRS no longer uses contributions plus interest as the purchase formulas so this rule was removed. Only old purchase accounts established before July 1, 2011, can use the old formula. The removed rule was no longer an option for a member to use to buy service credit.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: This rule implements Section 13 of Act 69 of 2011. The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. §§ 24-7-305(b) and Ark. Code Ann. § 24-7-612(d).

PURCHASE OF SERVICE CREDIT/REPAYMENT OF REFUNDS

DEFINITIONS

1. **Back Contributions** – Mandatory contributions payable for service and salary rendered in a covered position within the ATRS look-back period.
2. **Private School Service** - As defined in A.C.A. § 24-7-607, additionally, employment under the Head Start Programs will also be considered private school service and will have the same requirements for the issuance of teaching licenses by the Arkansas State Department of Education.

GENERAL

The Arkansas code sets forth the service purchases available and the cost mechanism to be used in service purchases. The various types of service that can be purchased and the definitions for these are in the code. Unless greater explanation is required, the code's provisions are self-effecting without the need to be placed in the policy.

Actuarial cost for purchase of service does not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service records. In addition, the actuarial cost of service does not apply to free military service credit that is established with ATRS.

The actuarial cost for purchase of service shall use the member's highest salary year as the formula's "base year." The base year shall always be the member's highest salary year unless the highest salary year is more than 150% greater than the next highest salary year; in that case, the best two salary years shall be added together and divided by two to establish the base year for the formula.

If a member does not have sufficient full service years to establish the base year for the purchase formula, then each partial year's service percentage shall be divided into each partial year's salary to establish a full year salary from the partial year salary to determine the base year for the formula.

Salaries for actuarially purchased service shall not be used in the calculation of final average salary except for repaid refunds for mandatorily reported service within the refunded service.

All actuarially purchased service, ~~except for repaid refunds~~, shall be purchased as contributory.

Members seeking to purchase service with ATRS shall use forms developed by ATRS staff to establish the service.

All service purchases must be accompanied by a service purchase commitment statement. Once the service purchase stated on the service purchase commitment statement is paid in full, the service purchase is final and may not be cancelled by the member.

If an active member with an active purchase account dies, the member's spouse, ATRS beneficiary, or legal representative shall have up to six (6) months to pay the balance of the purchase account. If the purchase account is not paid in full within six (6) months of the date of death, the purchase account is cancelled and any payments shall be treated as part of the member's residual account balance. ATRS may extend the six (6) month period for good cause shown.

SPECIAL PROVISIONS FOR THE REPAYMENT OF REFUNDED MEMBER CONTRIBUTIONS

1. To be eligible to repay a refund, a person must be an active member of the System. A person who has received a refund may reestablish active membership by completing forty (40) days or more after reemployment by an ATRS covered employer.
2. A member must purchase the total credited service forfeited by the refund in order to purchase the refunded service.
3. If a member has received more than one refund, repayment must be made in inverse order. The most recent refund account must be paid in full before a previous refund account can be purchased.

Adopted: June 15, 2004
Amended: April 26, 2007
July 1, 2011 (Emergency)
Adopted: August 8, 2011
Effective: November 11, 2011
Approved by Board:
Amended:
Effective:

ATRS Proposed Rule Change

e. **SUBJECT:** Refunds of Member Contributions (**Rule 8-2**)

*****Running Concurrently as an Emergency Rule beginning April 2, 2012*****

DESCRIPTION: This sets the rate of interest for refunded contributions for the fiscal 2011-12 year. It also allows the board to change the interest rate going forward by resolution, rather than by rule change. It removes the “hardship” requirement that a member has to prove before receiving a refund of member contributions from ATRS. Thus, ATRS no longer has to make a judgment call on the facts presented by a member claiming to have a hardship that justifies a refund of the member’s contribution.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. No public comments were received. **The rule went into emergency effect on April 2, 2012.** The proposed permanent effective date is June 14, 2012.

Mary Cameron, Attorney with the Arkansas Bureau of Legislative Research, asked the following questions:

Question #1: Where is the authority to change the interest rate by “resolution” rather than by “rule” (see comments under rule 10-3)?

Response #1: The ATRS Board has exclusive authority to set an interest rate that is actuarially sound and appropriate for the system as a part of their duties for the internal management of the agency. This is not a procedural rule for the public to follow, and therefore not subject to formal rulemaking. This same process is used to set annual T-DROP interest, annual post 10-year T-DROP interest, and the annual ATRS contribution rate.

Question #2: Why did this proposed rule repeal Rule #5 (page 8-2-2) when this law is still in effect at A.C.A. 24-7-711(a)(1)?

Response #2: ATRS has decided to avoid duplication of and potential conflict between the ATRS rules and the law (Code) by not creating or maintaining rules that are simply restatements of the law re-characterized as a “rule”. The rules are intended and promulgated to add clarification or details to a process that is not delineated in the law. This will also prevent problems caused if a law change is not immediately followed by a rule change to re-restate the law that was just restated in the first place. Confusion and detrimental reliance on a rule that is repealed by implication can be avoided. ATRS is working on explanations that will integrate the law and rules into an easy to follow primer on benefits.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b) and to set interest rates under Ark. Code Ann. § 24-7-305(c).

REFUNDS OF MEMBER CONTRIBUTIONS

A.C.A. § 24-7-711

RULES

1. Should an overpayment of contributions of less than \$25.00 be reported from the local level, no refund of this amount will be made to the member, except upon the written request from the member. The total amount reported by the employing authority shall be credited to contributions.
2. On refunded contributions, the rate for all interest credited before June 30, 1984, is 3%, compounded annually, after the first year of contributions. The rate of interest credited on June 30, 1984, through June 30, 2009, is 6%, compounded annually, after the first year of contributions. Beginning June 30, 2010, the interest rate shall be 2%. The rate of interest credited for June 30, 2010, through June 30, 2011, is 2%, compounded annually after the first year of contributions. Beginning June 30, 2012, the interest rate shall be 1% compounded annually after the first year's contributions. Payable interest shall be computed on each member's individual account as of June 30 each year by multiplying the balance in the member's individual account as of July 1 (including all contributions and interest credit from previous years) plus one-half (1/2) of the contributions for the year ending on June 30 by the annual applicable interest percentage rate.
3. The Board may change the interest rate on refunded contributions for future years by Resolution stating the new interest rate, the date that the new interest rate will become effective, and any other features of the interest rate's implementation.
- ~~34.~~ Regular interest is not paid on contributions made in the year in which a refund is paid.
5. As of July 1, 2012, ATRS no longer requires a hardship in order to pay a refund in no more than two payments on a direct payment to the member. Upon receipt of a properly completed refund application, ATRS will issue a refund for all member contributions that have been closed on the books of ATRS. Any amount due in a second payment will be made when all quarters of service the member worked are closed on the books of ATRS. Rollovers will be made in one payment when all quarters of service worked have been closed on the books of ATRS.
- ~~46.~~ The effective date of a refund is the date that ATRS first issues payment of a refund. ~~If a refund is paid in two (2) payments due to a recognized hardship,~~

~~then the effective date of the refund is the date the last refund payment is made.~~

- ~~5. Refunds of contributions will be made within six (6) months from the date of receipt of the written refund application by ATRS.~~

Amended: July 18, 2005
February 1, 2010 under emergency rules.
June 7, 2010 Permanent
July 1, 2011 (Emergency)
Adopted: August 8, 2011
Effective: November 11, 2011
Approved by Board:
Amended:
Effective:

ATRS Proposed Rule Change

f. SUBJECT: Repayment of Refunded Member Contributions (Rule 8-3)

DESCRIPTION: This is a repeal of this rule. The Repayment of Refunds is now addressed/replaced in language that amends Rule 8-1.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b).

REPAYMENT OF REFUNDED MEMBER CONTRIBUTIONS

~~A.C.A. § 24-7-502(b)(4)(A) and A.C.A. § 24-7-406(d)~~

DEFINITION (Amended by Act 142 of 1997)

Repayment of refund means repayment to the System of contributions that have been withdrawn. Withdrawal of contributions forfeits contributory service credit. Service credit can be restored by repayment of a refund [A.C.A. § 24-7-502(b)(4)(A)].

RULES (Amended by Act 524 of 1995, Acts 142 and 206 of 1997, and Act 866 of 1999)

1. ~~To be eligible to repay a refund, a person must be an active member of the System. A person who has received a refund may reestablish active membership by completing thirty (30) days or more during the last such re-employment.~~
2. ~~To repay a refund requires repayment of the entire amount withdrawn, plus interest from the date of withdrawal to the date of final payment. If a member has received more than one refund, repayment must be made in inverse order. The most recent refund account must be paid in full before another refund account can be established for purchase.~~
3. ~~The cost to repay a refund account is the entire amount withdrawn plus interest from the date of withdrawal to the date of final payment.~~
4. ~~An agreement to complete payment shall exist upon acceptance of the initial payment.~~
5. ~~Repayments of refunds or the purchase of service may be made by employer pick-up (tax deferred deductions). See Rule No. 8-5 (Purchase Payment Rules).~~
6. ~~ATRS will accept participant rollover contributions and/or direct rollovers of distributions for the repayment of refunds under certain circumstances. See Rule No. 8-4 (Rollover Acceptance and Distribution).~~
7. ~~All rules pertaining to the minimum payments and payment methods are contained in Rule No. 8-5 (Purchase Payment Rules).~~

Amended: ~~February 3, 2004~~
~~June 15, 2004~~
~~April 26, 2007~~

Approved by Board:

Repealed:

Effective:

ATRS Proposed Rule Change

g. SUBJECT: Purchase Payment Rules (Rule 8-5)

DESCRIPTION: This provides for the service purchase commitments made before the enactment of Act 69 of 2011 to continue, or be modified in compliance with the law, unless withdrawn or cancelled by the member.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b) and Ark. Code Ann. § 24-7-612(d). See also Act 69 of 2011, Section 13.

PURCHASE PAYMENT RULES

- ~~1. Effective July 1, 2004, each new purchase account with a total amount due of \$1,000.00 or less must be paid in a lump sum.~~

~~Each new purchase account with a total amount due greater than \$1,000.00 but less than \$10,000.00, will require a minimum of \$500.00 each payment until the account is paid in full.~~

~~Each new purchase account with a total amount due of \$10,000.00 or greater will require a minimum payment of \$1,000.00 each payment until the account(s) is paid in full.~~

1. Prior to July 1, 2011, any service purchase commitment statement provided by a member to ATRS constitutes an agreement between ATRS and the member for ATRS to allow the member to complete the service purchase stated on the commitment form unless withdrawn or cancelled by the member. Failure of a member to complete the terms of the service purchase agreement authorizes ATRS to cancel the agreement. However, a service purchase commitment may be modified in terms of types of payment, duration, and the service being purchased, except the service being purchased cannot be increased and any decrease must otherwise be in compliance with ATRS law and policy.
2. An agreement to complete payment of purchase account shall exist upon acceptance of the initial payment.
- ~~3. Multiple new purchase accounts may be concurrently established for some service purchase types; however, each individual account must adhere to the minimum payment as specified and outlined in No. 1 above.~~
- ~~4. Unless the new purchase account(s) is paid in full, the initial payment on each purchase account(s) established must be made with after-tax dollars (personal check, money order, or cashier's check) for the minimum payment amount as specified and outlined in No. 1 above.~~
- ~~5. Effective July 1, 1997, repayments of refunds or the purchase of service may be made by employer pick-up. A member whose covered employer has submitted a payroll deduction resolution form for employer pick-up (tax-deferred deductions) may submit to ATRS an irrevocable payroll authorization (IPA) form provided by ATRS. The IPA shall set forth the amount and duration of deductions along with the terms and conditions agreed to by both~~

~~the employer and the employee. The amount of the recurring deduction must meet the minimum payment amount as specified and outlined in No. 1 above. The recurring deduction will be deducted from the salary of each participating member on each and every payroll, for each and every payroll period. Once established, the IPA will remain in effect until (a) the number of payments on the IPA is completed, (b) the member terminates employment, or (c) the member retires. [(A.C.A. § 24-7-406(h)(1)(B) and A.C.A. § 24-7-406(h)(2)(3)(4)(5)]~~

~~Should the member have an existing IPA established prior to July 1, 2004, setting up a new purchase account automatically increases the amount on the existing IPA to coincide with the new minimum payment on the new purchase account. Payments to multiple accounts are applied at ATRS' discretion.~~

~~The amount of the deduction may be increased or lowered so long as the lowered amount does not fall below the minimum amounts payable. Maximum deductions on purchase service are set forth by IRS regulations.~~

- ~~6. Payment by personal checks that meet the minimum requirements of No. 1 above may be made at any time during the installment period in addition to any payments made by employer pick-up.~~
- ~~7. A purchase account is not considered established and will not be set up as payable until the initial payment is accepted by ATRS.~~

Adopted: June 15, 2004
Approved by Board:
Amended:
Effective:

ATRS Proposed Rule Change

h. SUBJECT: Cancellation of Purchase Service Accounts (Rule 8-6)

DESCRIPTION: This removes the “hardship” requirement that a member must prove to ATRS before a purchase service account can be cancelled.

It also substitutes the specific department at ATRS, the “Accounting Reporting Department,” for the previously cites “ATRS Administration” as the correct department to file a cancellation request.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. §§ 24-7-305(b) and 24-7-612(d).

CANCELLATION OF PURCHASE SERVICE ACCOUNTS

1. ~~Under certain hardship cases or if mandated by statute, an~~ An established purchase account may be cancelled if ~~the request is~~ submitted in writing by the member and approved by ~~ATRS administration~~ the Accounting Reporting Department. The amount of payments to date will be returned to the member without interest unless the payment of interest is statutorily mandated. Purchase account payments through employer pick-up cannot be cancelled until (a) the number of payments on IPA is completed, (b) the member terminates employment, or (c) the member retires.
2. The cancelled purchase account may be refunded under certain conditions:
 - A. Accounts paid only with after-tax contributions can be returned to the member.
 - B. Accounts paid only with employer pick-up contributions cannot be returned to the member unless the member terminates employment or retires.
 - C. Accounts paid only with rollover/transfer contributions may be rolled to another qualified plan or refunded to the member minus federal taxes.
 - D. Accounts paid with a combination of after-tax and rollover/transfer may be refunded.

Adopted: June 15, 2004

Approved by Board:

Amended:

Effective:

ATRS Proposed Rule Change

i. SUBJECT: Free Teaching Service Before 1937 (Rule 8-8)

DESCRIPTION: This repeals a rule that is obsolete and whose provisions regarding proof of serve credit are covered in ATRS Rule 7-2. See also § 24-7-601 (d), which denies credit for service before July 1, 1937, and (f), which gives the board the final authority to decide service credit.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. §§ 24-7-305(b) and 24-7-601.

h. SUBJECT: Cancellation of Purchase Service Accounts (Rule 8-6)

DESCRIPTION: This removes the “hardship” requirement that a member must prove to ATRS before a purchase service account can be cancelled.

It also substitutes the specific department at ATRS, the “Accounting Reporting Department,” for the previously cites “ATRS Administration” as the correct department to file a cancellation request.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. §§ 24-7-305(b) and 24-7-612(d).

~~FREE TEACHING SERVICE BEFORE 1937~~

~~A.C.A. § 24-7-601~~

- ~~1. Teaching service performed before July 1, 1937, is considered prior service. Such service must have been proved by affidavits and filed with the System before July 1, 1959. Credit was allowed under the following provisions:~~
 - ~~A. Proof of service rendered prior to 1937 is considered prior service. Such service must have been proved by affidavits and filed with the System before July 1, 1959, to be counted as credited service unless marked otherwise or correspondence in folder so states. The 1937-38 year may be proved at any time at no cost to the member and counted as membership year, except withdrawn contributions, if any, for 1937-38 must be repaid.~~
 - ~~B. Prior service proved prior to July 1, 1955, is acceptable if the affidavit was signed by father, mother, brother, sister, former co-worker, neighbor, etc., and notarized—unless the affidavit was signed by a school official. In that case, signature did not have to be notarized.~~
 - ~~C. Prior service proved after July 1, 1955, must be signed by a school official where service was rendered or by the county school supervisor where service was rendered. The proof should indicate number of days or months of service rendered.~~
 - ~~D. Unless proof is otherwise marked and number of months is not indicated, ATRS will assume it is a year of service.~~
 - ~~E. If proof does not meet the above specifications but was filed prior to July 1, 1959, we will give the member an opportunity to submit an acceptable proof. If proof filed does not meet these specifications, but correspondence indicates the member has been given credit for prior service, ATRS will not take it away from him or her.~~
 - ~~F. Upon reentrance, subsequent service for 120 days, and repayment of withdrawn service, a member's microfilmed proof of prior service is sufficient for service credit.~~

Amended: _____ February 3, 2004
_____ June 15, 2004

Approved by Board:

Repealed:

Effective:

ATRS Proposed Rule Change**j. SUBJECT: Disability Retirement (Rule 9-4)**

DESCRIPTION: This sets clearer parameters for the date of the start of payment of disability retirement benefits if a member is still receiving payments from the employer. It clarifies that a member can reapply for disability retirement.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

Mary Cameron, attorney with the Bureau of Legislative Research, asked the following questions:

Question #1: Why is an extra time period allowed in Rule A ("up to two (2) full calendar months after the Medical Committee meets if the member is wrapping up final work for which the member is paid")?

Response #1: ATRS has seen a pattern of a member being approved for ATRS disability and continuing to work with the disability approval kept as an extra protection if they want to retire but lack the age or service credit for regular retirement. In theory, once approved for ATRS disability, a member could work 2 or more extra years and then use the approval for disability from years earlier and receive additional service credit for the work after the approval and not have to meet the age or service requirements for regular retirement. This was an "anti-selection" provision that ATRS felt needed to be addressed to use disability approval only for those who needed to stop work and at the same time allowed the member to wrap up work to prevent harm to school kids or the employer. Two months after approval seemed enough time to allow the member to wrap up work and begin drawing disability or otherwise decide that they declined to use the approval and have it expire and require a new disability application if their condition warranted such action.

Question #2: The disability retirement section of the law (A.C.A. 24-7-704) references the requirements in A.C.A. § 24-7-502 which must be met. Why aren't these other requirements included in the rule?

Response #2: Rule 9-4, concerning disability, is not a restatement of the law. You are correct that 24-7-704 sets out the eligibility requirements to receive disability retirement. A disability retiree is not permanently retired from ATRS. It is possible and not uncommon that a disability retiree improves to the extent the retiree can return to work and accrue additional service credit before age and service retirement. Since disability retirement anticipates a return to work, ATRS prohibits a return to work at an ATRS employer since the retirement is contingent upon the disability continuing and the person not working. If the disability retiree works again for an ATRS employer, the member becomes active and can obtain additional service credit, unlike an age and service retiree who can never become active again. Importantly, 24-7-704 only applies the termination of covered employment and not the REMAIN terminated of 24-7-502 (a) (1). This is the distinction that changes the list of requirements that apply to disability retirees. Said another way, the separation period of termination does not apply to disability retirees, only the initial termination. ATRS welcomes a disability back as an active member at any time.

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b).

DISABILITY RETIREMENT

A.C.A. § 24-7-704

RULES (as amended by Acts 468 and 743 of 2009)

- A. Disability retirement benefits shall commence the first day of the calendar month following the date the member is found to be disabled by the Medical Committee or up to two (2) full calendar months after the Medical Committee meets if the member is wrapping up final work for which the member is paid. Termination of active membership for disability benefits shall be the last date of ~~employment with the member's covered employer~~ any employer payment to the member due to the employment relationship. Paid sick leave, Family Medical Leave Act (FMLA) leave, if granted for the disability applicant, and other medical leave granted by the employer shall extend the date of active membership; however, service credit shall only include the days of service credit if it was for paid sick leave from the covered employer.
- B. If a disability is determined to exist by the Medical Committee, disability retirement benefits shall ~~be paid in arrears beginning with the effective date of benefits. Disability retirement shall be effective the first day of the calendar month following the date of the member's last rendered service to a covered employer.~~ commence on the date of the member's termination of active membership. Termination of active membership means when all employer payments to the member have ceased due to the end of the employee/employer relationship.
- C. If the application for disability retirement benefits is denied and the member elects voluntary retirement, the effective date for retirement shall be determined by the date the disability retirement application is filed.
- D. If an active member dies after applying for disability retirement, the following will apply:
 - 1. If the member dies after the disability application is received by the System but before disability retirement is approved, then the System shall consider the member to have died in "active" service and survivor benefits under A.C.A. § 24-7-710 shall be paid.
- E. The annuity formula for computing disability retirement benefits is the same as for voluntary age and service retirement.
- F. For all disability retirement applications approved by the Medical

Committee after May 31, 2011, in accordance with rule making authority granted to the ATRS Board under A.C.A. § 24-7-706(v), the Board shall allow a disability retiree at the time of retirement to designate and Option A or Option B beneficiary. Option C beneficiaries shall not be available to disability retirees.

1. If a disability retiree designates an Option A or Option B spouse beneficiary, and the disability retiree dies before reaching age 60, then the same rules that apply to active member option beneficiaries shall apply to the disability Option A and Option B beneficiaries under A.C.A. § 24-7-710(a)(C).
 2. If a disability retiree designates an Option A or Option B incapacitated child beneficiary, and the disability retiree dies before reaching age 60, then the same rules that apply to an active member surviving child shall apply to the disability Option A or Option B beneficiary under A.C.A. § 24-7-710(c) until the disability retiree would have turned age 60, then the Option A or Option B incapacitated child beneficiary shall receive the greater of the surviving child annuity under A.C.A. § 24-7-710(c) or the Option A spouse annuity under A.C.A. § 24-7-710(a).
- G. Disability retirants who are disapproved for further disability annuities due to a medical examination reviewed by the Medical Committee shall be removed from the System's retirant payroll the earlier of six months following the review date or the first of the month following the return to covered employment.
- H. If a member is approved for disability retirement but continues to work, he/she must terminate employment by the proposed disability retirement effective date. If covered employment is not terminated after receiving notice of the proposed effective date, disability retirement will be cancelled, the member will be considered active, and is eligible to reapply for disability retirement as long as the member is otherwise qualified to apply for disability retirement.
- I. If a member applies for disability retirement and is disapproved, he/she has the right to file a new disability application submitting additional information for review as long as the member remains active.

Amended: June 15, 2004
July 18, 2005
June 19, 2007
December 18, 2009
July 1, 2011
Adopted: August 8, 2011
Effective: November 11, 2011
Approved by Board:
Amended:
Effective:

ATRS Proposed Rule Change

k. SUBJECT: Annuity Options & Disposition of Residue After Retirement (Rule 9-7)

DESCRIPTION: This provides for an incapacitated child to be removed from the member's account if the incapacitated child is emancipated, marries, dies, or is otherwise found by a court to no longer be incapacitated. This change simultaneously affects the election of options with respect to the spouse as well.

There are also correction of typographical errors.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments.

Mary Cameron, attorney with the Bureau of Legislative Research, asked the following question:

Question: Rule 9-7: Why are large chunks of the existing law being removed from the rules?

For example, "C" on page 9-7-2 is still found in the law at 24-7-706(d)(3). **Response:** ATRS has decided to avoid duplication of and potential conflict with the law by not creating or maintaining rules that are simply restatements of the law re-characterized as a "rule". The rules are intended and promulgated to add clarification to a process that is not delineated in the law.

ATRS is trying to avoid rewriting rules that merely restate the law due to frequent legislative changes that happen each regular session of the General Assembly. The rules are being changed over time from restated laws that are self-effecting to only expansions upon or clarifications of the law. Also, see the explanation to Rule 8-2 (2).

The proposed effective date is June 14, 2012.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b) and Ark. Code Ann. §§ 24-7-706(a)(3) and (f).

ANNUITY OPTIONS AND DISPOSITION OF RESIDUE AFTER RETIREMENT

A.C.A. §§ 24-7-701, § 24-7-706, and § 24-7-709

DEFINITIONS

1. **Annuity Options** - The member's election at retirement of the annuity that shall be paid throughout the retiree's life in accordance with A.C.A. § 24-7-706.
2. **Option Beneficiary** - A person(s) nominated by the retiree by written designation duly executed and filed with ATRS at the time of retirement who, if eligible, will receive annuity payments under the annuity option chosen by the retiree after the retiree's death.
3. **Marriage Dissolution** - A final decree of divorce, separate maintenance, or annulment duly executed by a court of competent jurisdiction and filed of record in the Office of the Ex Officio Recorder.
4. **Person** - An individual, corporation, partnership, or other legal entity.
5. **Residue** - The member's accumulated contributions, including regular interest standing in the member's credit at the time of his/her retirement.
6. **Residue Beneficiary** - A person(s) nominated by the member/retiree to receive the residue, if any, at the termination of any option annuities payable on account of the retiree's death under A.C.A. § 24-7-709.

RULES

Before the date the first payment of an annuity becomes due, a member retiring on age and service or disability may elect to receive an annuity payable as provided in one of the following (Disability retirement option rights are modified as set forth in policy 9-4):

1. **Option 1:** A straight life annuity payable monthly for the life of the retiree. Upon the retiree's death, if the retiree has not received payments equal to the residue amount, the residue remaining, if any, shall be paid to the residue beneficiary. If no residue beneficiaries survive the retiree, the residue will be paid to the retiree's estate.

2. Effect of Option 1 Retiree's Death within the First Year of Retirement

If an Option 1 retiree dies within one year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to cancel the Option 1 annuity in effect and elect Option A (100% survivor annuity) at that time.

The election shall become effective the first day of the month following receipt of the election form by ATRS. If the spouse elects Option A, the residue, if any, will not be paid until the Option A beneficiary's death.

3. Persons Eligible as Option A or Option B Beneficiaries at the Time of Retirement

In order to be nominated as an Option A or B beneficiary, the person must be one of the following:

- A. The retiree's spouse (if the retiree has been married to the spouse for at least one (1) year prior to the first annuity payment being paid to the retiree);
- B. A dependent child (regardless of age) who has been ruled physically or mentally incapacitated by a court of competent jurisdiction.

4. Eligibility of a Spouse to Become an Option A or Option B Beneficiary after a Member's Retirement.

If a member was married to his or her spouse for less than one (1) year upon his or her effective retirement date or the member marries after his or her effective retirement date, then the member may elect to cover the spouse after being married for one (1) year. Upon meeting the one (1) year marriage requirement, the member shall have six (6) months to file an election to cover his or her spouse under either Option A or Option B. The written election must be filed on a form approved by ATRS.

5. Emancipation of Incapacitated Child Option Beneficiary.

If an incapacitated child, who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction, is nominated as an Option A or Option B beneficiary, and a court has determined that the incapacity issue no longer indicates incapacitation, or the incapacitated person is emancipated through marriage or dies, then the member may request ATRS to remove the incapacitated child from the member's account. Proof of the court's decision shall be by a copy of the court order, proof of emancipation shall be by a copy of the child's marriage license, or proof of death shall be by the death certificate.

Once proof is provided, the member may elect to return to Option 1 at that time, or if the member is married, the member shall have six months to designate the member's spouse as the member's option beneficiary. The election shall become effective the first day of the month following receipt of the election form by ATRS.

56. Limited Election Window for a Pre-July 1, 2011, Retiree to Modify His or Her Option Designation when Marrying after Retirement.

If a retiree married after retirement and designated his or her spouse as an Option B beneficiary, then the retiree may modify that beneficiary election from an Option B beneficiary election to an Option A beneficiary election, if the election is made on an ATRS form and is submitted to ATRS on or before June 30, 2012. If the retiree submits a form to modify the election to an Option A benefit, the election becomes effective on the first day of the month following receipt of the form by ATRS. The Option A benefit shall be calculated as if the retiree made the Option A election on the same date the Option B election was made; however, the additional reduction in benefits shall only apply after the effective date of the Option A election.

67. Residue Paid Upon Death of Option Annuitant

If after a retiree dies, an option annuity becomes payable, but the option beneficiary dies prior to the retiree and the option beneficiary receiving annuity payments equal to the residue amount, the residue, if any, shall be paid to member's residue beneficiary. If no residue beneficiary is nominated or survives upon the death of the option beneficiary, the residue remaining, if any, shall be paid to the last surviving option beneficiary's estate.

78. Final Benefit Check

Benefits are payable through the month in which the last option beneficiary's death occurs. If the option beneficiary dies prior to receiving the last check, ATRS will pay the final check in the normal manner paid prior to death. If payment of the final check in the normal course becomes impossible, the final option beneficiary's annuity check will be returned to the System.

89. Eligible Residue Beneficiaries

Any "person" as defined in this policy is eligible to be designated by the member to receive the residue, if any, payable upon the member's death including individuals, trusts, estates, corporations, and other legally recognized entities.

Amended: June 15, 2004
February 7, 2006
April 26, 2007
July 1, 2011 (Emergency)
Adopted: August 8, 2011
Effective: November 11, 2011
Adopted by Board:
Amended
Effective:

ATRS Proposed Rule Change

I. SUBJECT: Teacher Deferred Retirement Option Plan (T-Drop) (Rule 10-3)

*****Running Concurrently as an Emergency Rule beginning April 2, 2012*****

DESCRIPTION: This sets rules as outlined in Act 162 of 2011. It defines “T-DROP Cash Balance Account” and “T-DROP Cash Balance Account Interest” consistent with ATRS accounting procedures and prior board action. It also gives a member the choice of receiving all or part of his/her T-DROP Cash Balance Account, and it also allows ATRS to maintain any balance of that account for the member. This establishes rules for the election of a partial lump-sum distribution and sets the interest rates thereon.

This adds a definition of “Fiscal Year,” and “Quarter,” consistent with the state fiscal year.

PUBLIC COMMENT: A public hearing was not held. The public comment period ended on March 8, 2012. There were no public comments. **The rule went into emergency effect on April 2, 2012.** The proposed permanent effective date is June 14, 2012.

Mary Cameron, attorney with the Bureau of Legislative Research, asked the following question:

Question: While Ark. Code Ann. § 24-7-1307(c) allows the Board to determine the rate of interest, why is this being done by “resolution” rather than by “rule”? What does the Board perceive to be the difference between a “resolution” and a “rule” (i.e. no public comment period, doesn’t have to go to the Rules & Regulations Committee, etc.)?

Response: The Board follows the requirements of the Administrative Procedure Act. The APA dictates which actions of an agency are considered “rules”, from those that are not defined as rules. The formula is in the rule. The Board places the actuarial appropriate amount into the formula by resolution. This is done in several areas as explained in 8-2. This same process is used to set annual T-DROP interest, annual post 10-year T-DROP interest, and the annual ATRS contribution rate.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: This rule implements Act 162 of 2011. The Board of Trustees of the Arkansas Teacher Retirement System is authorized to promulgate rules under Ark. Code Ann. § 24-7-305(b), Ark. Code Ann. § 24-7-1308(b)(3) and Ark. Code Ann. § 24-7-1301(c).

TEACHER DEFERRED RETIREMENT OPTION PLAN (T-DROP)

A.C.A. §§ 24-7-1301 - 1316

DEFINITIONS

1. **ATRS** means the Arkansas Teacher Retirement System.
2. **Board** means the Board of Trustees of the Arkansas Teacher Retirement System.
3. **DROP** means a deferred retirement option plan enacted by the General Assembly and administered under ATRS or a reciprocal system.
4. **Fiscal Year** means the operating year for the State of Arkansas that begins on July 1 of each calendar year and ends on June 30 of the next calendar year.
45. **Participant** means a member who elects to participate in T-DROP under A.C.A. § 24-7-1301 et seq. by authorizing ATRS to make plan deposits, plan interest, or 10-year plus T-DROP interest into a member's T-DROP account.
56. **Plan deposits** means the deposits made to each participant's T-DROP account pursuant to A.C.A. § 24-7-1306.
67. **Plan interest** means the rate per annum, compounded annually on June 30, as the Board shall set and adopt at the end of each fiscal year, credited annually in each T-DROP participant's T-DROP account. The interest rate shall be 2% less than the System's average rate of return with a maximum of 6% and minimum of 2%. The Board will determine the interest rate for the following fiscal year based upon the rate of return for the immediately preceding twelve-month period ending March 31 prior to the start of such fiscal year. The initial calculation of this rate shall begin March 31, 2005, for interest to be credited in the 2005-2006 fiscal year.
8. **Quarter** means one-fourth (1/4) of a fiscal year. The four (4) quarters applicable in this rule are:
 - 1st Quarter: July 1 through September 30
 - 2nd Quarter: October 1 through December 31
 - 3rd Quarter: January 1 through March 31
 - 4th Quarter: April 1 through June 30

79. **T-DROP** means the Teacher Deferred Retirement Option Plan established by ATRS under Act 1096 of 1995.

10. **T-DROP Cash Balance Account** means the financial account set up for a participant who elects to defer distribution of his or her T-DROP account at a time that he or she is eligible to receive a lump-sum distribution of the T-DROP balance.

11. **T-DROP Cash Balance Account Interest** means the interest rate per annum applicable to a member's T-DROP Cash Balance Account, compounded annually and credited on June 30 into a participant's T-DROP Cash Balance Account. The interest rates payable on the T-DROP Cash Balance Accounts are set forth in this rule in subsection 4 of the section titled "**T-DROP CASH BALANCE ACCOUNT**". The annual T-DROP Cash Balance Account interest rate shall be applied to T-DROP Cash Balance Accounts that have been held for at least one (1) fiscal year by the System.

812. **T-DROP Service Credit** shall be determined using the same rules that apply for service credit for an active member with the exception that "on call" availability shall not be used for T-DROP service credit requirements.

913. **10-year plus T-DROP interest** means the rate per annum, compounded annually, as the Board shall set and adopt at the end of each fiscal year, credited on June 30 into a member's T-DROP account that meets the following criteria:

- A. The member participated in T-DROP for ten (10) years and continued employment with an ATRS covered employer; and
- B. The member has not retired.

T-DROP PARTICIPATION and ACCOUNT CREDIT

Effective July 1, 1995, in lieu of terminating employment and retiring under A.C.A. § 24-7-701, an active member of ATRS may elect to participate in T-DROP and continue to work for a covered employer. By continuing covered employment, the participant defers receipt of retirement benefits until a later date.

During participation in T-DROP, ATRS shall credit each participant's T-DROP account with plan deposits and plan interest.

The plan interest rate determined by majority vote of the Board is final and binding upon ATRS and shall not be adjusted based on any revised rate of return reported after that date.

The 10-year plus T-DROP interest rate shall be set by the Board at same meeting that the plan interest rate is set. The 10-year plus T-DROP interest rate

is limited to a maximum of six percent (6%) and a minimum of four percent (4%). The 10-year plus T-DROP interest rate will be credited to the participant's T-DROP account on June 30th of each year.

The initial 10-year plus T-DROP interest rate for 2010 is set at four percent (4%) and will be credited to the participant's T-DROP account on June 30, 2010. The 10-year plus T-DROP interest rate shall be set prospectively by the Board prior to the beginning of each fiscal year and that interest rate shall be credited to the participant's T-DROP account June 30th of the following year.

The 10-year plus T-DROP interest rate for each year determined by majority vote of the Board is final and binding upon the ATRS and shall not be adjusted based on any revised rate of return reported after that date.

RULES

1. To participate in the T-DROP, the member shall have twenty-eight (28) or more years of ATRS service credit. For reciprocal service, refer to the section in this rule titled **"DROP PARTICIPATION UNDER RECIPROCAL SYSTEMS"**.
2. To participate in the T-DROP, the member shall make the election on an application form approved by ATRS.
3. Upon review of the member's application, ATRS shall determine if the member meets the eligibility requirements specified in A.C.A. § 24-7-1302, and approve or disapprove the application.
4. If the member meets the eligibility requirements, the member's T-DROP participation will begin the July 1 after the application is approved.
5. The participant's T-DROP benefit will be the monthly straight life annuity benefit to which the member would have been entitled had the member retired under A.C.A. § 24-7-701. The participant's T-Drop benefit may be reduced under the conditions of No. 7 below. The T-DROP deposit shall not include the benefits provided in A.C.A. § 24-7-713(b) (stipend).
6. Plan deposits shall be a percentage of the T-DROP benefit, as follows:
 - A. One hundred percent (100%) reduced by the product of one percent (1.0%) multiplied by the number of years of contributory service credit and fractions thereof, plus,
 - B. One hundred percent (100%) reduced by the product of six-tenths percent (0.6%) multiplied by the number of years of noncontributory service credit and fractions thereof.

- C. i. In the event a participant whose effective date in the T-DROP is before September 1, 2003, has more than thirty (30) years of service, the years of service above thirty (30) years shall be reduced by one-half of one percent (0.5%) for contributory years and three-tenths of one percent (0.3%) for noncontributory years.
 - ii. Beginning July 1, 2001, when a participant whose effective date in the T-Drop is before September 1, 2003, reaches normal retirement age, the plan deposits shall be 100% with no reduction.
 - iii. For a participant whose effective date in the T-Drop is September 1, 2003, or after, and who has more than thirty (30) years of service, the plan deposits for the years of service above thirty (30) years shall be reduced under Nos. 6A and 6B.
 - iv. For a participant whose effective date in the T-Drop is September 1, 2003, or after, the plan deposits for a participant who reaches normal retirement age shall continue as reduced under Nos. 6A and 6B.
- 7. A participant's plan deposit will incur an additional reduction of 0.5% for each month the member lacks having thirty (30) years of credited service.
 - 8. A participant may elect an annuity option provided in A.C.A. § 24-7-706. The election shall be made at the time the participant separates from service and is granted a monthly retirement benefit or files for retirement upon reaching normal retirement age.
 - 9. A member's participation in T-DROP shall not exceed ten (10) consecutive calendar years for accruing plan deposits.
- If a participant continues covered employment after completing ten (10) years in T-DROP, the T-DROP account will be credited with 10-year plus T-DROP interest as set by the Board. Benefits payable at retirement will be based on the account balance the month before the participant begins drawing retirement benefits.
- 10. The annuity upon which plan deposits are calculated shall receive the cost-of-living increase provided for in A.C.A. § 24-7-713(a) or § 24-7-727. The annuity plus the cost-of-living increase is reduced or adjusted under the procedure described in No. 6 above.
 - 11. If a T-DROP participant elects to retire and ATRS distributes the T-DROP account to the participant, the participant shall not be allowed to reenroll in T-DROP.
 - 12. As soon as possible after the end of each fiscal year, ATRS shall furnish the participant an annual statement of the participant's T-DROP account. The

statement of T-DROP deposits and interest will not be final until the annual accounting has been reconciled for part-time T-DROP participants.

13. Service Credit of 160 days or greater within a fiscal year while in T-DROP participation without termination, retirement, or death will allow crediting of twelve (12) monthly T-DROP deposits per fiscal year.
14. Part time employment while participating in the T-DROP plan:
 - a. In the first or fourth quarter of the fiscal year, five (5) or more days of service credit shall be required to credit the T-DROP participant's account with three (3) monthly deposits for that particular quarter. If a T-DROP participant receives less than five (5) days of service credit in either the first or fourth quarter of the fiscal year, then no T-DROP deposits shall be made in the three months for that particular quarter.
 - b. In the second or third quarters of the fiscal year, fifteen (15) or more days of service credit shall be required to credit the T-DROP participant's account with three (3) monthly deposits for that particular quarter. If a T-DROP participant receives less than fifteen (15) days of service credit in either the second or third quarter of the fiscal year, then no T-DROP deposits shall be made in the three months for that particular quarter.

CEASING T-DROP AND DISTRIBUTION OPTIONS

1. Participation in T-DROP ceases when:
 - a. The participant separates from service and is granted a monthly retirement benefit from ATRS or a reciprocal plan; or
 - b. The participant reaches normal retirement age and retires without separation from service, or
 - c. The participant separates from covered employment but does not apply for monthly retirement benefits; or
 - d. The participant dies.
2. Any lump-sum distribution of a participant's T-DROP account balance is eligible to be rolled over into a qualifying retirement plan. The ATRS shall only roll over the T-DROP lump sum balance into one qualifying plan.
3. A participant may direct that all or a part of his or her lump-sum distribution as set forth in Ark. Code Ann. §24-7-1308 may continue to be held by ATRS in a T-DROP Cash Balance Account described in this rule in the section titled "T-DROP CASH BALANCE ACCOUNT".

34. The T-DROP is intended to operate in accordance with Section 415 and other applicable sections of the IRS Code. Any provision of the T-DROP that conflicts with an applicable provision of the IRS Code is invalid.
45. If a participant separates from covered employment but does not apply for monthly retirement benefits, the T-DROP monthly deposit shall cease the month of separation from service. No deposits will be credited to the participant's account for the duration of the separation. Upon returning to covered employment, the monthly deposits will resume. Upon application for retirement, benefits will be paid according to the account balance at the time of separation from service or the month prior to the effective date of benefits after reaching normal retirement age.
56. If a T-DROP participant leaves ATRS-covered employment to serve, on a voluntary or involuntary basis, in the uniformed services of the United States and returns to ATRS-covered employment, the member shall be treated as not having incurred a break in service with the employer. The employer shall certify to the ATRS that reemployment was in accordance with the requirements set forth in Section 4312 of P.L.103-353, the Uniformed Services Employment and Reemployment Act (USERA) of 1994.

Under this subsection, uniformed services of the United States are limited to the armed forces, the Army, and the Air National Guard when engaged in active duty for training, inactive duty training, full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

DEATH OF A T-DROP PARTICIPANT PRIOR TO RETIREMENT

1. In the event a T-DROP participant dies, the benefits payable from the T-DROP account shall be determined according to A.C.A. § 24-7-710.
2. A T-DROP participant's surviving spouse may choose to receive the T-DROP benefit in a lump sum. If the spouse elects a lump-sum payment of the T-DROP balance, the survivor annuities payable under A.C.A. § 24-7-710 shall be calculated on the service credit and salary earned by the member prior to participating in T-DROP.
3. For the purposes of A.C.A. § 24-7-709 related to disposition of residue, any amount received from the T-DROP account, either in the form of a lump sum or annuity payments, shall be considered to be annuity payments received by the member or his or her designated beneficiary and shall act to reduce or eliminate the disposition of residue payable under A.C.A. § 24-7-1310(c).

DROP PARTICIPATION UNDER RECIPROCAL SYSTEMS

1. If a reciprocal system offers a DROP for its members, service credit in ATRS, a reciprocal system, or the combination of service credit in the systems may be counted to meet the minimum service credit requirements for participation under each system's DROP.
2. The benefit payable by the reciprocal system shall be based on the DROP provisions of each system. The final average salary used to determine plan deposits shall be that of the reciprocal system which furnishes the highest final average salary at the time of retirement. Each reciprocal system shall use the method of computing final average salary stipulated by its law. Salaries earned in the Arkansas Judicial Retirement System and alternate retirement plans shall not be used in computing final average salary.
3. Plan deposits and plan interest credited to the DROP account will be paid under the deferred retirement option program in effect for that reciprocal system.
4. ATRS shall promulgate rules and regulations to coordinate its benefits with any reciprocal system providing a DROP.

T-DROP CASH BALANCE ACCOUNT

1. At the time that a T-DROP participant may elect to receive a lump-sum distribution of the participant's T-DROP account balance, the participant may elect to defer all or a part of his or her T-DROP account and direct that such amount be held in a T-DROP Cash Balance Account for the participant. If a member chooses to defer only part of the T-DROP distribution into a T-DROP Cash Balance Account, the member's only other option is to annuitize the remainder of the T-DROP distribution with ATRS on a 25%, 50%, or 75% basis.
2. After the first full quarter of T-DROP Cash Balance Account participation, a participant with a T-DROP Cash Balance Account balance may withdraw funds from the account one time per quarter on such forms as the System may issue. The system may allow a member to obtain an additional withdrawal in a quarter for a manifest emergency. As provided in Ark. Code Ann. §24-7-730, required minimum distributions will be made sufficient to satisfy legal requirements, including Internal Revenue Code §401(a)(9).
3. A T-DROP Cash Balance Account that has been held at least one (1) full fiscal year by the System shall be credited annually on June 30 with T-DROP Cash Balance Account interest (computed on a weighted-average basis) and debited for all withdrawals and distributions.
4. The initial interest rates for T-DROP participants electing to enter the T-DROP Cash Balance Account program are set forth in this subsection. Members establishing a T-DROP Cash Balance Account on or after July 1, 2012, shall

receive interest on their T-DROP Cash Balance Account according to the following schedule:

<u>After one (1) complete fiscal year:</u>	<u>2.00% interest.</u>
<u>After two (2) complete fiscal years:</u>	<u>2.25% interest.</u>
<u>After three (3) complete fiscal years:</u>	<u>2.50% interest.</u>
<u>After four (4) complete fiscal years:</u>	<u>2.75% interest.</u>
<u>After five (5) complete fiscal years:</u>	<u>3.00% interest.</u>
<u>After six (6) complete fiscal years:</u>	<u>3.25% interest.</u>
<u>After seven (7) complete fiscal years:</u>	<u>3.50% interest.</u>
<u>After eight (8) or more complete fiscal years:</u>	<u>4.00% interest.</u>

These interest rates are minimum interest rates that apply to T-DROP Cash Balance Accounts that are established while these rates are in effect. The T-DROP Cash Balance Account interest may be increased by the ATRS Board of Trustees on a forward-looking and Ad Hoc basis.

5. The interest rates set forth in subsection 4 above and payable on T-DROP Cash Balance Accounts established on or after July 1, 2012, shall remain at the initial rate set for July 1, 2012, T-DROP Cash Balance Account entrants unless the ATRS Board of Trustees adopts a different interest rate schedule to be used for future entrants to the T-DROP Cash Balance Account at least one (1) year prior to the beginning of a fiscal year in which the new interest rates shall apply. The ATRS Board of Trustees may adopt an interest rate schedule for new entrants by Resolution, setting forth the new interest rate schedule for the T-DROP Cash Balance Account. T-DROP Cash Balance Accounts existing prior to the effective date of the Resolution shall be unaffected by the new interest rate schedule.
6. Based upon interest rates and financial market conditions, the ATRS Board of Trustees may approve Ad Hoc interest rate increases for T-DROP participants in the T-DROP Cash Balance Account for a subsequent fiscal year through Resolution adopted by the ATRS Board of Trustees.
7. If a participant dies with a T-DROP Cash Balance Account, the account balance shall be paid as provided under Ark. Code Ann. §24-7-1310.

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June 17, 2003
February 15, 2005
July 18, 2005
April 26, 2007
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