

# MARK UP

## ATRS Rule 16 Cash and Savings Help Program

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### § 16-101. Definitions.

As used in this rule:

(1) "CASH Program" has the same meaning as "buyout plan" as defined in Arkansas Code § 24-7-505; and

(2) "CASH Program payment" means the one-time lump-sum cash payment made to a member who elects to participate in the CASH Program.

### § 16-102. CASH Program.

(a) The Board of the Arkansas Teacher Retirement System by resolution shall establish and approve the category of members who are eligible to participate in the CASH Program, the CASH Program offering period, and the formula to be used during a CASH Program offering period.

(b)(1) In accordance with Arkansas Code § 24-7-505, this rule, and applicable resolutions of the board, the Arkansas Teacher Retirement System shall determine if a member is qualified to receive a CASH Program payment.

(2) Only qualifying members may receive a CASH Program payment.

(3) Any erroneous delivery of a CASH Program election form by the system to a member shall not establish the member's right to a CASH Program payment.

### § 16-103. CASH Program payment.

(a) The tender of a CASH Program payment by the Arkansas Teacher Retirement System to a member who elects to participate in the CASH Program shall:

(1) Cancel the member's membership in the system;

(2) Extinguish any credited service the member has accumulated in the system;

and

(3) Extinguish the member's right to any future retirement benefit that the member would have received from the system based on the member's service.

(b)(1) The opportunity for a CASH Program payment shall be available in accordance with the provisions of Arkansas Code § 24-7-505 and this rule and only for a specific and temporary period of time to a specific category of members.

(2) The Board of the Arkansas Teacher Retirement System may determine the category of members of the system to whom a CASH Program payment may be offered.

(c)(1) The CASH Program payment shall be calculated under a formula that is:

(A) Unique to the category of members to whom the CASH Program payment is available; and

(B) Applicable for the offering period exclusively.

(2)(A) The system shall not be obligated to extend a CASH Program payment offer or to make a future or similar CASH Program payment offer.

(B) The terms, rules, and rights for any CASH Program payment offer under a specific offering period shall not apply to a subsequent CASH Program payment offering.

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(d) A CASH Program payment shall be tendered only for actual service credit that a member has in the system and shall not be tendered for reciprocal service credit that a member has in the system.

(e)(1) A CASH Program payment may be:

(A) Made by check and may be mailed to a member's address; or

(B)(i) At the member's direction, directly rolled over into a qualifying retirement plan under Arkansas Code § 24-7-719.

(ii) The system shall roll over a CASH Program payment into only one (1) qualifying retirement plan.

(2)(A) The system shall make reasonable efforts to contact all members who are eligible to participate in the CASH Program.

(B) However, the system shall not be obligated to:

(i) Contact a member to verify the accuracy of the member's last address of record on file with the system;

(ii) Confirm a member's receipt of a CASH Program offer;

(iii) Confirm a member's receipt of a CASH Program election form;

or

(iv) Confirm that the system has received a CASH Program election form submitted by a member.

### **§ 16-104. CASH Program — Offering period.**

(a) The Board of the Arkansas Trustee Retirement System shall set the dates for any CASH Program offering period.

(b)(1) After the board sets a specific CASH Program offering period, only members who submit an election to participate in the CASH Program to the Arkansas Teacher Retirement System shall qualify to receive a CASH Program payment that is available during the CASH Program offering period set by the board.

(2) However, a member shall not qualify to receive a CASH Program payment that is available during a CASH Program offering period set by the board if the member submits his or her election to participate in the CASH Program after the CASH Program offering period deadline.

(c) The board by resolution may re-offer a previously expired CASH Program or may extend the duration of a current CASH Program offering period.

### **§ 16-105. CASH Program — Election form.**

(a)(1) The CASH Program election form shall be made available to members using the Arkansas Teacher Retirement System's standard procedures.

(2) The system shall not be responsible for confirming the member's receipt of a CASH Program election form, regardless of the manner in which the member requested to be provided with the CASH Program election form.

(3) The member shall be solely responsible for obtaining and submitting to the system a CASH Program election form as required under this rule.

(b)(1) A member's election to participate in the CASH Program shall be submitted to the Arkansas Teacher Retirement System on a form approved by the system before the applicable CASH Program offering period deadline.

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(2) A CASH Program election form is invalid and shall not be accepted by the system if it:

(A) Has not been completed in its entirety by the member or as required by this rule;

(B) Is postmarked after the CASH Program offering period deadline;

(C) Is submitted by facsimile and has a date-stamp that is after the CASH Program offering period deadline; or

(D) Is sent as an attachment to an e-mail and the e-mail is sent after the CASH Program offering deadline.

(c) A CASH Program election form shall include the following:

(1) The member's signature and the date on which the member signed the election form; and

(2) The member's signed statement that he or she understands that:

(A) The purpose and scope of the CASH Program and that the CASH Program election form cannot be withdrawn by the member after the Arkansas Teacher Retirement System tenders the CASH Program payment to the member; and

(B) A member who participates in the CASH Program plan shall receive a one-time lump-sum payment from the system that, upon the system's tender of payment, cancels the member's interest in any retirement benefit and all future rights in the system.

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**Authority: Arkansas Code §§ 24-7-505 and 24-7-707**

### **Resolutions**

<u>2017-18</u>	<u>May 10, 2017</u>	<u>Expand to include contributory service.</u>
<u>2018-35</u>	<u>October 1, 2018</u>	<u>Create offer period for FY2019</u>
<u>2019-30</u>	<u>June 3, 2019</u>	<u>Create offer period for FY 2020</u>

### **History**

<u>Approved by Board:</u>	<u>July 26, 2013</u>	
<u>Adopted:</u>	<u>October 9, 2013</u>	
<u>Effective:</u>	<u>November 8, 2013</u>	
<u>Effective:</u>	<u>August 5, 2019</u>	
<u>Effective:</u>	<u>TDB</u>	<u>Rule 16</u>

# ~~ATRS Rule 16~~

## ~~CASH AND SAVINGS HELP (CASH) PROGRAM~~

~~A.C.A. §§ 24-7-505, 24-7-707~~

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### ~~I. Purpose and Scope~~

- ~~A. The purpose of this rule is to allow members an opportunity to receive a one-time lump-sum cash payment in exchange for terminating their membership in ATRS. The benefit offering under this rule shall be known as the "CASH Program". The one-time lump-sum cash payment shall be known as "CASH Program payment". The tender of the CASH Program payment by ATRS extinguishes any service credit or future retirement benefit from ATRS to the member that would have been based upon the member's service, and for all purposes "buys out" the membership, the retirement benefit rights, and all future rights in the system of the member.~~
- ~~B. The opportunity for a CASH Program payment is available only under this rule and only for a specific and temporary period of time to a specific category of members. The CASH Program payment is calculated under a formula that is unique to that category of members and is applicable for the offering period exclusively.~~
- ~~C. ATRS is under no obligation to extend the offer or to make a future, similar offer. Terms, rules and rights for any CASH Program under a specific offering period do not apply to a subsequent CASH Program offering.~~
- ~~D. This CASH Program is only applicable to ATRS members for their ATRS service. Reciprocal service shall not be eligible for the CASH Program.~~
- ~~E. The ATRS Board may target a CASH Program offering to a certain category of members within ATRS.~~
- ~~F. A CASH Program payment may be made to a member by a check mailed to the member's address. A CASH Program payment may also be directly rolled over into a qualifying retirement plan under § 24-7-719, at the direction of the member. ATRS shall only roll over the CASH Program payment into one qualifying plan.~~
- ~~G. CASH Offering Period~~
  - ~~1. The Board shall set the dates for any offering period. To qualify for the CASH Program payment in a specific offering period, the member shall deliver the CASH Program Election Form to ATRS before the end of the offering period.~~

2. ~~A CASH Program Election Form that is postmarked after the offering period deadline is invalid. If sent by facsimile, the date stamp shall be before the offering period deadline. If sent as an attachment to an email, the email shall be sent before the offering period deadline.~~
  3. ~~The Board may re-offer a previously expired buyout plan or may extend the duration of a current offering through a resolution adopted by the Board at a meeting of the Board.~~
- H. ~~While ATRS may make reasonable efforts to contact members eligible for the CASH Program, ATRS is under no duty to contact members, to verify the accuracy of the addresses, or to confirm receipt of the offer by the member, to confirm receipt of the election form by members, or to confirm receipt by ATRS of the CASH Program Election Form from members.~~

## ~~II. CASH Program Election Form~~

- ~~A. To participate in the CASH Program, a member shall submit a CASH Program Election Form to ATRS during the offering period. The CASH Program Election Form shall be completed in its entirety by the member in order to be accepted as a valid CASH Program Election Form. B. The CASH Program Election Form shall include the following:~~
1. ~~A statement, signed by the member, that the member understands the purpose and scope of the CASH Program, and once ATRS tenders payment of CASH Program payment, the CASH Program Election Form may not be withdrawn.~~
  2. ~~A member who participates in the CASH Program plan shall receive a one-time lump sum payment from ATRS that cancels the member's interest in any retirement benefit and all future rights in ATRS effective upon tender of payment by ATRS.~~
  3. ~~The signature of the member; and~~
  4. ~~The date signed.~~
- ~~C. The CASH Program Election Form shall be made available to members using standard ATRS procedures.~~
- ~~D. ATRS is not required to accept any CASH Program Election Form that is not received during the offering period in the manner prescribed in this rule.~~
- ~~E. ATRS is not responsible for the member's receipt of a CASH Program Election Form, regardless of the manner in which it is requested.~~
- ~~F. The member is exclusively responsible for obtaining and submitting the CASH Program Election Form as required under this rule.~~
- ~~G. ATRS shall determine if the member is qualified to receive a CASH~~

~~Program payment. Only qualifying members may receive the CASH Program payment and any erroneous delivery of a CASH Program Election Form by ATRS to a member does not establish a right to payment.~~

### ~~III. CASH Program Offering~~

~~The applicable members, offering period, and CASH Program formula for a particular CASH Program offering will be established and approved by the Board through a properly adopted resolution.~~

### ~~HISTORY~~

~~Approved by Board: July 26, 2013  
Adopted: October 9, 2013  
Effective: November 8, 2013  
Effective: August 5, 2019~~

### ~~RESOLUTIONS~~

<del>2017-18</del>	<del>May 10, 2017</del>	<del>Expand to include contributory service.</del>
<del>2018-35</del>	<del>October 1, 2018</del>	<del>Create offer period for FY 2019.</del>
<del>2019-30</del>	<del>June 3, 2019</del>	<del>Create offer period for FY 2020.</del>

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH  
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT Legal  
BOARD/COMMISSION Arkansas Teacher Retirement System  
BOARD/COMMISSION DIRECTOR Mark White  
CONTACT PERSON Jennifer Liwo  
ADDRESS 1400 W. Third Street  
PHONE NO. (501) 682-1517 EMAIL jenniferl@artrs.gov  
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING  
Mark White and Jennifer Liwo  
PRESENTER EMAIL(S) markw@artrs.gov

**INSTRUCTIONS**

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, [miller-ricer@blr.arkansas.gov](mailto:miller-ricer@blr.arkansas.gov), for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, [garritym@blr.arkansas.gov](mailto:garritym@blr.arkansas.gov), for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

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1. What is the official title of this rule?  
Rule 16 - Cash and Savings Help (CASH) Program
2. What is the subject of the proposed rule? CASH Program
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes  No

*If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).*

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes  No

4. Is this rule being filed for permanent promulgation? Yes  No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes  No

If yes, what was the effective date of the emergency rule? \_\_\_\_\_

On what date does the emergency rule expire? \_\_\_\_\_

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes  No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes  No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes  No

If yes, please list the rules being repealed.  
If no, please explain.

ATRS Rules 5-1, 5-2, 5-3, 5-4, 5-6, 5-7, 5-8, and 17-1.

8. Is this a new rule? Yes  No

Does this repeal an existing rule? Yes  No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes  No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.



9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

A.C.A. §§ 24-7-301, 24-7-305(b), and 24-7-505(b).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?  
Yes  No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

Please see Section III of attached Executive Summary. The amendments to this rule are necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

<https://www.artrs.gov/board-rules>

13. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: 02/05/2024

Time: 11:00 am

Place: Arkansas Teacher Retirement System, 1400 W. Third Street, Little Rock, AR 72201

*Please be sure to advise Bureau Staff if this information changes for any reason.*

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 01/19/2024

15. What is the proposed effective date for this rule? 03/01/2024

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

[Members and staff of the Arkansas Teacher Retirement System.](#)

19. Is the rule expected to be controversial? Yes  No

If yes, please explain.

**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 15-1: Benefit Restoration Plan and Trust

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.

December 20, 2023

**Executive Summary**  
**Proposed Rule Amendment**  
**ATRS Rule 16 – Cash and Savings Help (CASH) Program**

**I. Purpose**

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed amendments to ATRS Rule 16 – Cash and Savings Help (CASH) Program (“Rule 16”).

On December 4, 2023, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for Rule 16.

**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. § 24-7-505(b) gives the Board the authority to adopt rules as necessary to implement a buyout plan for inactive members of the System.

**III. Amendments**

Rule 16 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; and
- The title of the rule has been changed to “Cash and Savings Help Program”.

**IV. Recommendation**

The System recommends that the proposed amendments to Rule 16 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.