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ATRS Rule 7 Service Credit, Contributions, and Reporting

§ 7-101. Definitions.

As used in this rule:

(1) "Actual service" means service rendered in a position covered by the Arkansas Teacher Retirement System, not including purchased service credit, free service credit, or reciprocal service;

(2) "Credited service" means service that is credited as service by the system;

(3) "Covered employer" as it relates to outsourcing means a public school, public educational agency, or other eligible employer participating in the 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 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 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 bus driver, custodial worker, and cafeteria worker; and

(B) A covered employer certifies as a specialized support position to the system;

(9) "Surcharge employer" means a covered employer that outsources and pays a surcharge to the 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 passthrough fiscal agent.

§ 7-102. Service credit.

(a) The Board 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.

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(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 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:

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

(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 regular service days, accumulated service days, or 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

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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 this § 7-102(g)(2) of this rule 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 calculated by totaling the number of hours worked by the member in a fiscal quarter and then dividing the totaled number of hours worked by four (4).

§ 7-103. 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.

(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

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(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, Acts 2019, No. 910;

(ii) Cooperative Education Services Areas;

(iii) Vocational Centers;

(iv) Arkansas Easter Seals; and

(v) A school operated by the Corrections School System.

(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, ATRS 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 ATRS 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).

§ 7-104. 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.

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(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 be periodically set by the Board of Trustees of the Arkansas Teacher Retirement System and shall 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:

<u>Service</u>	<u>Regular Interest Rate</u>
<u>Before July 1, 1984</u>	<u>3%</u>
<u>For July 1, 1984 through June 30, 2009</u>	<u>6%</u>
<u>For July 1, 2010, through June 30, 2011</u>	<u>2%</u>
<u>For July 1, 2012, through June 30, 2017</u>	<u>1%</u>
<u>For July 1, 2017 and after</u>	<u>0.08%</u>

(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 the new regular interest rate, the date that the new regular interest rate is effective, and 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

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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.

§ 7-105. 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 passthrough 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.

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(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.

§ 7-106. 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 (10th) day of the month in which the report and supporting documentation are due.

(b)(1) A one hundred fifty dollar (\$150) 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.

(4) The executive director shall report each interest penalty waived under this rule 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.

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§ 7-107. Employer reports — Payments after member's death.

(a)(1) 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.

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

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

Authority: Arkansas Code §§ 24-2-701, 24-7-103, 24-7-202, 24-7-401, 24-7-406, 24-7-411, 24-7-601 — 24-7-611, 24-7-705, 24-7-708, and 24-7-1303.

History

<u>Amended:</u>	<u>August 11, 1998</u>	<u>7-1, 7-3</u>
<u>Amended:</u>	<u>June 17, 2003</u>	<u>7-4</u>
<u>Amended:</u>	<u>April 6, 2004</u>	<u>7-4</u>
<u>Reaffirmed:</u>	<u>June 15, 2004</u>	<u>7-4</u>
<u>Amended:</u>	<u>July 18, 2005</u>	<u>7-1, 7-2, 7-3, 7-4</u>
<u>Amended:</u>	<u>April 26, 2007</u>	<u>7-4</u>
<u>Amended:</u>	<u>February 11, 2008</u>	<u>7-3, 7-4</u>
<u>Amended:</u>	<u>June 16, 2009</u>	<u>7-1, 7-2 (Emergency)</u>
<u>Amended:</u>	<u>October 5, 2009</u>	<u>7-1, 7-2 (Permanent)</u>
<u>Amended:</u>	<u>December 18, 2009</u>	<u>7-3, 7-4</u>
<u>Amended:</u>	<u>July 1, 2011</u>	<u>7-1, 7-2 (Emergency)</u>
<u>Adopted:</u>	<u>August 8, 2011</u>	<u>7-1, 7-2</u>
<u>Effective:</u>	<u>November 11, 2011</u>	<u>7-1, 7-2</u>
<u>Board Approved:</u>	<u>February 6, 2012</u>	<u>7-2, 7-4</u>
<u>Amended:</u>	<u>April 2, 2012</u>	<u>7-2 (Emergency)</u>
<u>Amended:</u>	<u>April 18, 2012</u>	<u>7-4</u>
<u>Effective:</u>	<u>May 29, 2012</u>	<u>7-2, 7-4</u>
<u>Approved by Board:</u>	<u>July 26, 2013</u>	<u>7-1, 7-3</u>
<u>Amended:</u>	<u>October 9, 2013</u>	<u>7-1, 7-3</u>
<u>Effective</u>	<u>November 8, 2013</u>	<u>7-1, 7-3</u>
<u>Approved by Board:</u>	<u>January 8, 2014</u>	<u>7-1</u>
<u>Amended:</u>	<u>February 17, 2014</u>	<u>7-1</u>
<u>Effective:</u>	<u>March 18, 2014</u>	<u>7-1</u>
<u>Effective:</u>	<u>August 5m 2019</u>	<u>Rule 7</u>
<u>Effective:</u>	<u>May 28, 2020</u>	<u>Rule 7</u>
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<u>Effective:</u>	<u>TBD</u>	<u>Rule 7</u>

ATRS RULE 7
SERVICE CREDIT, CONTRIBUTIONS, REPORTING, AND FINAL AVERAGE
SALARY

Arkansas Code §§ ~~24-2-701, 24-7-103, 24-7-202, 24-7-401, 24-7-406, 24-7-411,~~
~~24-7-601—24-7-611, 24-7-705, 24-7-708, 24-7-736, and 24-7-1303~~

I. Definitions

- a. ~~“Actual service” means service rendered in a position covered by the Arkansas Teacher Retirement System (ATRS), not including purchased service credit, free service credit, or reciprocal service;~~
- b. ~~“Credited service” means service that is creditable as service by ATRS;~~
- c. ~~“Covered employer” as it relates to outsourcing means a public school, public educational agency, or other eligible employer participating in ATRS;~~
- d. ~~“Eligible employee” for the purpose of salary or compensation limitations concerning the calculation of a final average salary means a person who was a member of ATRS before the first plan year beginning after December 31, 1995;~~
- e. ~~“Embedded Employee” means a person who:~~
 - 1. ~~Provides an outsourced service on the premises of a covered employer; and~~
 - 2. ~~Is employed and paid by an outsource contractor;~~
 - 3. ~~Is not employed by:~~
 - A. ~~A covered employer listed under Arkansas Code § 24-7-202; or~~
 - B. ~~An employer that offers ATRS as optional retirement plan as of the date of outsourcing;~~
- f. ~~“Full service year” means employment by with a covered employer for one hundred sixty (160) days or more in a fiscal year;~~
- g. ~~“Partial service year” means employment with a covered employer for less than one hundred sixty (160) days in a fiscal year;~~
- h. ~~“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 ATRS;~~
- i. ~~“Service” means employment rendered as an employee;~~
- j. ~~“Specialized support position” means a position requiring less than eight (8) working hours per day, including without limitation the positions of bus driver, custodial worker, and cafeteria worker;~~
- k. ~~“Surcharge employer” means a covered employer that outsources and pays a surcharge to ATRS in lieu of opting for the embedded employees of outsource contractors to accrue credited service in ATRS; and~~

~~I. "Youth participant" means an individual:~~

~~1. Who is:~~

~~A. Enrolled in a secondary public school as a student; and~~

~~B. 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~~

~~2. 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 passthrough fiscal agent.~~

~~II. Service Credit~~

~~a. Generally~~

~~1. The Board of the Arkansas Teacher Retirement System (Board) shall determine the:~~

~~A. Number of years and corresponding fractions for service that may be credited to a member; and~~

~~B. Amount of service to be credited to a member.~~

~~2. A member shall earn one (1) year of credited service if the member completes a full service year.~~

~~3. A member shall not earn more than one (1) year of credited service in a fiscal year.~~

~~4. ATRS shall certify proof of a member's service on forms and with documentation required by ATRS.~~

~~b. Unused Leave~~

~~1. Unless otherwise provided by law, paid or unpaid accrued, unused sick leave shall not be credited as service in ATRS.~~

~~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.~~

~~c. Contract Buyouts, Settlements, Claims, Awards, and Court Ordered Payments~~

~~1. A member shall not accumulate service credit in ATRS 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 ATRS under a settlement agreement or court order unless purchased at actuarial cost.~~

d. ~~Service Provided After July 1, 1971~~

1. ~~Actual service credited to a member with service after July 1, 1971, shall be as follows:~~

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

e. ~~Members Employed for Less Than Forty (40) Days~~

1. ~~Unless otherwise provided by the law applicable to ATRS or the ATRS Rules, 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.~~

f. ~~Rollover Service Days~~

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 regular service days, accumulated service days, or both regular service and accumulated service days.~~

g. ~~Full-Time Employees~~

1. ~~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.~~

h. ~~Employees in Specialized Support Positions~~

1. ~~Employment with Less Than Eight Hour Working Days~~

- A. ~~Beginning July 1, 2011, a member employed in a specialized support position shall earn one (1) day of credited service if the:~~

i. ~~Specialized support position is certified as a specialized support position to ATRS; and~~

- ii. ~~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. ~~Employment with Unspecified Contractual Work Days~~

~~A. A member who is employed in a specialized support position and does not have a contractual obligation to work a specified number of days shall earn one (1) day of credited service for each day of service provided by the member.~~

~~B. A member described in this ATRS Rule 7 II.h.2.A 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.~~

~~i. Employees in Non-Specialized Support Positions~~

~~1. 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 calculated by dividing the total number of hours worked by the member in a fiscal quarter by four (4).~~

III. Member and Employer Contributions

~~a. Contributions — Generally~~

~~1. The Board shall annually set member and employer contribution rates for the following fiscal year.~~

~~2. ATRS shall notify annually each covered employer of the contribution rates set by the Board.~~

~~3. A member's and covered employer's contributions are due monthly, regardless of the member's concurrent membership status.~~

~~b. Member Contributions~~

~~1. Authority of the Board~~

~~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.~~

~~2. Contribution Rate~~

~~A. A contributory member shall contribute the percentage of his or her salary that is set by the Board.~~

~~B. A member's contribution is due monthly, regardless of the member's concurrent membership status.~~

~~3. Remittance of Member Contributions by Covered Employer~~

~~A. A covered employer shall remit member contributions by pick-up from the salary earned by each member.~~

~~B. Member contributions shall be treated as employer contributions under the applicable provisions of the Internal Revenue Code and the Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq.~~

- C. ~~A covered employer may remit a member's contributions by implementing a:
 - i. ~~Reduction in the cash salary of the member;~~
 - ii. ~~Setoff against the member's future salary increases;~~
 - or iii. ~~Both a reduction in the cash salary of the member and a setoff against the member's future salary increases.~~~~

~~c. Employer Contributions — Public School Employers and Covered Employers~~

~~1. Covered Employers and Public School Employers~~

- A. ~~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.~~
- B. ~~A public school employer shall pay up to fourteen percent (14%) of the employer contribution rate.~~
- C. ~~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 ATRS.~~

~~2. Employer Contributions Not Paid by the Department of Education~~

- A. ~~A covered employer shall pay annually, for its employees, employer contributions that are not required to be paid by the Department of Education.~~
- B. ~~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. Employer Contributions Paid by the Department of Education~~

- A. ~~In accordance with rules established by the Board and the Department of Education's appropriations act, the Department of Education 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, Acts 2019, No. 910;~~
 - ii. ~~Cooperative Education Services Areas;~~
 - iii. ~~Vocational Centers;~~
 - iv. ~~Arkansas Easter Seals; and~~
 - v. ~~A school operated by the Corrections School System.~~~~
- B. ~~The Department of Education shall pay the employer contributions for eligible employees of covered employers from the Public School Fund.~~

~~C. At the close of each quarterly report, ATRS shall report the amount of employer contributions due from the Department of Education.~~

~~D. The employer contributions due from the Department of Education shall be based on the salaries of the eligible employees reported to ATRS by each covered employer.~~

~~d. Employer Contributions — Participating Employers~~

~~1. The Board shall annually notify each participating employer of the employer contribution rate established by the Board for the upcoming fiscal year.~~

~~e. Employer Contributions — Surcharge Employers 1. A surcharge employer's employer contributions shall be a monthly surcharge on the total salaries paid to all the surcharge employer's embedded employees on an aggregate basis as provided under Arkansas Code § 24-7506(c).~~

IV. Employer Reports

~~a. Generally~~

~~1. A covered employer shall submit:~~

~~A. Reports and supporting documentation required by ATRS on a monthly and quarterly basis; and~~

~~B. Reports and supporting documentation electronically to ATRS on forms approved by ATRS.~~

~~b. Covered Employers~~

~~1. Youth Participant — Summer Work Programs~~

~~A. At the request of ATRS, a covered employer shall provide ATRS with a memorandum of understanding, partnership agreement, or another similar document related to the covered employer's actions as a passthrough fiscal agent for a youth participant in a summer work program.~~

~~B. A covered employer shall provide ATRS with all documents related to the agreement designating the covered employer as a pass-through fiscal agent before disbursing compensation to a youth participant.~~

~~C. A covered employer that acts as a pass through fiscal agent shall not report a youth participant as an employee for ATRS purposes.~~

~~2. Twenty Six (26) Week Payroll~~

~~A. 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 ATRS and retiring.~~

~~B. If an employee is a member of ATRS and retiring effective July 1, a covered employer shall not:~~

~~i. Withhold contributions on a salary earned by the member after the close of payroll for the current fiscal year; and~~

~~A. A report and supporting documentation submitted by a covered employer shall not be considered untimely if:~~

~~i. The report and supporting documentation are received by ATRS on the tenth (10th) day of the month in which the report and supporting documentation are due; or~~

~~ii. In the case of a covered employer that obtains a waiver as provided under this ATRS Rule 7 IV.d.2. or is unable to electronically submit a report and supporting documentation, the report and supporting documentation are mailed and postmarked by the fourteenth (14th) day of the month.~~

~~a. If the fourteenth (14th) day of the month falls on a Saturday, Sunday, or holiday, the postmarked date shall be the next business day.~~

~~4. Failure to Submit Report or Remit Contributions and Penalties~~

~~A. Late Fee for Untimely Reports~~

~~i. A one hundred fifty dollar (\$150) late fee shall be assessed on a covered employer for each occurrence in which a report and supporting documentation is untimely submitted to ATRS.~~

~~B. Interest Penalty~~

~~i. If a covered employer does not remit member or employer contributions, including surcharge contributions, by the monthly due date, ATRS shall assess an interest penalty equal to ATRS' 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.~~

~~ii. The Board or its designee, in its discretionary authority, may waive an interest penalty assessed against a covered employer if:~~

~~a. The delinquency is not a result of the covered employer's nondisclosure, fraud, or other misrepresentation; and~~

~~b. Based on the facts and circumstances, payment of the penalty interest would be unduly penal, burdensome, or manifestly unjust.~~

~~iii. The Board shall not instruct the Executive Director of ATRS (executive director) to waive one (1) or more interest penalties assessed against a covered employer if the amount will exceed one thousand dollars (\$1,000) for the fiscal year.~~

~~iv. 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.~~

~~v. The executive director shall report each interest penalty waived under this ATRS Rule 7 IV.d.4.B to the Board.~~

~~5. Report to Chief Fiscal Officer of the State~~

- ~~A. ATRS 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.~~
- ~~B. After receiving the certification from ATRS, 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. (Arkansas Code § 19-5-106)~~

~~6. Refunds~~

~~A. Service History Conflicts~~

- ~~i. A conflict in a member's service history due to concurrent service shall be resolved at the end of the fiscal year and ATRS shall issue refunds as appropriate.~~

~~B. Overpayments and Underpayments~~

- ~~i. ATRS 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.~~

~~ii. Contribution Overpayments~~

- ~~a. ATRS shall send written notification to a covered employer of a contribution overpayment that is less than the de minimis amount that may be refunded.~~
- ~~b. A contribution overpayment that is less than the de minimis amount shall not be refunded to the appropriate covered employer unless the covered employer submits a written request for a refund to ATRS within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS.~~
- ~~c. 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 ATRS, the amount of the contribution overpayment shall be forfeited to the trust assets of ATRS.~~

~~iii. Contribution Underpayments~~

- ~~a. ATRS shall not collect a contribution underpayment of less than the de minimis amount from a covered employer.~~

~~V. Final Average Salary~~

~~a. Salary Limitations~~

1. Authority of the Board
 - A. The Board may adopt rules to modify the definition of salary for the purpose of calculating ATRS retirement benefits. (Arkansas Code § 24-7202)
2. Salary—Multiple Covered Employers
 - A. ATRS shall include the salary received from each of a member's covered employers when calculating the member's final average salary.
3. Internal Revenue Code § 401(a)(17)
 - A. Regardless of any provision in a state statute, rule, or regulation to the contrary, remuneration, salary, or other compensation that exceeds the limitations set forth provided in the Internal Revenue Code of 1986, 26 U.S.C. § 401(a)(17), as it existed on January 1, 2011, shall not be used for the purposes of calculating the final average salary on which ATRS benefits are based.
 - B. The limitation on remuneration, salary, or compensation for an eligible employee shall not be less than the amount that was allowed to be considered by ATRS as in effect on July 1, 1993.
4. Excluded Remuneration, Salary, or Compensation
 - A. ATRS shall not consider remuneration, salary, or compensation paid by a covered employer to a member as a salary earned by the member if the:
 - i. Remuneration, salary, or compensation is paid as an incentive payment, bonus, separation payment, additional salary, or special payment in consideration for the member's agreement to retire, terminate employment, or not renew a contract with the covered employer;
 - ii. Offer described in this ATRS Rule 7 V.a.4.A.i. is extended by the covered employer to two (2) or more members;
 - iii. Remuneration, salary, or compensation is not offered as an additional salary or payment for the purchase of service credit that is part of a separation agreement resulting from the resolution of a claim of wrongful termination;
 - iv. Remuneration, salary, or compensation is not payment for accumulated, unused sick leave that:
 - a. Accrued in the years immediately preceding the member's termination of covered employment; and
 - b. Were in excess of the number of sick days that the covered employer allowed the member to carry forward;

- v. ~~Covered employer offers a voluntary early retirement incentive plan, staff reduction plan, or buyout plan that would require the member as a participant of the plan to retire or terminate his or her employment with the covered employer; and~~
 - vi. ~~Member voluntarily participates in the plan in exchange for the remuneration, salary, or compensation offered by the covered employer.~~
- B. ~~A covered employer shall not withhold a member's contributions or pay employer contributions from a remuneration, salary, or compensation paid to a member if the remuneration, salary, or compensation is subject to a salary limitation as provided by this ATRS Rule 7.~~
- C. ~~A covered employer that offers an early retirement plan, separation, plan, or contract nonrenewal plan and intends to pay remuneration, salary, or compensation that is subject to a salary limitation as provided by this ATRS Rule 7 shall notify ATRS before making a payment under the plan.~~
- D. ~~At the request of a covered employer, ATRS shall:~~
- i. ~~Review a potential plan or payment that may be subject to a salary limitation as provided by this ATRS RULE 7; and~~
 - ii. ~~Provide guidance to the covered employer concerning the applicability of the salary limitation to the plan or payment.~~
- E. ~~A covered employer may appeal ATRS' decision concerning the applicability of a salary limitation to a plan or payment to the Board using ATRS' appeal procedures provided in ATRS Rule 13.~~

5. Conflict of Laws

- A. ~~The law applicable to ATRS and the ATRS Rules shall be controlling if a conflict exists between ATRS' calculation of final average salary and a covered employer's laws or policies concerning the compensation of final average salary.~~

b. Service Years Included in Computation of Final Average Salary

1. Unused Leave

- A. ~~If a member dies during active service on or after July 1, 2013, the member's paid or unpaid accrued, unused sick leave, shall be credited as service in the fiscal year of the member's death for the purpose of determining the member's retirement eligibility, final average salary, and eligibility for other ATRS benefits.~~

2. Full Service and Partial Service Years

- A. ~~A partial service year shall be excluded from the calculation of a member's final average salary unless the:~~
- i. ~~Partial service year is higher than a full service year; or~~
 - ii. ~~Member has less than the required number of years to calculate a~~

final average salary.

3. ~~Number of Service Years Used to Calculate Final Average Salary~~
 - A. ~~The Board shall set annually the applicable number of years to be used in computing final average salary for retirement benefits at not less three (3) years and not more than five (5) years.~~
 - B. ~~Unless otherwise provided by law applicable to ATRS or the ATRS Rules, effective July 1, 2018, ATRS shall calculate a member's final average salary using the five (5) years in which the member received the highest salary from a covered employer.~~
 - C. ~~Members with Insufficient Credited Service or Full Service Years~~
 - i. ~~If a member has less than the minimum number of years of credited service that would be used to calculate a final average salary, the member's final average salary shall be the total salary paid to the member for his or her years of credited service divided by the member's total credited years of service.~~
 - ii. ~~If a member does not have full service years for the total years of service used in the calculation of final average salary, the Board may establish by rule a fair base salary for a member's final average salary for purposes of comparing the member's highest salary years.~~
 - D. ~~Active Members with Three (3) Full Service Years as of July 1, 2018~~
 - i. ~~For an active member who has three (3) or more full service years as of July 1, 2018, ATRS shall:~~
 - a. ~~Treat the active member as if he or she was retiring or entering the Teacher Deferred Retirement Option Plan (TDROP) as of June 30, 2018; and~~
 - b. ~~Determine the benchmark final average salary using the highest salary from the member's three (3) full service years through fiscal year 2018.~~
 - ii. ~~A final average salary calculation using three (3) full service years shall be the benchmark comparison for a five-year final average salary calculation to which the active member may be entitled.~~
 - iii. ~~ATRS shall calculate the active member's final average salary using the five (5) years in which the active member received the highest salary from a covered employer if at the time of the active member's retirement using a five-year calculation of the final average salary is higher than using a three-year calculation.~~
 - E. ~~Inactive Members Who May Have Three (3) Full Service Years of July 1, 2018~~
 - i. ~~ATRS shall not use a benchmark final average salary for an inactive member unless the inactive member provides ATRS with~~

appropriate documentation showing that the inactive member was active in a reciprocal system or alternate retirement plan during the 2018 fiscal year.

F. Members with Reciprocal Service Credit

i. For a member with reciprocal service credit, ATRS shall use the highest final average salary calculated, at the time of the member's retirement, by ATRS or a reciprocal system in which the member has at least two (2) years of service credit pursuant to Arkansas Code § 24-2-402.

HISTORY		
Amended:	August 11, 1998	7-1, 7-3
Amended:	June 17, 2003	7-4
Amended:	April 6, 2004	7-4
Reaffirmed:	June 15, 2004	7-4
Amended:	July 18, 2005	7-1, 7-2, 7-3, 7-4
Amended:	April 26, 2007	7-4
Amended:	February 11, 2008	7-3, 7-4
Amended:	June 16, 2009	7-1, 7-2 (Emergency)
Amended:	October 5, 2009	7-1, 7-2 (Permanent)
Amended:	December 18, 2009	7-3, 7-4
Amended:	July 1, 2011	7-1, 7-2 (Emergency)
Adopted:	August 8, 2011	7-1, 7-2
Effective:	November 11, 2011	7-1, 7-2
Board Approved:	February 6, 2012	7-2, 7-4
Amended:	April 2, 2012	7-2 (Emergency)
Amended:	April 18, 2012	7-4
Effective:	May 29, 2012	7-2, 7-4
Approved by Board:	July 26, 2013	7-1, 7-3
Amended:	October 9, 2013	7-1, 7-3
Effective:	November 8, 2013	7-1, 7-3
Approved by Board:	January 8, 2014	7-1
Amended:	February 17, 2014	7-1
Effective:	March 18, 2014	7-1
Effective:	August 5, 2019	Rule 7

~~Effective: May 28, 2020 Rule 7~~

~~Effective: May 20, 2022 Rule 7~~

**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 and jenniferl@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, 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, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
Rule 7: Service Credit, Contributions, Reporting, and Final Average Salary
2. What is the subject of the proposed rule? Service credit, contributions, employer reports, and the FAS.
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 and 24-7-305(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).

Acts 2023, No. 64.

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. 01/22/2024

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 7: Service Credit, Contributions, Reporting, and Final Average Salary

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 7 – Service Credit, Contributions, Reporting, and Final Average Salary

I. Purpose

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed amendments to ATRS Rule 7 – Service Credit, Contributions, Reporting, and Final Average Salary (“Rule 7”).

On December 4, 2023, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for Rule 7.

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. 64 was identified by the System as requiring the promulgation of a rule or rules.

III. Amendments

Rule 7 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 “Service Credit, Contributions, and Reporting”;
- The definition of “specialized support position” has been amended to clarify that the covered employer must certify a position as a specialized support position to ATRS;
- The definition of “surcharge employer” was amended by Acts 2023, No. 64. The definition in the rule has been amended to conform with the legislative change;

- 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;
- Amended to clarify how service credit is earned by a member who has an employment contract with a covered employer and is employed in a specialized support position;
- Amended to clarify how service credit is earned by a member who does not have an employment contract with a school district and is employed in a specialized support position;
- Amended to clarify how service credit is earned by a member who is employed in a nonspecialized support position;
- Amended to clarify that a covered employer must certify a position as a specialized support position when the covered employer first reports the member's employment to the System;
- Amended to transfer contribution overpayment rules from Rule 8 to Rule 7;
- Amended to transfer rules concerning salary payments made after a member's death from Rule 11 to Rule 7;
- Amended to change "annually" to read "monthly", which aligns with current System practices;
- Repealed language concerning obtaining a temporary waiver for electronically reporting employee contributions and electronically remitting employee contributions. The provision is obsolete. Additionally, with regard to penalties, the provision is also unnecessary as A.C.A. § 24-7-411 addresses waiving interest penalties and penalties for untimely reports and contribution payments;
- Repealed provision concerning alternative due date for covered employers who obtained temporary waivers for electronically submitting reports. ATRS staff has advised that all covered employers report and remit contribution payments electronically; and
- Amended to clarify who has the authority to waive interest penalties and that one (1) or more interest penalties cannot be waived if the interest penalties assessed will exceed \$1,000 for the fiscal year.

IV. Recommendation

The System recommends that the proposed amendments to Rule 7 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.