

## **24 CAR § 10-401. Definitions.**

As used in this subpart:

(1) "Actual service" means service rendered in a position covered by the Arkansas Teacher Retirement System, not including:

- (A) Purchased service credit;
- (B) Free service credit; or
- (C) Reciprocal service;

(2) "Credited service" means service that is credited as service by the Arkansas Teacher Retirement System;

(3) "Covered employer", as it relates to outsourcing, means a public school, public educational agency, or other eligible employer participating in the Arkansas Teacher Retirement System, but does not include a nonmandatory employer or a PSHE employer as defined in Arkansas Code § 24-7-1602 or a covered employer that reports through the Arkansas Administrative Statewide Information System;

(4) "Embedded employee" means a person who:

(A) Provides an outsourced service on the premises of a covered employer;

(B) Is employed and paid by an outsource contractor; and

(C) Is not employed by:

(i) A covered employer listed under Arkansas Code § 24-7-202; or

(ii) An employer that offers the Arkansas Teacher Retirement System as an optional retirement plan as of the date of outsourcing;

(5) "Full service year" means employment with a covered employer for one hundred sixty (160) days or more in a fiscal year;

(6) "Participating employer" means a covered employer that outsources and opts for the embedded employees of all of the covered employer's outsource contractors to become members of the Arkansas Teacher Retirement System;

(7) "Service" means employment rendered as an employee;

(8) "Specialized support position" means a position that:

(A) Requires less than eight (8) working hours per day, including without limitation the positions of:

- (i) Bus driver;
- (ii) Custodial worker; and
- (iii) Cafeteria worker; and

(B) A covered employer certifies as a specialized support position to the Arkansas Teacher Retirement System;

(9) "Surcharge employer" means a covered employer that outsources and pays a surcharge to the Arkansas Teacher Retirement System; and

(10) "Youth participant" means a person:

(A) Who is:

- (i) Enrolled in a secondary public school as a student; and
- (ii) Employed through his or her participation in a summer work program for a period between the first day of June and the last day of August; and

(B) Whose compensation is disbursed by a covered employer as part of an agreement between the covered employer and an administrator of the summer work program that designates the covered employer as a pass-through fiscal agent.

#### **24 CAR § 10-402. Service credit.**

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall determine the:

(1) Number of years and corresponding fractions for service that may be credited to a member; and

(2) Amount of service to be credited to a member.

(b)(1) A member shall earn one (1) year of credited service if the member completes a full service year.

(2) A member shall not earn more than one (1) year of credited service in a fiscal year.

(3) The Arkansas Teacher Retirement System shall certify proof of a member's service on forms and with documentation required by the system.

(c)(1) Unless otherwise provided by law, paid or unpaid accrued, unused sick leave shall not be credited as service in the system.

(2) If a member dies during active service on or after July 1, 2013, the member's unused catastrophic leave and unused donated leave shall not be credited as service.

(d)(1) A member shall not accumulate service credit in the system during the time that payments under a contract buyout agreement, settlement, claim, judgment, arbitration award, decree, or court-ordered payment are paid to the member by a covered employer unless the member continues to work on-site for the covered employer.

(2) A member shall not receive service credit or additional salary from the system under a settlement agreement or court order unless purchased at actuarial cost.

(3) 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.

(e) Actual service credited to a member with service after July 1, 1971, shall be as follows:

<b>Number of Days Worked in a Fiscal Year</b>	<b>Service Credit Earned</b>
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

(f) Unless otherwise provided by the law or rules applicable to the system, a member who is employed for less than forty (40) days during a fiscal year is ineligible for credited service or retirement benefits for that fiscal year.

(g)(1) Beginning in the 2011-2012 fiscal year, a contributory member's service days shall be carried forward from previous fiscal years until at least forty (40) days of service are earned by the member.

(2) Service days shall not be carried forward for a contributory member if the member earns at least forty (40) days of service in a fiscal year by using:

(A) Regular service days;

(B) Accumulated service days; or

(C) Both regular service and accumulated service days.

(h) A member who is employed full-time or employed in a position for which a regular or typical work day includes at least eight (8) working hours shall earn one (1) day of credited service if the member works for at least four (4) hours of the eight-hour working day.

(i)(1) Beginning July 1, 2011, a member employed in a specialized support position shall earn one (1) day of credited service for each day of service provided by the member if the:

(A) Specialized support position is certified as a specialized support position to the system by the covered employer at the time the covered employer first reports the employment of the member to the system; and

(B) Covered employer reasonably determines that the member performed the regular and usual service expected of an employee in that position during the work day.

(2)(A) A member who is employed in a specialized support position and does not have a contract specifying the number of service days shall earn one (1) day of service credit for each day of service provided by the member if the:

(i) Specialized support position is certified as a specialized support position to the system by the covered employer at the time the covered employer first reports the employment of the member to the system; and

(ii) Covered employer reasonably determines that the member performed the regular and usual service expected of an employee in that position during the days worked by the member.

(B) A member described in subdivision (g)(2) of this section shall earn one (1) day of credited service for each day of service provided by the member regardless of whether the member works for less than four (4) hours on a work day.

(3) The credited service earned by a member who is employed in a nonspecialized support position and does not work for at least four (4) hours each working day shall be:

(A) Calculated by totaling the number of hours worked by the member in a fiscal quarter; and

(B) Then dividing the totaled number of hours worked by four (4).

#### **24 CAR § 10-403. Member and employer contributions.**

(a)(1) The Board of Trustees of the Arkansas Teacher Retirement System shall annually set member and employer contribution rates for the following fiscal year.

(2) The Arkansas Teacher Retirement System shall notify annually each covered employer of the contribution rates set by the board.

(3)(A) The board shall not set the member contribution rate at less than six percent (6%).

(B) The board may increase the member contribution rate to maintain actuarial soundness.

(4)(A) A member's and covered employer's contributions are due monthly, regardless of the member's concurrent membership status.

(B) A contributory member shall contribute the percentage of his or her salary that is set by the board.

(b)(1) A covered employer shall remit member contributions by pick-up from the salary earned by each member.

(2) Member contributions shall be treated as employer contributions under the applicable provisions of the Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq., and the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq.

(3) A covered employer may remit a member's contributions by implementing a:

(A) Reduction in the cash salary of the member;

(B) Setoff against the member's future salary increases; or

(C) Both a reduction in the cash salary of the member and a setoff against the member's future salary increases.

(c)(1) A covered employer's employer contributions shall be the sum of the current employer contribution rate set by the board for the fiscal year multiplied by the total gross salaries of all the covered employer's employees.

(2) A public school employer shall pay up to fourteen percent (14%) of the employer contribution rate.

(3) Up to fifteen percent (15%) of any additional employer contributions required from a public school employer shall be paid from additional funds appropriated by the state for the purpose of paying employer contributions to the system.

(d)(1) A covered employer shall pay employer contributions monthly for all employees of the covered employer for whom the Department of Education does not pay employer contributions.

(2) The employer contribution rate shall be the current state contribution percent multiplied by the total covered salaries of the covered employer's employees in the fiscal year.

(3)(A) In accordance with rules established by the board and the department's appropriations act, the department shall pay employer contributions due for eligible employees of covered employers, including without limitation the following:

(i) State agencies as allowed under the Transformation and Efficiencies Act of 2019, Acts 2019, No. 910;

- (ii) Cooperative education service areas;
- (iii) Vocational centers;
- (iv) Arkansas Easter Seals; and
- (v) A school operated by the Arkansas Correctional School

District.

(B) The department shall pay the employer contributions for eligible employees of covered employers from the Public School Fund.

(C) At the close of each quarterly report, the system shall report the amount of employer contributions due from the department.

(D) The employer contributions due from the department shall be based on the salaries of the eligible employees reported to the system by each covered employer.

(e) The board shall annually notify each participating employer of the employer contribution rate established by the board for the upcoming fiscal year.

(f) A surcharge employer's employer contributions shall be a monthly surcharge applied on the total salaries paid to all the surcharge employer's embedded employees on an aggregate basis as provided under Arkansas Code § 24-7-506(c).

**24 CAR § 10-404. Member and employer contributions —  
Overpayments, underpayments, and refunds.**

(a) A conflict in a member's service history due to concurrent service shall be resolved at the end of the fiscal year and the Arkansas Teacher Retirement System shall issue refunds as appropriate.

(b)(1) The system shall return overpayments of employee contributions and employer contributions resulting from erroneous contribution submissions or incorrect reporting of Salary Option 2 member salaries (first seven thousand eight hundred dollars (\$7,800)) to the appropriate covered employer.

(2)(A) The system shall send written notification to a member or covered employer, as appropriate, of a contribution overpayment that is less than the de minimis amount that may be refunded.

(B) The de minimis amount shall:

(i) Be periodically set by the Board of Trustees of the Arkansas Teacher Retirement System; and

(ii) Remain the same amount until adjusted by the board.

(C)(i) A contribution overpayment that is less than the de minimis amount shall not be refunded to the covered employer unless the covered employer submits a written request for a refund to the system within fourteen (14) days of receiving the written notice of the contribution overpayment from the system.

(ii) If a covered employer does not submit a written request for a refund within fourteen (14) days of receiving the written notice of the contribution overpayment from the system, the amount of the contribution overpayment shall be forfeited to the trust assets of the system.

(D)(i) A contribution overpayment that is less than the de minimis amount shall not be refunded to the member unless the member submits a written request for a refund to the system within fourteen (14) days of receiving the written notice of the contribution overpayment from the system.

(ii) If the member does not submit a written request for a refund within fourteen (14) days of receiving the written notice of the contribution overpayment from the system, the amount of the contribution overpayment shall be forfeited to the trust assets of the system.

(3) The total amount of contributions reported by the covered employer shall be credited to contributions.

(c)(1) For refunded contributions, the rate of regular interest compounded annually after the first year of contributions shall be credited as follows:

<b>Service</b>	<b>Regular Interest Rate</b>
Before July 1, 1984	3%
For July 1, 1984 through June 30, 2009	6%
For July 1, 2010, through June 30, 2011	2%

For July 1, 2012, through June 30, 2017	1%
For July 1, 2017 and after	0.08%

(2) Payable regular interest shall be computed:

(A) On each member's individual account on June 30; and

(B) By multiplying the balance in the member's individual account as of July 1, including contributions and regular interest credit from previous years, plus one-half (1/2) of the contributions for the year ending June 30 by the annual applicable regular interest percentage rate.

(3) The board, by resolution, may change the regular interest rate on refunded contributions for subsequent years by stating:

(A) The new regular interest rate;

(B) The date that the new regular interest rate is effective; and

(C) Any other features necessary for implementing the regular interest rate.

(4) Regular interest shall not be paid on contributions made in the year in which a refund of contributions is paid to a member.

(5) The system shall issue a refund for a member's contributions that are closed on the system's books after receiving the member's properly completed refund application.

(6) If a second refund payment is required to complete the refund of contributions, the second payment shall be made when all quarters of service the member works are closed on the system's books.

(7) A rollover payment shall be made in one (1) payment when all quarters of service the member works are closed on the system's books.

(8) A refund is effective on the date on which the system first issues a payment of the refund.

(d) The system shall not collect a contribution underpayment of less than the de minimis amount from a covered employer.

**24 CAR § 10-405. Employer reports — Submission requirements.**

(a) A covered employer shall submit:

(1) Reports and supporting documentation required by the Arkansas Teacher Retirement System on a monthly and quarterly basis; and

(2) Reports and supporting documentation electronically to the system on forms approved by the system.

(b)(1) At the request of the system, a covered employer shall provide the system with a memorandum of understanding, partnership agreement, or another similar document related to the covered employer's actions as a pass-through fiscal agent for a youth participant in a summer work program.

(2) A covered employer shall provide the system with all documents related to the agreement designating the covered employer as a pass-through fiscal agent before disbursing compensation to a youth participant.

(3) A covered employer that acts as a pass-through fiscal agent shall not report a youth participant as an employee for system purposes.

(c)(1) A covered employer that uses a twenty-six-week payroll system shall report an employee's salary, contributions, and actual working days through the current fiscal year ending June 30 if the employee is a member of the system and retiring.

(2) If an employee is a member of the system and retiring effective July 1, a covered employer shall not:

(A) Withhold contributions on a salary earned by the member after the close of payroll for the current fiscal year; and

(B) Report any salary paid to the member or actual working days performed by the member after the close of payroll for the current fiscal year.

(3) The system shall refund employee contributions and employer contributions remitted to the system from a salary paid to the employee after the end of the current fiscal year or payroll period for the current fiscal year.

(d) A covered employer may submit a request to the system for a determination on whether a service or position is subject to the provisions of Arkansas Code § 24-7-506.

(e)(1) A surcharge employer shall submit a surcharge report monthly to the system with all other reports required by the system.

(2) A participating employer shall submit a contribution report monthly to the system with all other reports required by the system.

(f) Beginning on July 1, 2022, a covered employer shall:

(1) Electronically report employee contributions and employer contributions made by the covered employer through the system portal; and

(2) Pay employee contributions and employer contributions through electronic transfer.

**24 CAR § 10-406. Employer reports — Reporting deadline and penalties.**

(a) A report and supporting documentation submitted by a covered employer shall not be considered untimely if the report and supporting documentation are received by Arkansas Teacher Retirement System on the tenth day of the month in which the report and supporting documentation are due.

(b)(1) A one-hundred-fifty-dollar late fee shall be assessed on a covered employer for each occurrence in which a report and supporting documentation is untimely submitted to the system.

(2) In their discretionary authority, the Board of Trustees of the Arkansas Teacher Retirement System or the Executive Director of the Arkansas Teacher Retirement System may waive any late fees assessed against a covered employer for their untimely submission of a report and supporting documentation to the system if the requirements of Arkansas Code § 24-7-411(c) are met.

(c)(1) If a covered employer does not remit member or employer contributions, including surcharge contributions, by the monthly due date, the system shall assess an interest penalty equal to the system's actuarially assumed rate of return on investments and daily interest accrual against the covered employer until the member or employer contributions, whichever is applicable, are paid.

(2)(A) In their discretionary authority, the board or the executive director may waive any interest penalty assessed against a covered employer if the requirements of Arkansas Code § 24-7-411(c) are met.

(B) One (1) or more interest penalties assessed against a covered employer shall not be waived if the amount of the interest penalties assessed against the covered employer will exceed one thousand dollars (\$1,000) for the fiscal year.

(C) A covered employer may submit an interest penalty waiver request for one (1) or more interest penalties exceeding one thousand dollars (\$1,000) for the fiscal year to the board.

(3) The executive director shall report each interest penalty waived under this subpart to the board.

(d)(1) The system may certify the names of each covered employer that fails to timely report and remit member or employer contributions, including surcharge contributions, to the Chief Fiscal Officer of the State.

(2) After receiving the certification from the system, the Chief Fiscal Officer of the State may direct a transfer of funds on deposit in the State Treasury for the payment of delinquent member or employer contributions and an assessed interest penalty.

#### **24 CAR § 10-407. Employer reports — Payments after member's death.**

(a) A salary earned by a member before the member's death and paid after the member's death is subject to deductions by the Arkansas Teacher Retirement System and the member's covered employer shall report the member's total salary and days of service in the covered employer's quarterly report.

(b) Gratuitous payments made by a covered employer to a member after the death of the member shall not be:

- (1) Considered the salary of the member;
- (2) Subject to contribution requirements; and
- (3) Included in the covered employer's quarterly report to the system.