

December 20, 2023

Executive Summary
Proposed Rule Amendment

ATRS Rule 12-1 – Protection of “Qualified Trust” Status of ATRS under Internal Revenue Code § 401(a)

I. Purpose

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed amendments to ATRS Rule 12-1 – Protection of “Qualified Trust” Status of ATRS under Internal Revenue Code § 401(a) (“Rule 12-1”).

On December 4, 2023, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for Rule 12-1.

II. Authority

A.C.A. § 24-7-210(c) gives the Board the authority to promulgate rules consistent with A.C.A. § 24-7-210(a), which directs the Executive Director of the Arkansas Teacher Retirement System to operate the System and interpret the provisions of A.C.A. § 24-7-101 et seq. in a manner that is consistent with the Internal Revenue Code and applicable United States Department of the Treasury regulations that are necessary to permit the System to operate as a qualified trust.

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.

III. Amendments

Rule 12-1 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;
- The title of the rule has been changed to “Protection of “Qualified Trust” Status of the Arkansas Teacher Retirement System under Internal Revenue Code § 401(a)” (*See mark-up, page 1*); and
- The rule number has been changed to 12 (*See mark-up, page 1*).

IV. Recommendation

The System recommends that the proposed amendments to Rule 12-1 be approved as proposed.

Mark-Up 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.

MARK UP

ATRS Rule 12

Protection of “Qualified Trust” Status of the Arkansas Teacher Retirement System under Internal Revenue Code § 401(a)

§ 12-101. Definition.

(a) As used in this rule, “Internal Revenue Code” means the same as defined in Arkansas Code § 24-7-202.

(b) The definition of “Internal Revenue Code” shall apply to the policies, rules, and regulations of the Arkansas Teacher Retirement System.

§ 12-102. Compliance with federal law.

(a) The Executive Director of the Arkansas Teacher Retirement System is authorized and directed to:

(1) Operate the Arkansas Teacher Retirement System in accordance with the requirements of the Internal Revenue Code and applicable United States Treasury regulations as may be necessary for the system to maintain its status and continue being operated as a qualified trust under 26 U.S.C. § 401(a); and

(2) Interpret Arkansas Code §§ 24-7-101 et seq., and the policies, rules, and regulations of the system in a manner that is consistent with the requirements of the Internal Revenue Code and applicable United States Treasury regulations as may be necessary for the system to maintain its status and continue being operated as a qualified trust under 26 U.S.C. § 401(a).

(b)(1) The policies, rules, and regulations promulgated by the Board of Trustees of the Arkansas Teacher Retirement System shall be consistent with the requirements of the Internal Revenue Code and applicable United States Treasury regulations.

(2) Any policy, rule, or regulation found to be in conflict with an applicable provision of the Internal Revenue Code are void.

(3) In accordance with Arkansas Code § 24-7-305, the board by resolution may modify or eliminate a rule of the system if a requirement under the Internal Revenue Code becomes unnecessary, immaterial, or obsolete to the maintenance of the system’s status as a qualified trust.

Authority: Arkansas Code §§ 24-7-101 et seq., 24-7-202, and 24-7-305,

History

<u>Adopted:</u>	<u>July 18, 2005</u>	
<u>Approved by Board:</u>	<u>July 26, 2013</u>	
<u>Amended:</u>	<u>October 9, 2013</u>	
<u>Effective:</u>	<u>November 8, 2013</u>	
<u>Effective:</u>	<u>TBD</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 12-1: Protection of "Qualified Trust" Status of ATRS under Internal Revenue Code § 401(a)

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.