

December 20, 2023

**Executive Summary**  
**Proposed Rule Amendment**

**ATRS Rule 8 – Free Service Credit, Purchasable Service Credit, and Purchase Accounts**

**I. Purpose**

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed amendments to ATRS Rule 8 – Free Service Credit, Purchasable Service Credit, and Purchase Accounts (“Rule 8”).

On December 4, 2023, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for Rule 8.

**II. Authority**

A.C.A. § 24-7-301 provides that the Board is responsible for the general administration and proper operation of the System and for implementing the Arkansas Teacher Retirement System Act, A.C.A. § 24-7-201 et seq.

A.C.A. § 24-7-305(b) gives the Board the authority to promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

A.C.A. § 25-15-216(b)(3) requires ATRS to promulgate rules pursuant to the provisions of each act identified by the Bureau of Legislative Research or by the System as requiring the promulgation of one (1) or more rules. Acts 2023, No. 55, 69, 107, and 125, were identified by the System as requiring the promulgation of a rule or rules.

**III. Amendments**

Rule 8 has been amended as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- Amended to incorporate the provisions of Acts 2023, No. 125, concerning the purchase of permissive service credit (gap year service) (*See mark-up, page 1, § 8-101(3), page 1, § 8-101(6), and page 9, § 8-112*);
- Amended definition of “qualified service” by changing “46” to read “26” in accordance with Acts 2023, No. 125 (*See mark-up, page 1, § 8-101(8)*);

- Acts 2023, No. 69, amended the law to allow an inactive member to be eligible for free service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 2, § 8-102(b) and (c)*);
- Amended to clarify that a member who voluntarily enlisted in the United States Armed Forces during a military draft may establish free military service credit with ATRS (*See mark-up, page 2, § 8-102(b) and (c)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased **military** service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 3, § 8-103(d)*).
- Amended to clarify that a member who has purchased National Guard or armed forces reserve service credit can concurrently receive service credit for service provided to a covered employer of the System (*See mark-up, page 3, § 8-104(d)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased **National Guard and armed forces reserve** service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 4, § 8-104(e)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased **domestic federal** service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 4, § 8-105(c)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased **out-of-state** service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 5, § 8-106(d)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 3, § 8-104(d)*);
- Amended to clarify that a member may be credited with fractions of years of overseas service credit in accordance with Ark. Code Ann. § 24-7-601 (*See mark-up, page 5, § 8-107(c)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased **overseas** service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 5, § 8-107(c)*);
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased **General Assembly** service credit. The rule has been amended to conform with the legislative change (*See mark-up, page 6, § 8-108(d)*);

- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased [advanced degree](#) service credit. The rule has been amended to conform with the legislative change ([See mark-up, page 6, § 8-109\(b\)](#));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased [certified private school](#) service credit. The rule has been amended to conform with the legislative change ([See mark-up, page 7, § 8-110\(b\)\(2\)](#));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased [noncertified private school](#) service credit. The rule has been amended to conform with the legislative change ([See mark-up, page 7, § 8-110\(c\)\(2\)](#));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased [private education-related entity private school](#) service credit. The rule has been amended to conform with the legislative change ([See mark-up, page 8, § 8-110\(d\)\(2\)](#));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased [federal retirement](#) service credit. The rule has been amended to conform with the legislative change ([See mark-up, page 9, § 8-111\(g\)](#));
- Amended to clarify that permissive service credit may only be purchased if the total gap year service for which permissive service credit is being purchased amounts to one (1) fiscal ([See mark-up, page 9, § 8-112\(b\)\(1\)\(A\)](#));
- Acts 2023, No. 107, amended the law to clarify that service credit purchased under a contract buyout settlement agreement or court order offsets service credit that is earned through covered employment with another covered employer during the same period of time covered by the purchased service credit. The act also amended the law to provide that service credit purchased under a contract buyout settlement agreement cannot be applied in a manner that would allow a member to earn more than one (1) year of service credit in a fiscal year. The rule has been amended to conform with the legislative changes ([See mark-up, page 10, § 8-113\(d\)](#));
- Amended to clarify when the System will credit a member with additional salary credit purchased through a contract buyout settlement agreement ([See mark-up, page 10, § 8-113\(e\)\(1\)](#));
- Amended to clarify when purchased additional salary credit may be used to calculate a member's final average salary ([See mark-up, page 10, § 8-113\(e\)\(2\)](#));
- Amended to incorporate a rule adopted by the Board in Resolution No. 2023-16, which prohibits a member from using unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement to retire before the member's employment contract with the school district would naturally have terminated. [Revisions have also been made to clarify that the rule applies to disability retirement as well](#) ([See mark-up, page 10, § 8-113\(f\)](#));

- Repealed rules concerning purchase accounts established before July 1, 2011, as ATRS staff has advised that there are no longer any purchase accounts that were open before July 1, 2011 (*See mark-up, page 11, § 8-115(a)*); and
- Amended to clarify that the deadline to pay the balance of a purchase account is six (6) months from the member's date of death unless the deadline is extended by the Executive Director (*See mark-up, page 11, § 8-115(c)(1)*).

#### **IV. Recommendation**

The System recommends that the proposed amendments to Rule 8 be approved as proposed.

#### **Color Code**

- Blue – Non-substantive changes by ATRS staff.
- Green – Substantive changes by ATRS staff.
- Red – Required legislative changes.
- Brown – Non-substantive changes where the rule was transferred from one rule to another.
- Yellow highlight – Changes to the rule based on public comments.



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**Public Comments**

**Proposed Rule 8 – Free Service Credit, Purchasable Service Credit, and Purchase Accounts**

**1. Page 1, § 8-101(8).**

- a. **BLR Comment:** Section 8-101(8) – Under the definition for “Qualified service”, should the reference to the United States Code be to Title 26, as opposed to Title 46, as it appears in Ark. Code Ann. § 24-7-202 and Act 125 of 2023?
- b. **Response:** Yes. The rule has been amended to change “46” to “26”.

**2. Page 3, § 8-104.**

- a. **ATRS Staff Comment:** Should the rules state that members may receive concurrent service for National Guard service purchases?
- b. **Response:** Yes. This comment aligns with Ark. Code Ann. § 24-7-610(e). The rule has been amended.

**3. Page 5, § 8-107.**

- a. **ATRS Staff Comment:** Should the rules concerning the purchase of overseas service credit also state that a fraction of a year can be credited in accordance with Ark. Code Ann. § 24-7-601?
- b. **Response:** Yes. This comment aligns with Ark. Code Ann. § 24-7-604(b)(3)(B). The rule has been amended.

**4. Page 10, § 8-113(f).**

- a. **ATRS Staff Comment:** Should disability retirement be added to following, “*The system shall not permit a member to use unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement with a school district to retire under age and service retirement before the member’s employment contract with the school district would naturally have terminated.*”?
- b. **Response:** Yes. The rule has been amended to add disability retirement.

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## ATRS Rule 8 Free Service Credit, Purchasable Service Credit, and Purchase Accounts

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### § 8-101. Definitions.

As used in this rule:

(1) "Armed forces reserve" means one (1) of the reserve components of the United States Armed Forces;

(2) "Domestic federal service" means service rendered as a teacher or administrator in a school or similar institution located on a military base or installation that is administered by the United States Department of Defense;

(3) "Gap year" means a period of time:

(A) In which a member was an inactive member and either:

(i) Unemployed; or

(ii) Did not provide qualified service; and

(B) For which the Arkansas Teacher Retirement System may grant the member permissive service credit;

(4) "Out-of-state service" means service performed in a state other than Arkansas and in a position that would have been covered by the Arkansas Teacher Retirement System if the service had been actual service performed in Arkansas and covered by the system;

(5) "Overseas service" means service in:

(A) An American-related overseas school that is sponsored and approved by either the United States Department of State or the United States Department of Defense; or

(B) The Peace Corps or AmeriCorps VISTA, Volunteers in Service to America;

(6) "Permissive service credit" means service:

(A) That is credited under the system for the purpose of calculating a member's benefit;

(B) That has not previously been credited under the system; and

(C) For which a member contributes or pays the amount necessary to fund the benefit attributable to the service as required by the system;

(7) "Private school service" means:

(A) Service rendered in a private school, or agency that would have been covered by the system if the:

(i) Service had been rendered in a public school; or

(ii) Private school or agency;

(B) Has positions that would require the issuance of a teaching license in a public school based on a determination by the system; or

(C) Is recognized as a private education-related entity by resolution adopted by the Board of Trustees of the Arkansas Teacher Retirement System;

(8) "Qualified service" means the service described in 26 U.S.C. § 415(n)(3)(C)(i)-(iv), as it existed on January 1, 2023; and

(9) "Uniformed Services of the United States" means service in the:

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- (A) United States Armed Forces;
- (B) Army National Guard;
- (C) Air National Guard when engaged in active duty for training, state active duty, inactive duty training, or full-time National Guard duty;
- (D) United States Commissioned Corps of the Public Health Service; and
- (E) Any other category of persons designated by the President of the United States in time of war or emergency.

## **§ 8-102. Free service credit - Military service.**

(a)(1) A person may establish free military service credit with the Arkansas Teacher Retirement System at any time after becoming a member.

(2) Free military service credit established with the system is effective after the member completes five (5) years of actual service in the system, excluding military service credit.

(b) A member who by draft or voluntary enlistment entered the United States Armed Forces during a period that a federal military draft was in effect and obtained a refund of contributions from the system may establish free military service credit with the system if the member:

(1) Is honorably discharged from the United States Armed Forces; and

(2) Before retirement, repays the system the actuarial equivalent of the member's refunded service.

(c) A member who by draft or voluntary enlistment entered the United States Armed Forces during any period that a federal military draft was in effect and becomes an active member after an honorable discharge from the United States Armed Forces is eligible to establish free military service credit with the system, regardless of whether or not the member has five (5) or more years of credited service in the system at the time of the member's reemployment.

(d) A member who is first employed after serving in the United States Armed Forces during a period of time in which the military draft was in effect is eligible to establish free military service credit with the system if the member:

(1) Completes five (5) or more years of actual service in the system; and

(2) Receives an honorable discharge.

(d) The system shall provide a member with free military service credit after the member:

(1) Applies to establish free military service credit with the system by submitting a completed application form approved by the system; and

(2) Submits official military documentation listing the entry and discharge dates of the member's first enlistment or induction into the United States Armed Forces.

(e)(1) Free military service credited to a member before July 1, 1986, shall be considered contributory service.

(2) Free military service shall be credited to a member's account on a prorated basis if the member has both contributory and noncontributory service.

(f) Military service credited to a member shall not exceed five (5) years unless the member is entitled to service credit for service in the uniformed services of the United States.

(g) Military service shall be credited in order of the years that are chronologically closest to the member's service with a covered employer.

(h) A member shall not receive military service credit for military service years resulting



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from the member's reenlistment or voluntary extension of his or her initial enlistment.

### **§ 8-103. Purchasable service credit — Military service.**

(a) A member shall receive service credit for service in the United States Armed Forces that cannot be credited to the member under Arkansas Code § 24-7-602(a) if the member pays the Arkansas Teacher Retirement System the actuarial equivalent for the service credit.

(b)(1) Effective December 12, 1994, a member shall be treated as not having incurred a break in service with a covered employer if the member:

(A) Leaves employment with a school to voluntarily or involuntarily serve in the uniformed services of the United States; and

(B) Returns to employment with a school.

(2) A member described in § 8-103(b)(1) of this rule shall accrue benefits for the time he or she served in the uniformed services of the United States if:

(A) The member pays the employee contributions as provided in Arkansas Code § 24-7-406; and

(B) Employer contributions are paid for the time the member served in the uniformed services of the United States.

(c) A member's absence from his or her employment with a school due to his or her service in the uniformed services of the United States shall not exceed five (5) years.

(d) At the member's request, a member's payment for United States Armed Forces service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the United States Armed Forces service credit is established as credited service in the system; or

(2) United States Armed Forces service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-104. Purchasable service credit — National Guard and armed forces reserve.**

(a) A member may purchase up to five (5) years of service for his or her service in the National Guard or armed forces reserve.

(b) A member shall receive credit for service in the National Guard or armed forces reserve if the member:

(1) Applies to the Board of Trustees of the Arkansas Teacher Retirement System to purchase National Guard or armed forces reserve service credit by submitting a completed application form approved by the Arkansas Teacher Retirement System;

(2) Provides the system with satisfactory proof of his or her service in the National Guard or armed forces reserve;

(3) Pays the system, in full, the actuarial equivalent of the member's benefits for each year of National Guard or armed forces reserve service credit being purchased; and

(4) Has established at least five (5) years of actual service with the system, excluding National Guard or armed forces reserve service.

(c) The system shall not credit a member with more than five (5) years of service for service in the National Guard or armed forces reserve.

(d) Purchased National Guard or armed forces reserve service credit shall be credited to the year in which the member rendered the service even if the member has concurrent service with a covered employer.



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(e) At the member's request, a member's payment for National Guard or armed forces reserve service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the National Guard or armed forces reserve service credit is established as credited service in the system; or

(2) National Guard or armed forces reserve service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-105. Purchasable service credit — Domestic federal service.**

(a) Beginning January 1, 2003, a member may purchase up to ten (10) years of domestic federal service that shall be credited if:

(1) The member:

(A) Has contributions left on deposit with another system and the domestic federal service credit being purchased is limited to service for which another system similar in purpose to the Arkansas Teacher Retirement System, except for Social Security, could not pay a benefit;

(B) Pays the system, in full, the actuarial equivalent of benefits for each year of domestic federal service credit being purchased; and

(C) Has established at least five (5) years of actual service, excluding federal domestic service; and

(2) All other requirements set by rules adopted by the Board of Trustees of the Arkansas Teacher Retirement System are met.

(b) A member may purchase a fraction of a year of domestic federal service that shall be credited if the:

(1) Member has at least one-fourth (1/4) of a year of domestic federal service in a fiscal year; and

(2) Fraction of a year of domestic federal service can be credited in accordance with Arkansas Code § 24-7-601.

(c) At the member's request, a member's payment for domestic federal service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the domestic federal service credit is established as credited service in the system; or

(2) Domestic federal service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-106. Purchasable service credit — Out-of-state service.**

(a)(1) Out-of-state service purchased before July 1, 1987, shall be credited as service in accordance with the law in effect before July 1, 1987.

(2) A member may purchase up to fifteen (15) years of out-of-state service if the out-of-state service is purchased on and after July 1, 1987.

(b) Out-of-state service shall be credited if:

(1) The member:

(A) Has contributions left on deposit with another system and the out-of-state service credit being purchased is limited to service for which another system similar in purpose to the Arkansas Teacher Retirement System, except for Social Security, could not pay a benefit;

(B) Pays the system, in full, the actuarial equivalent of benefits for each year

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of out-of-state service credit being purchased; and

(C) Has established at least five (5) years of actual service, excluding out-of-state service; and

(2) All other requirements set by rules adopted by the Board of Trustees of the Arkansas Teacher Retirement System are met.

(c) A member may purchase a fraction of a year of out-of-state service that shall be credited if the:

(1) Member has at least one-fourth (1/4) of a year of out-of-state service in a fiscal year; and

(2) Fraction of a year of out-of-state service can be credited in accordance with Arkansas Code § 24-7-601.

(d) At the member's request, a member's payment for out-of-state service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the out-of-state service credit is established as credited service in the system; or

(2) Out-of-state service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-107. Purchasable service credit — Overseas service.**

(a) A member may purchase service credit for service in an overseas school if:

(1) The member:

(A) Has at least five (5) years of service in a position covered by the Arkansas Teacher Retirement System; and

(B) Performs the minimum days of service at the overseas school required for a fiscal year of service credit;

(2) The overseas service credit is limited to service for which another system similar in purpose to the system, except Social Security, could not pay a benefit; and

(3) The actuarial equivalent of the member's benefits is paid to the system.

(b) The system shall not credit a member with more than ten (10) years of overseas service credit.

(c) A member may be credited with fractions of years of service as provided by Arkansas Code § 24-7-601.

(c) At the member's request, a member's payment for overseas service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the overseas service credit is established as credited service in the system; or

(2) Overseas service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-108. Purchasable service credit — General Assembly.**

(a) A member of the Senate or House of Representatives of the General Assembly who is a member of the Arkansas Teacher Retirement System shall receive credited service and salary in the system for his or her full contract salary if the:

(1) School district requires the member's salary to be reduced during the member's attendance at:

(A) Regular or extraordinary sessions of the General Assembly; or

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(B) Interim meetings of regular or special committees of the General Assembly;

(2) Member applies for General Assembly service credit by submitting to the system a completed application form approved by the system;

(3) Member pays the system the necessary member contributions; and

(4) Required employer contributions are paid to the system for the amount of the salary reduction during periods of the member's attendance at regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(b) A member of the Senate or House of Representatives who currently serves in the General Assembly or has served in the legislative committees for any year that is within five (5) years of July 6, 1977, shall receive credited service and salary for his or her full contract if the:

(1) Member applies for General Assembly service credit by submitting to the system a completed application form approved by the system;

(2) Member pays the employee contributions; and

(3) Required employer contributions are paid from the Public School Fund to the system for the portion of the contractual period in which the member's salary was reduced during the member's legislative service.

(c) A member of the Senate or House of Representatives of the General Assembly who is an employee and member of the system shall receive credited service and salary for his or her full contract salary if:

(1) Either the member or school district decides it is in the best interest of the member to take a leave of absence for up to one (1) full calendar year at a time in order for the member to attend his or her duties as a member of the General Assembly; and

(2) Both the required employee and employer contributions are paid to the system for the amount of the member's contract salary during periods in which the member attended sessions of the General Assembly or legislative committees.

(d) At the member's request, a member's payment for General Assembly service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the General Assembly service credit is established as credited service in the system; or

(2) General Assembly service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-109. Purchasable service credit — Advanced degree service.**

(a) A member who is a public school teacher or administrator and takes a leave of absence from a school in order to obtain an advanced degree at an institution of higher learning or to fulfill the requirements of a scholarship or grant shall receive credited service for the time of the member's actual enrollment in the institution if the member:

(1) Applies for advanced degree service credit by submitting to the system a completed application form approved by the Arkansas Teacher Retirement System; and

(2) Pays the actuarial equivalent of the member's benefits to the system for each year of service credit being purchased.

(b) At the member's request, a member's payment for advanced degree service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the advanced degree service

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credit is established as credited service in the system; or

(2) Advanced degree service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### **§ 8-110. Purchasable service credit — Private school service.**

(a) Employment with a Head Start program shall be considered private school service.

(b)(1) A member may purchase up to fifteen (15) years of private school service to be credited as certified service if:

(A) The member:

(i) Has contributions left on deposit with another system and the private school service credit being purchased is limited to service for which another system similar in purpose to the Arkansas Teacher Retirement System, except for Social Security, could not pay a benefit;

(ii) Pays the system, in full, the actuarial equivalent of benefits for each year of private school service credit being purchased; and

(iii) Has established at least five (5) years of actual service, excluding private school service; and

(B) All other requirements set by rules adopted by the Board of Trustees of the Arkansas Teacher Retirement System are met.

(2) At the member's request, a member's payment for certified private school service credit shall be refunded by the system if the:

(A) Member ceased to be an active member before the certified private school service credit is established as credited service in the system; or

(B) Certified private school service credit is not otherwise used to establish the member's eligibility for retirement under the system.

(c)(1) A member may purchase up to five (5) years of noncertified private school service that shall be credited as noncertified service if:

(A) The member:

(i) Applies for noncertified private school service credit by submitting to the system a completed application form approved by the system;

(ii) Has contributions left on deposit with another system and the noncertified service credit being purchased is limited to service for which another state-supported pension system or system similar in purpose to the system could not pay a benefit;

Pays the system, in full, the actuarial equivalent of benefits for each year of service credit being purchased; and

(iii) Has established at least five (5) years of actual service; and

(B) All other requirements set by rules adopted by the board are met.

(2) At the member's request, a member's payment for noncertified private school service credit shall be refunded by the system if the:

(A) Member ceased to be an active member before the noncertified private school service credit is established as credited service in the system; or

(B) Noncertified private school service credit is not otherwise used to establish the member's eligibility for retirement under the system.

(d)(1) A member may purchase up to five (5) years of private education-related entity private school service that shall be credited as noncertified service if:

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(A) The member:

(i) Applies for private education-related entity private school service by submitting to the system a completed application approved by the system;

(ii) Has contributions left on deposit with another system and the private education-related entity private school service credit being purchased is limited to service for which another state-supported pension system or system similar in purpose to the system could not pay a benefit;

(iii) Pays the system, in full, the actuarial equivalent of benefits for each year of service credit being purchased;

(iv) Has established at least five (5) years of actual service; and

(B) All other requirements set by rules adopted by the Board are met.

(2) At the member's request, a member's payment for private education-related entity private school service credit shall be refunded by the system if the:

(A) Member ceased to be an active member before the private education-related entity private school service is established as credited service in the system; or

(B) Private education-related entity private school service credit is not otherwise used to establish the member's eligibility for retirement under the system.

(e) A member may purchase a fraction of a year of private school service that shall be credited if the:

(1) Member has at least one-fourth (1/4) of a year of private school service in a fiscal year; and

(2) Fraction of a year of private school service can be credited in accordance with Arkansas Code § 24-7-601.

### **§ 8-111. Purchasable service credit — Federal retirement service.**

(a) An active member may purchase up to ten (10) years of federal retirement service that shall be credited if the:

(1) Federal retirement service being purchased is limited to service for which the federal retirement system could not pay a benefit to the member;

(2) Member applies for federal retirement service by submitting to the Arkansas Teacher Retirement System a completed application form approved by the system;

(3) Member provides certification of his or her federal retirement service to the system on a form approved by the system;

(3) Member pays the system, in full, the actuarial equivalent of benefits for each year of service credit being purchased; and

(4) Member has established at least five (5) years of actual service, excluding federal retirement service.

(b)(1) A member shall complete at least one hundred sixty (160) working days before the member may establish one (1) year of federal retirement service credit.

(2) One (1) month of federal service shall be considered twenty (20) days of service.

(c) A member may purchase a fraction of a year of federal retirement service that shall be credited if the:

(1) Member has at least one-fourth (1/4) of a year of federal retirement service in a fiscal year; and

(2) Fraction of a year of federal retirement service can be credited in accordance

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with Arkansas Code § 24-7-601.

(d) Federal retirement service credit shall be considered contributory service.

(e) Purchased federal retirement service shall be credited to the fiscal year in which the service was rendered.

(f) If a member is not an active member before establishing federal retirement service with the system, the member's contribution payments and regular interest shall be refunded.

(g) At the member's request, a member's payment for federal retirement service credit shall be refunded by the system if the:

(1) Member ceased to be an active member before the federal retirement service is established as credited service in the system; or

(2) Federal retirement service credit is not otherwise used to establish the member's eligibility for retirement under the system.

(h) Purchase account payments made through employer pick-up are subject to restrictions specified in this rule, regulations, and the Internal Revenue Code.

## **§ 8-112. Purchasable service credit — Gap year service.**

(a) A member may purchase permissive service credit for one (1) or more consecutive or nonconsecutive gap years if:

(1) The member:

(A) Has five (5) years of actual service in the system;

(B) Has left his or her position as a classroom teacher immediately before each nonconsecutive gap year or the initial gap year of consecutive gap years;

(C) Returns to his or her position as a classroom teacher after one (1) or more gap years;

(D) Accrues at least one-half (1/2) year of service credit after returning to his or her position as a classroom teacher;

(E) Was inactive during the gap year or gap years; and

(F) Is ineligible to receive free service credit for each gap year under another provision of the law applicable to the system; and

(2) Each gap year amounts to an entire fiscal year.

(b)(1) A member shall not:

(A) Be permitted to purchase permissive service credit unless the total gap year service for which permissive service credit is being purchased amounts to one (1) fiscal year;

(B) Purchase more than five (5) years of permissive service credit; or

(C) Purchase one (1) or more gap years after the member retires from the system.

(2) A member's purchased permissive service credit shall be credited in accordance with Arkansas Code § 24-7-601.

(c)(1) A member shall purchase permissive service credit for one (1) or more gap years at the actuarial cost.

(2) At the member's request, a member's payment for permissive service credit shall be refunded by the system if the:

(A) Member ceased to be an active member before the permissive service is established as credited service in the system; or



## MARK UP

(B) Permissive service credit is not otherwise used to establish the member's eligibility for retirement under the system.

### § 8-113. Purchasable service credit — Contact Buyouts, Settlements, and Court Ordered Payments.

(a)(1) A member shall only earn service credit for actual, on-site work performed for a covered employer for the period specified in a contract buyout, settlement, or court ordered payment unless the member purchases service or salary that would have been received by the member if the member had been successful in his or her legal claim.

(2)(A) If a member is on call with a covered employer and not subject to either a contract buyout, settlement, or court ordered payment, the salary paid to the member as a regular employee shall be credited to the member.

(B) On call credit shall not be added to a member's salary with another covered employer.

(c) The Arkansas Teacher Retirement System shall not adjust a member's service history until the:

(1) Member or the member's covered employer provides a copy of the settlement, a file-marked court order, or a certified copy of the contract buyout to the system; and

(2)(A) Actuarial cost to purchase the service has been paid in full to the system.

(B) A member shall purchase service or salary at the actuarial cost for service and salary that the member would have earned if the member had not been terminated.

(d)(1) Service credit purchased under a settlement agreement or court order shall offset service credit that is earned through covered employment with another covered employer during the same period of time covered by the service credit purchased under the settlement agreement or court order.

(2) Service credit purchased under a settlement agreement or court order shall not be applied in a manner that allows a member to earn more than one (1) year of service credit in a fiscal year.

(e)(1) The system shall credit a member with additional salary credit purchased through a settlement agreement or court order only if the:

(A) Additional salary being purchased is being paid to the member in order to resolve a claim of wrongful termination or employment discrimination that culminated in a settlement agreement or court order; and

(B) Additional salary is salary that the member would have been paid but for the employment discrimination.

(2) Only qualifying additional salary credit purchased through a contract buyout may be used in the final average salary calculation.

(f) The system shall not permit a member to use unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement with a school district to retire under age and service retirement or **disability retirement** before the member's employment contract with the school district would naturally have terminated.



# MARK UP

## **§ 8-114. Cost of purchased service.**

(a) A member shall purchase service using forms approved by the Arkansas Teacher Retirement System.

(b)(1) A member who purchases service shall receive credit for the purchased service if the actuarial equivalent of both the employee and employer contributions, as calculated by the system, are paid to the system.

(2) Service purchased at the actuarial cost shall be contributory.

(3) The requirement for service to be purchased at the actuarial cost shall not apply to free military service credit established with the system.

(c) The actuarial cost for service to be purchased shall not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service record.

(d) A salary earned for service purchased at the actuarial cost:

(1) Shall not be used to calculate a member's final average salary; and

(2) May be used to determine repaid refunds for service that is required to be reported within the refunded service.

(e)(1) A member's highest salary shall be used as the base year when calculating the actuarial cost for service being purchased by the member.

(2) A member's base year shall be the member's highest salary year unless the highest salary year is more than one hundred fifty percent (150%) greater than the next highest salary year.

(3) If a member's highest salary year is more than one hundred fifty percent (150%) greater than the next highest salary year, the highest two (2) salary years shall be added together and divided by two (2) to determine the base year to be used for calculating the actuarial cost for service being purchased.

(4) If a member does not have enough full service years to determine a base year for the purchase formula, a full year salary shall be used to determine the base year.

(5) A full year salary shall be calculated by dividing each partial year's service percentage into each partial year's salary.

## **§ 8-115. Purchase accounts.**

(a) Purchase account payments shall be applied to the member's account on the date the payment is received by the system.

(b)(1) The system shall accept participant rollover contributions and direct rollovers for the purchase of service credit from a qualified retirement plan.

(2) A depository trustee from a qualified retirement plan shall certify to the system that the rollover deposit account is qualified and eligible to receive rollover distributions before a distribution of a member's account monies.

(3)(A) If the depository trustee is unable to certify the rollover deposit account as qualified and eligible to receive rollover distributions, the system shall accept a certification from a public accountant who has an active certified public accountant's license.

(B) The system shall not accept a certification from a public accountant that certifies a rollover deposit account as qualified and eligible to receive rollover distributions if the public accountant has an interest in the rollover deposit account as a member, spouse, or designated beneficiary.

## MARK UP

(c)(1) If a member with an active purchase account dies, the member's spouse, beneficiary, or legal representative shall have up to six (6) months from the member's date of death to pay the balance of the purchase account unless the deadline is extended by the Executive Director of the Arkansas Teacher Retirement System for good cause.

(2) If the member's purchase account is not paid in full within six (6) months of the member's date of death, the purchase account shall be closed and payments made towards the purchase account shall be considered as part of the member's residual account balance.

(d)(1) A purchase account that is paid in full after a final payment has been tendered shall not be cancelled.

(2) A member's purchase account may be cancelled if:

(A) The member submits a written cancellation request to the system; and

(B)(i) The system approves the cancellation request.

(ii) The system may approve a cancellation request and refund a member's purchase account if the purchase account:

(a) Is an account that has been paid only with after-tax contributions;

(b) Is an account that has been paid only with employer pick-up contributions and one (1) of the following applies:

(1) All payments on the irrevocable payroll authorization have been completed;

(2) The member terminates employment with the employer; or

(3) The member retires; or

(c) Is an account that has been paid only with rollover or transfer contributions and the rollover or transfer contributions may be rolled over or transferred to another qualified plan or refunded to the member after the deduction and payment of federal taxes.

(iii)(a) If a member's cancellation request is approved, the system shall refund the balance of the member's purchase account without interest to the member.

(b) The system shall refund interest to a member if a refund of interest is statutorily mandated under Arkansas Code § 24-7-612 or another applicable provision of the Arkansas Code.

### **§ 8-116. Purchase of refunded service.**

(a) A member shall not purchase refunded service unless he or she purchases the total credited service forfeited by a refund.

(b)(1) A repayment of refunded contributions shall be made in inverse order if the member has received more than one (1) refund of contributions.

(2) The most recent refund account shall be paid in full before a member may purchase a previous refund account.

# MARK UP

Authority: Arkansas Code §§ 24-1-107, 24-7-406, 24-7-601, 24-7-602, 24-7-607, 24-7-711, 24-7-719, and 24-7-735.

## History

<u>Adopted:</u>	<u>February 3, 2004</u>	<u>8-4</u>
<u>Adopted:</u>	<u>June 15, 2004</u>	<u>8-1, 8-4, 8-5, 8-6</u>
<u>Amended:</u>	<u>July 18, 2005</u>	<u>8-2</u>
<u>Amended:</u>	<u>April 26, 2007</u>	<u>8-1, 8-4, 8-7</u>
<u>Adopted:</u>	<u>February 11, 2008</u>	<u>8-19</u>
	<u>October 6, 2008</u>	<u>8-7</u>
	<u>February 1, 2010</u>	<u>8-2 under emergency rules</u>
	<u>June 7, 2010</u>	<u>8-2 Permanent</u>
	<u>July 1, 2011</u>	<u>8-1, 8-2, 8-4, 8-7, 8-19, 8-20</u> <u>(Emergency)</u>
<u>Adopted:</u>	<u>August 8, 2011</u>	<u>8-1, 8-2, 8-4, 8-7, 8-19, 8-20</u>
<u>Effective:</u>	<u>November 11, 2011</u>	<u>8-1, 8-2, 8-4, 8-7, 8-19, 8-20</u>
<u>Approved by Board:</u>	<u>February 6, 2012</u>	<u>8-1, 8-2, 8-5, 8-6</u>
<u>Amended:</u>	<u>April 2, 2012</u>	<u>8-2 (Emergency)</u>
<u>Amended:</u>	<u>April 18, 2012</u>	<u>8-1, 8-5, 8-6</u>
<u>Effective:</u>	<u>May 29, 2012</u>	<u>8-1, 8-2, 8-5, 8-6</u>
<u>Approved by Board:</u>	<u>July 26, 2013</u>	<u>8-20</u>
<u>Amended:</u>	<u>October 9, 2013</u>	<u>8-20</u>
<u>Effective:</u>	<u>November 8, 2013</u>	<u>8-20</u>
<u>Approved by Board:</u>	<u>October 5, 2015</u>	<u>8-1, 8-7</u>
<u>Amended:</u>	<u>February 1, 2016</u>	<u>8-1, 8-7</u>
<u>Effective:</u>	<u>February 10, 2016</u>	<u>8-1, 8-7</u>
<u>Effective:</u>	<u>August 5, 2019</u>	<u>Rule 8</u>
<u>Effective:</u>	<u>May 28, 2020</u>	<u>Rule 8</u>
<u>Effective:</u>	<u>May 20, 2022</u>	<u>Rule 8</u>
<u>Effective:</u>	<u>TBD</u>	<u>Rule 8</u>

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** Legal  
**BOARD/COMMISSION** Arkansas Teacher Retirement System  
**PERSON COMPLETING THIS STATEMENT** Jennifer Liwo  
**TELEPHONE NO.** (501) 682-1517      **EMAIL** jenniferl@artrs.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**TITLE OF THIS RULE** Rule 8: Free Service Credit, Purchasable Service Credit, and Purchase Accounts

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes       No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes       No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes       No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
  - (a) What is the cost to implement the federal rule or regulation? *n/a*

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$0.00

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$0.00

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$0.00

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$0.00

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ 0.00

n/a

**Next Fiscal Year**

\$ 0.00

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0.00

n/a

**Next Fiscal Year**

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.