

# MARK UP

## 24 CAR § 10-329. Employer Participation – Employers of early childhood workers.

(a) A person who is employed as an early childhood worker may elect to become a member of the Arkansas Teacher Retirement System if:

(1)(A) The person is an employee of a childcare facility described in subdivision (a)(2) of this section and the person provides teaching, early childhood education, or supervision for one (1) or more children enrolled in the childcare facility.

(B) A person who elects to become a member of the system shall be a contributory member of the system and shall have his or her service credit computed in accordance with the laws and rules applicable to the system;

(2)(A) The childcare provider that employs the person:

(i) Is a childcare facility licensed and regulated under the Childcare Facility Licensing Act, Arkansas Code § 20-78-201 et seq.;

(ii) Is a childcare facility accredited by the department as an appropriate early childhood program as defined under Arkansas Code § 6-45-103;

(iii)(a) Receives state or federal childcare funding from the Department of Education under Arkansas Code § 6-87-101.

(b) A childcare provider that does not receive state or federal funding through the department does not meet the requirements of subdivision (2)(A)(ii)(a) of this rule.

(iv) Elects to participate in the system;

(v) Assumes responsibility for employer contributions;

(vi) Assumes responsibility for fees for obtaining Internal Revenue Service rulings or Employee Retirement Income Security Act of 1974 opinions;

(viii) Agrees to reasonably cooperate with the pass-through fiscal agent for the purpose of:

(a) Remitting all required contributions and reports to the system; and

(b) Retaining all records pertaining to the participation of the childcare provider in the system and all records pertaining to an early childhood worker

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who is employed by the childcare provider and who elects to participate in the system for at least seven (7) years from the effective date of the childcare provider's participation in the system or as otherwise advised in writing by the system.

(B) A childcare provider with an active voucher or subsidy agreement with the department to provide childcare services to children may meet the requirements of subdivision (a)(2)(A)(iii) of this section even if the childcare provider does not currently have enrolled children whose childcare services are partially or wholly paid for through a voucher or subsidy agreement with the department.

(C)(i) A childcare provider shall not be eligible for participation or continued participation in the system if the childcare provider fails to meet the requirements of subdivision (a)(2)(A)(i), (ii), or (iii) of this section or, if applicable, has their voucher or subsidy agreement with the department terminated; or

(ii)(a) An early childhood worker who is employed by a childcare provider that is not eligible for participation or continued participation in the system shall cease to be a member of the system.

(b) Subdivision (a)(2)(C)(ii)(a) of this section shall not prevent an early childhood worker from becoming a member of the system again if the early childhood worker is later employed by a childcare provider that meets the requirements of subdivision (a)(2)(A)(i)-(iii) of this section and, if applicable, has an active voucher or subsidy agreement with the department.

(D) A childcare provider shall:

(i) become a covered employer at the time that an employee elects to become or remain a member of the system; and

(ii) Be considered a covered employer only for each employee who elects to become a member of the system; and

(3) The Board of Trustees of the Arkansas Teacher Retirement System:

(A) Approves a single nonprofit fiscal agent to act as a pass-through fiscal agent to facilitate the voluntary participation of an early childhood worker in the system; and

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(B) Determines as a general matter that the participation of early childhood workers who meet the requirements of subdivision (a)(1)(A) of this section will not:

(i) Impair the system's tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.;

(ii) Impair the system's governmental plan status under the Employee Retirement Income Security Act of 1974, 26 U.S.C. § 1001 et seq.;

(iii) Subject the system to additional federal requirements or otherwise impair any legal status of the system; or

(iv) Have a substantial adverse impact on the system's actuarial soundness.

(b) The Board may approve a pass-through fiscal agent that agrees to:

(1) Implement an application process for childcare providers that:

(A) Ensures the childcare provider meets the requirements of subdivision (a)(2)(A) of this section;

(B) Requires the childcare provider to submit for review by the pass-through fiscal agent an application that includes the following information:

(i) A proposed effective date for participation in the system;

(ii) A certified copy of the articles of incorporation, bylaws, and other organization documents of the childcare provider;

(iii)(a) A copy of the childcare provider's:

(1) Most recent three (3) years' annual audited financial statements, including balance sheets, financial statements, and statements of cash flows; or

(2) if the childcare provider does not have audited financial statements, the year-end compilation reports or internal balance sheets and income statements for the childcare provider;

(iv) A copy of the childcare provider's most recent three (3) year's federal and state income tax returns;

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\_\_\_\_\_ (v) Certification that the childcare provider has an active voucher or subsidy agreement with the department;

\_\_\_\_\_ (vi) A statement acknowledging that the childcare provider shall not be eligible for participation or continued participation in the system if their voucher or subsidy agreement with the department is terminated;

\_\_\_\_\_ (vii) A description of the types of services provided by the childcare provider.

\_\_\_\_\_ (2)(A) Assume responsibility for approving childcare providers as eligible for participation in the system.

\_\_\_\_\_ (B) The board, in its sole discretion, may deny the participation of a childcare provider approved by the pass-through fiscal agent as eligible for participation in the system;

\_\_\_\_\_ (3)(A) Assume responsibility for approving for participation in the system only those childcare providers that will not jeopardize:

\_\_\_\_\_ (i) The system's tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.;

\_\_\_\_\_ (ii) The system's governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.; or

\_\_\_\_\_ (iii) Subject the system to additional federal requirements.

\_\_\_\_\_ (4) Assume responsibility for remitting contributions and submitting reports and any other documentation that the system requires an employer to provide to the system;

\_\_\_\_\_ (5) Assumes responsibility for verifying with the department annually that each childcare provider approved for participation in the system is licensed, accredited, and has an active voucher or subsidy agreement with the department;

\_\_\_\_\_ (6) Use reasonable and generally acceptable accounting standards to manage and account for contributions required from childcare providers;

\_\_\_\_\_ (7) Upon the request of the system, submit to the system financial records pertaining to the management and accounting of contributions required from childcare providers;

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(8)(A) Submit to the Executive Director of the Arkansas Teacher Retirement System reports providing concise explanations of the pass-through fiscal agent's determination finding a new or current childcare provider eligible for initial or continued participation in the system.

(B) Effective January 1, 2026, the reports required under subdivision (b)(8)(A) of this section shall be submitted at least on a quarterly basis or as otherwise directed by the executive director or his or her designee;

(9) Retain and reasonably ensure that a childcare provider retains all records pertaining to the participation of the childcare provider in the system for at least seven (7) years from the effective date of their participation in the system or as otherwise advised in writing by the system;

(10) Retain and reasonably ensure that a childcare provider retains all records pertaining to an early childhood worker who is employed by the childcare provider and who elects to participate in the system for at least seven (7) years from the effective date of the childcare provider's participation in the system or as otherwise advised in writing by the system;

(11) Maintain a policy requiring any information pertaining to an early childhood worker who is employed by the childcare provider and who elects to participate in the system to be treated as confidential information and subject to disclosure in a manner that aligns with the laws, rules, and policies applicable to the system;

(12)(A) Ensure that at least every five (5) years from the effective start date of a childcare provider's participation in the system, the pass-through fiscal agent shall review the childcare provider's participation in the system to ensure that the childcare provider meets both federal and state requirements, including the provisions of the Arkansas Code § 24-7-212 and this section, for participation and continued participation in the system.

(B) The pass-through fiscal agent shall comply with subdivision (b)(11)(A) of this section by at a minimum:

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(i) Verifying, by attestation of the childcare provider or other reasonably reliable means, that the childcare provider meets the requirements of subdivision (a)(2)(A)(i)-(iii) of this section; and

(ii) Obtaining and reviewing the childcare provider's:  
(a) Most recent three (3) years' annual audited financial statements, including balance sheets, financial statements, and statements of cash flows; or

(b) If the childcare provider does not have audited financial statements, the year-end compilation reports or internal balance sheets and income statements for the employer;

(13) Certify that during the past five (5) years there have been no actions, proceedings, or investigations pending against the pass-through fiscal agent that may reasonably be expected to have a material adverse impact on the pass-through fiscal agent or that has resulted in the pass-through fiscal agent or its agents, employees, subsidiaries or affiliates being convicted or found civilly liable for a breach of fiduciary duty or financial crimes; and

(14) Promptly notify the system of any future actions, proceeding, or investigation involving the pass-through fiscal agent that meets the description of subdivision (b)(13) of this section.

**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](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?  
24 CAR § 10-329 - Employer Participation - Employers of Early Childhood Workers
2. What is the subject of the proposed rule? The participation of early childhood workers in ATRS.
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.

[24 CAR §§ 10-808 and 809.](#)

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; A.C.A. § 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 2025, No. 587.](#)

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

[The proposed rule addresses requirements for the participation of early childhood workers as members of the Arkansas Teacher Retirement System. This new rule is required by Acts 2025, No. 587.](#)

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/>

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

If yes, please complete the following:

Date: 09/29/2025

Time: 11:00 am

Place: 1400 West 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. 09/08/2025

15. What is the proposed effective date for this rule? 12/01/2025

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  
**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** 24 CAR § 10-329 - Employer Participation – Employers of Early Childhood Workers

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?

**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.

August 8, 2025

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

**24 CAR § 10-329 — Employer Participation – Employers of Early Childhood Workers**

**I. Purpose**

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed new rules 24 CAR § 10-329 — Employer Participation – Employers of Early Childhood Workers.

On June 2, 2025, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for 24 CAR § 10-329.

**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.

Acts 2025, No. 587, which requires the Board to promulgate rules to implement the Act.

**III. Proposed New Rule**

24 CAR § 10-329 provides rules concerning the participation of early childhood workers as members of the System. This new rule is required by Acts 2025, No. 587.

**IV. Recommendation**

The System recommends that 24 CAR § 10-329 be approved as proposed.

**Mark-Up Color Code**

- Blue – Non-substantive changes by ATRS staff.
- Green – Substantive changes by ATRS staff.
- Red – Required legislative changes.
- Brown – Non-substantive changes where the rule was transferred from one rule to another.