

# **ARKANSAS TEACHER RETIREMENT SYSTEM**

**April 15, 2024**

1400 West Third Street

**BOARD ROOM**

Little Rock, AR 72201

## **Operations Committee Meeting**

**10:00 a.m.**

### **Members**

Bobby Lester, Chair

Dr. Mike Hernandez, Vice Chair

Kelsey Bailey

Anita Bell

Danny Knight

Jeff Stubblefield

Jacob Oliva, Secretary, Dept. of Education

Honorable Dennis Milligan, State Auditor

**AGENDA**  
**ARKANSAS TEACHER RETIREMENT SYSTEM**  
**OPERATIONS COMMITTEE**

**April 15, 2024**

**10:00 a.m.**

**1400 West Third Street**  
**Little Rock, AR 72201**

- I. **\*Call to Order/Roll Call.** page 1.
- II. **\*Adoption of Agenda.** page 2.
- III. Executive Summary. (Attachment No. 1) page 3.
- IV. **\*Approval of February 5, 2024, Minutes.** (Attachment No. 2) page 4.
- V. Open Forum for Potential Rule or Law Changes by Committee Members and Board Members in Attendance.
  - A. Open Forum.
- VI. **\*Rules Promulgation Status Update.** *Mark White, Executive Director and Jennifer Liwo, General Counsel* (Attachment No. 3) page 7.
- VII. Update to ATRS Board Policy 1 - Board Governance. *Mark White, Executive Director and Jennifer Liwo, General Counsel* (Attachment No. 4) page 43.
- VIII. Other Business.
- IX. **\*Adjourn.**

Committee Members:

- Bobby Lester, Chair
- Dr. Mike Hernandez, Vice Chair
- Kelsey Bailey
- Anita Bell
- Danny Knight
- Jeff Stubblefield
- Jacob Oliva, Secretary, Dept. of Education
- Honorable Dennis Milligan, State Auditor

\* Action Item

2024-04-10 11:33:55.236572

## EXECUTIVE SUMMARY

TO: Operations Committee  
FROM: ATRS Staff  
RE: Executive Summary  
DATE: April 15, 2024

**V. Open Forum for Potential Rule or Law Changes by Committee Members and Board Members in Attendance.**

**A. Open Forum.**

This is a standard part of the Committee agenda to allow Committee Members and Board Members in attendance to address topics and issues for consideration.

**VI. \*Rules Promulgation Status Update.** *Mark White, Executive Director and Jennifer Liwo, General Counsel page 7.*

**VII. Update to ATRS Board Policy 1 - Board Governance.** *Mark White, Executive Director and Jennifer Liwo, General Counsel page 43.*

The proposed changes to Board Policy 3 include non-substantive stylistic changes and substantive changes recommended by ATRS staff. This is an action item.

**VIII. Other Business.**

**MINUTES  
ARKANSAS TEACHER RETIREMENT SYSTEM  
OPERATIONS COMMITTEE MEETING**

**Monday, February 5, 2024  
10:00 a.m.  
1400 West Third Street  
Little Rock, AR 72201**

**ATTENDEES**

**Operations Committee Members Present**

Bobby Lester, Chair  
Dr. Mike Hernandez, Vice Chair  
Kelsey Bailey  
Anita Bell  
Danny Knight  
Jeff Stubblefield

**Operations Committee Members Absent**

Kelly Griffin, designee for Jacob Oliva, Secretary  
Department of Education  
Jason Brady, designee for Dennis Milligan,  
State Treasurer

**Board Members Present**

Susan Ford  
Shawn Higginbotham  
Michael Johnson  
Chip Martin  
Keri Hamilton  
Susannah Marshall, State Bank Commissioner  
Larry Walther, State Treasurer

**ATRS Staff Present**

Mark White, Executive Director  
Rod Graves, Deputy Director  
Sarah Linam, Deputy Director–Member Services  
Tammy Porter, Board Secretary  
Curtis Carter, Chief Financial Officer  
Braeden Duke, Software Support Analyst  
Vicky Fowler, Director, Human Resources  
Willie Kincade, Director of Operations  
Mike Lauro, Information Systems Manager\*  
Jennifer Liwo, General Counsel  
Manju, Associate Director of IT  
Logan Penter, Staff Attorney\*  
Whitney Sommers, Administrative Analyst  
Brenda West, Internal Audit/Risk Mgmt\*  
Misty Yant, Manager, Accounting/Reporting\*

**Guest Present**

Mike Wickline, AR Democrat Gazette  
Gar Chung, FIN-News\*  
Donna Morey, ARTA  
Eric Munson, State Treasurer's office  
ID# 501-412-4800\*

*\*via ZOOM*

- I. **Call to Order/Roll Call.** Mr. Bobby Lester, Chair, called the Operations Committee meeting to order at 10:00 a.m. Jason Brady and Kelly Griffin were absent, and all other members were present.
- II. **Adoption of Agenda.**

**Mr. Knight *moved* for adoption of the Agenda. Ms. Bell *seconded* the motion and the Committee *unanimously approved* the motion.**

**III. Executive Summary.** The Executive Summary was provided for reference with no questions or expansions on the written summary.

**IV. Approval of December 4, 2023, Minutes.**

**Mr. Knight *moved to approve* the Minutes of the Operations Committee meeting of December 4, 2023. Mr. Bailey *seconded the motion*, and the Committee *unanimously approved the motion*.**

**V. Open Forum for Potential Rule and Law Changes by Committee Members and Board Members Present.**

**A. Open Forum.** None.

**VI. Rules Promulgation Status Update.** Mark White, Executive Director and Jennifer Liwo, General Counsel presented the Committee with Rules to be promulgated.

**A. Rule 5-1: Investment Introduction.**

**B. Rule 5-2: Standard Care.**

**C. Rule 5-3: Asset Allocation.**

**D. Rule 5-4: Investment Goals.**

**E. Rule 5-6: Investment Consultants.**

**F. Rule 5-7: Investment Managers.**

**G. Rule 5-8: Soft Dollars.**

**H. Rule 0-1: ATRS Rule of Organization and Operation.**

**I. Rule 4: Election of Board of Trustees**

**J. Rule 6: Membership and Employer Participation.**

**K. Rule 7: Service Credit, Contributions, Reporting, and Final Average Salary.**

**L. Rule 8: Free Service Credit, Purchasable Service Credit, and Purchase Accounts.**

**M. Rule 9: Retirement and Benefits.**

**N. Rule 10: Return to Service and Teacher Deferred Retirement Option Plan.**

**O. Rule 11: Survivors and Domestic Relations Orders**

- P. Rule 12-1: Protection of “Qualified Trust” Status of ATRS Under Internal Revenue Code 401(a).
- Q. Rule 13-1: Administration Adjudications: Staff Determinations and Appeals.
- R. Rule 14-1: Retirement Fund Asset Accounts.
- S. Rule 15-1: Benefit Restoration Plan and Trust.
- T. Rule 16: Cash and Savings Help (CASH) Program.
- U. Rule 17-1: Manifest Injustice

**Mr. Knight *moved to approve* all changes to the Rules as presented to the Committee. Mr. Bailey *seconded the motion* and the Committee *unanimously approved the motion*.**

- VII. **Update to ATRS Board Policy 4 Statement of Investment Policy.** Director White presented the Committee with updated changes to Board Policy 4 Statement of Investment Policy.

**Mr. Knight *moved to approve* the changes to Board Policy 4 Statement of Investment Policy as presented to the Committee. Ms. Bell *seconded the motion* and the Committee *unanimously approved the motion*.**

- VIII. **Other business:**

- IX. **Adjourn.**

**Mr. Knight *moved to adjourn* the Operations Committee Meeting. Mr. Stubblefield *seconded the motion*, and the Committee *unanimously approved the motion*.**

**Meeting adjourned at 10:53 a.m.**

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Mark White, Executive Director

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Bobby Lester, Chair

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Tammy Porter, Board Secretary

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Date Approved

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## ATRS Rule 6 Membership and Employer Participation

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### § 6-101. Definitions.

As used in this rule:

(1) "Administrator" means:

(A) An employee of a covered employer who is employed in one (1) of the following positions:

(i) Public school superintendent, assistant superintendent, principal, or vice-principal;

(ii) Higher education president, chancellor, or director; or

(iii) Director, president, or vice-president of a community college, vocational or technical school, or educational cooperative; or

(B) An employee who is:

(i) An employee of an education-related agency participating in the Arkansas Teacher Retirement System;

(ii) An active member of the system through his or her employment with the education-related agency; and

(iii) Employed in a GS13 grade position, its equivalent, or above;

(2) "Contributory service" means service on which a member makes or made member contributions to the Arkansas Teacher Retirement System;

(3) "Contributory election" means a member's written election to make member contributions to the Arkansas Teacher Retirement System;

(4) "Noncontributory service" means service on which a member does not make member contributions to the Arkansas Teacher Retirement System and for which the member accepts a reduced retirement annuity for the member's years of noncontributory service;

(5) "Nonteacher" means a member who is not employed as a teacher or administrator;

(6) "Organization" means:

(A) A private entity that:

(i) Provides services to a public school district; and

(ii) Has employees who were previously employed by the public-school district and members of ATRS; or

(B) An educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services;

(7) "Preceding system" means a previous reciprocal retirement system of record;

(8) "Post-secondary higher education plan" or "PSHE plan" means a plan establishing the right of a new employee of a post-secondary or higher education employer to participate in the Arkansas Teacher Retirement System on or after July 1, 2011;

(9) "Reciprocal system" means:

(A) The Arkansas Teacher Retirement System operations as of June 30, 1957, and continued by statutes;

(B) The Arkansas State Highway Employees' Retirement System,

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established by Arkansas Code § 24-5-103;

(C) The Arkansas Public Employees' Retirement System established by Arkansas Code § 24-4-103;

(D) The Arkansas State Police Retirement System established by Arkansas Code § 24-6-203;

(E) The Arkansas Judicial Retirement System established by Arkansas Code § 24-8-201;

(F) The Arkansas District Judge Retirement System established by Arkansas Code §§ 24-8-801[repealed] 24-8-824 [repealed];

(G) The Arkansas Local Police and Fire Retirement System provided for under Arkansas Code § 24-10-101; or

(H) An alternate retirement plan **as defined by Arkansas Code § 24-7-202** or an alternate retirement plan for an agency that, through a state reorganization or transformation plan, may be assigned the duties under one (1) or more of the agencies listed in § 6-101(a)(9)(A)-(H);

(10) "State employer" means:

(A) A public employer whose employees are covered under the:

(i) Arkansas Teacher Retirement System;

(ii) Arkansas State Highway Employees' Retirement System (Arkansas Code § 24-5-103);

(iii) Arkansas Public Employees' Retirement System (Arkansas Code § 24-4-103);

(iv) Arkansas State Police Retirement System (Arkansas Code § 24-6-203);

(v) Arkansas Judicial Retirement System (Arkansas Code § 24-8-201); or

(vi) Arkansas District Judge Retirement System (Arkansas Code §§ 24-8-801[repealed] — 24-8-824 [repealed]); or

(B) A public employer that **has an alternate retirement plan as defined by Arkansas Code § 24-7-202**; or

(C) A public employer that is an agency that, through a state reorganization or transformation plan, may be assigned the duties of one (1) or more of the agencies listed in this § 6-101(a)(9)(A)-(B);

(11) "Succeeding system" means the current reciprocal retirement system of record that follows a person's membership in a preceding retirement system; and

(12) "Teacher" means a person employed by a school for the purpose of giving instruction and whose employment requires state teaching licensure.

### **§ 6-102. Confidentiality of member accounts.**

(a) As provided by the Arkansas Teacher Retirement System's Code of Ethics, the system shall keep each member's salary, employment history, retirement account, and other personal data or other information compiled by the system for purposes of establishing and maintaining the member's retirement account confidential.

(b) All member information compiled by the system for the purpose of establishing and maintaining the member's retirement account shall not be disclosed to a third-party unless:



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(1) The member provides the system with his or her written consent;

(2) A valid legal process requires the disclosure of the member's information;

(3) Disclosure is necessary for the proper operation and administration of the system and a confidentiality agreement authorizing the disclosure has been executed by the system and the person or entity that will receive the information; or

(4) Disclosure of the member's information is authorized by statute.

(c) Individual member records that are kept for the purpose of compiling information for a member's retirement or Social Security records shall not be open to the public under Arkansas Code § 24-4-1003.

### § 6-103. Submission deadlines.

(a) Unless otherwise provided by the law, rules, or policy applicable to the Arkansas Teacher Retirement System, any application, form, or other document that is required to be submitted to the system by a specified deadline shall be accepted as timely submitted if the application, form, or other document is e-mailed, faxed, or has a postmark that is on or before the submission deadline.

(b) If a deadline to submit an application, form, or other document to the system falls on a Saturday, Sunday, or Arkansas State Holiday, the deadline shall be extended to the next business day immediately following the Saturday, Sunday, or Arkansas State Holiday.

### § 6-104. Employee membership in another state retirement system.

Excluding service as a member of the General Assembly, an employee who is eligible for membership in the Arkansas Teacher Retirement System is ineligible for membership in another state retirement system while he or she is employed in a position covered by the Arkansas Teacher Retirement System.

### § 6-105. Erroneous employee membership enrollment.

(a)(1) An employee who was erroneously enrolled in the Arkansas Teacher Retirement before January 1, 1979, shall continue to be a member of the Arkansas Teacher Retirement System if the employee's contributions were not refunded before July 1, 1979.

(2) The employee shall:

(A) Receive service credit for all paid membership service in the Arkansas Teacher Retirement System and any free service creditable under Acts 1973, No. 427 as amended; and

(B) Be entitled to reciprocal service credit as provided by Arkansas Code §§ 24-7-401 — 24-7-408.

(b) Effective July 1, 1979, the Arkansas Teacher Retirement System shall not:

(1) Be required to correct the state retirement system membership of an employee who was erroneously enrolled in another state retirement system before January 1, 1979; and

(2) Accept an employee who was erroneously enrolled in another state retirement system before January 1, 1979, as a member of the Arkansas Teacher Retirement System unless the employee's contributions were refunded before July 1, 1979.

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(c)(1) An employee who is erroneously enrolled in a state retirement system on or after January 1, 1979, may elect to remain a member of the system of record or become a member of the eligible retirement system.

(2) If the Arkansas Teacher Retirement System discovers that an employee is erroneously enrolled in another state retirement system on or after January 1, 1979, the Arkansas Teacher Retirement System shall notify both the state employer and employee that the:

(A) Employee is erroneously enrolled in the state retirement system; and

(B) Error may be corrected as provided by Acts 1991, No. 13 or Arkansas Code § 24-2-302 et seq.

### **§ 6-106. Membership eligibility — Janitors, bus drivers, and cafeteria workers.**

An employee shall continue to be a member of the Arkansas Public Employees' Retirement System if the employee:

(1) Was employed before July 1, 1989, as a school janitor, bus driver, or cafeteria worker;

(2) Was enrolled in the Arkansas Public Employees Retirement System under the provision of Acts 1965, No. 63;

(3) Was promoted to a position of school maintenance worker or supervisor, bus mechanic or transportation supervisor, or cafeteria manager, respectively; and

(4) Remains employed in the position to which he or she was promoted.

### **§ 6-107. Membership eligibility — Nonteaching service employees.**

(a) Effective July 1, 2001, an employee whose nonteaching service began before July 1, 1989, and is covered or coverable by the Arkansas Public Employees' Retirement System may elect to be covered by the Arkansas Teacher Retirement System.

(b) An employee shall submit his or her election to be covered by the Arkansas Teacher Retirement System before May 31 on a form provided by the Arkansas Teacher Retirement System.

(c) In accordance with Arkansas Code § 24-7-501, an employee's timely submitted election to be covered by the Arkansas Teacher Retirement System is effective on July 1 of the following year.

### **§ 6-108. Membership eligibility — College plans.**

(a)(1) A member of the Arkansas Teacher Retirement System who was employed by a nonmandatory employer before July 1, 2011, may continue to participate in the system instead of an alternative program offered by the nonmandatory employer if the member continues providing consistent service to the nonmandatory employer.

(2) A nonmandatory employer shall be considered a post-secondary or higher education employer or PSHE employer if the nonmandatory employer enrolls a new eligible member with the system on or after July 1, 2011.

(3) If an eligible nonmandatory employer college elects to offer participation in the Arkansas Teacher Retirement System to its employees, the nonmandatory employer shall report information regularly to the system, on forms approved by the system, as required or permitted by the law applicable to the system.

(b)(1) A PSHE employer may elect to offer participation in the Arkansas Teacher

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Retirement System to its employees by fulfilling the requirements of Arkansas Code § 24-7-1605.

(2) In addition to completing and submitting the standard reporting forms required by the system, a PSHE Employer shall provide supplemental reports on any form required, approved, and adopted by the Board of Trustees of the Arkansas Teacher Retirement System.

(c)(1) The participation of new employees hired by a PSHE employer after July 1, 2011, is governed by Arkansas Code § 24-7-1601 et seq.

(2) A new employee of a PSHE employer who is hired after July 1, 2011, may participate in a PSHE plan if:

(A) The employee is benefits-eligible as determined by the PSHE employer;

(B) The employee is either:

(i) A vested member of the system at the time of initial employment;

or

(ii) A non-vested member of the system who meets the requirements of a less restrictive PSHE plan adopted by the specific PSHE employer; and

(C) The employee signs an irrevocable PSHE plan participation form provided by the system.

(3) A PSHE plan employee shall remain a member of the system as long as he or she is employed by a PSHE employer.

(4) A PSHE plan employee's election to participate in the system is irrevocable unless the PSHE plan employee obtains a termination refund from the system after his or her election to participate.

### **§ 6-109. Employer participation — Review of employer participation.**

(a) This section applies to an employer that participates in the Arkansas Teacher Retirement System as provided under Arkansas Code § 24-7-202.

(b) Every five (5) years from the effective start date of an employer's participation in the system, the Executive Director of the Arkansas Teacher Retirement System shall review the employer's participation in the system to ensure that the employer meets both federal and state requirements for participation and continued participation in the system.

(c) The executive director's determination concerning whether or not an employer meets the requirements for continued participation in the system shall be presented to the Board of Trustees of the Arkansas Teacher Retirement System for review and appropriate action by the board.

### **§ 6-110. Employer participation — Application for participation.**

(a) An employer that would prefer to participate in and have its employees become members of the Arkansas Teacher Retirement System may submit a written application to the Executive Director of the Arkansas Teacher Retirement System.

(b) An employer's application for participation in the system shall:

(1) Specify a proposed effective date for participation in the system; and

(2) Include the following information and materials:

(A) A certified copy of the articles of incorporation, bylaws, and other organizational documents of employer;

(B) A copy of the employer's:

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

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

(C) A copy of the employer's most recent three (3) years' federal and state income tax returns;

(D) A description of the employer's sources of funding, including the percentage of the funds that is provided by the federal or state government and the type of government funding provided;

(E) A description of how the employer's board of directors or board of trustees is selected and whether any governmental agency has input in the selection of the board members;

(F) A description of the types of services provided by the employer; and

(G) A description of each government agency that would be responsible for providing the types of services provided by the employer if the employer did not provide the services.

(c)(1) After the system reviews the employer's application and accompanying information and materials, the system shall:

(A) Determine whether an Internal Revenue Service ruling or IRS Ruling should be requested concerning whether or not the participation of the employees of the employer jeopardizes the system's status as a governmental plan; and

(B) Request any necessary additional information and statements from the employer if the system determines that an IRS Ruling should be requested.

(2) The employer shall provide the system with any additional information and statements requested by system in relation to the IRS Ruling.

(3) The employer shall pay the system three thousand dollars (\$3,000) or the actual cost for fees and costs associated with obtaining the IRS Ruling if the system determines that an IRS Ruling should be requested.

(d)(1) The Board of the Arkansas Teacher Retirement System shall consider and vote on an application for employer participation or continued participation.

(2) When considering an application for employer participation, the board:

(A) Shall consider any relevant constitutional arguments brought to the attention of the executive director concerning the employer's application for employer participation;

(B) Shall consider Rev. Rul. 89-49; and

(C) May consider any other relevant rulings issued by the Internal Revenue Service or the Department of Labor.

### **§ 6-111. Employer participation — Education-related agencies or organizations.**

(a) A person who is employed by an education-related agency or organization is eligible to become a member of the Arkansas Teacher Retirement System if:

(1) The following applies to the person:

(A) The person is employed in a position with an education-related agency or organization;

(2) The person's employment is related to:

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- (A) Training public school employees or school board members;
- (B) Teaching public school students; or
- (C) Adult education programs;
- (3) The person's employment is unrelated to private schools;
- (4) The person is or has been a member of the system for a minimum of five (5) years; and
- (5) The person elects to become or remain a member of the system;
- (2) The Board of the Arkansas Teacher Retirement System determines that the participation of the employees employed by the education-related agency or organization will not:
  - (A) Impair the system's legal status, including:
    - (i) The system's tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.; and
    - (ii) The system's governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.;
    - (iii) Subject the system to additional federal requirements;
    - (iv) Have a substantial adverse impact on the system's actuarial soundness; and
  - (3) The education-related agency or organization:
    - (A) Elects to participate in the system;
    - (B) Assumes responsibility for employer contributions;
    - (C) Assumes responsibility for fees for obtaining IRS Rulings or Employee Retirement Income Security Act of 1974 opinions; and
    - (D) Is approved as a covered employer by the board.
- (b) An education-related agency or organization shall:
  - (1) Become a covered employer at the time that an employee elects to become or remain a member of the system; and
  - (2) Be considered a covered employer only for each employee who elects to become or remain a member of the system.

### **§ 6-112. Employer participation — Private providers.**

Effective July 1, 1997, if a public school district privatizes any of its services, a person who is or was employed by the public school district in one (1) or more of the privatized services and who is or has been a member of the Arkansas Teacher Retirement System may elect to remain a member of the system if the:

- (1) The Board of the Arkansas Teacher Retirement System determines that the participation of employees hired by the private provider will not:
    - (A) Impair the system's legal status, including:
      - (i) The system's tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.; and
      - (ii) The system's governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.;
    - (B) Subject the system to additional federal requirements; or
    - (C) Have a substantial adverse impact on the system's actuarial soundness;
- and
- (2) Private provider assumes responsibility for:



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(A) Required employer contributions; and  
(B) Fees for obtaining IRS Rulings or Employee Retirement Income Security Act of 1974 opinions.

### **§ 6-113. Employer participation — Educational nonprofit corporations.**

Effective July 1, 1997, a person who is employed by a nonprofit corporation is eligible to become a member of the Arkansas Teacher Retirement System if:

(1) The following applies:

(A) The person is employed in a position with an educational nonprofit corporation that is licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services;

(B) The person's employment is related to:

(i) Training public school employees or school board members;  
Teaching public school students; or

(ii) Adult education programs; and

(C) The person's employment is unrelated to private schools;

(2) The Board of the Arkansas Teacher Retirement System determines that the participation of employees employed by the educational nonprofit corporation will not:

(A) Impair the system's legal status, including:

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

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

(B) Subject the system to additional federal requirements; or

(C) Have a substantial adverse impact on the system's actuarial soundness;

and

(3) Nonprofit corporation:

(A) Elects to participate in the system;

(B) Assumes responsibility for employer contributions;

(C) Assumes responsibility for fees for obtaining IRS Rulings or Employee Retirement Income Security Act of 1974 opinions; and

(D) Is approved as a covered employer by the board.

### **§ 6-114. Contributory election.**

(a)(1) A person's initial status as a contributory or noncontributory member of the Arkansas Teacher Retirement System shall be determined by the law in effect at the time the person became a member of the system.

(2) All service rendered before July 1, 1986, is contributory service.

(b)(1) A member's contributory status is irrevocable once the member becomes a contributory member of the system.

(2) A contributory member shall not elect to become a noncontributory member.

(c) A contributory election is valid if the contributory election is:

(1) Made on an election form provided by the system; and

(2) Signed by both the member and the covered employer.

(d)(1) If a member makes a contributory election before the preparation of his or her first salary payment in the fiscal year, the contributory election is effective immediately.

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(2) If a member makes a contributory election after the preparation of his or her first salary payment in the fiscal year, the contributory election is effective July 1 of the next fiscal year.

### **§ 6-115. Contributory election — Noncontributory members.**

(a)(1) A noncontributory member may make a contributory election.

(2) If a noncontributory member makes a contributory election before the preparation of the first salary payment to the noncontributory member in the fiscal year, the contributory election is effective immediately.

(3) If a noncontributory member makes a contributory election after the preparation of the first payroll containing the first salary payment to the noncontributory member in the fiscal year, the contributory election is effective July 1 of the next fiscal year.

(4) All service rendered after a contributory election is filed with the Arkansas Teacher Retirement System shall be contributory.

(5) A noncontributory member's contributory election that is filed with the system is irrevocable.

(b) An inactive member shall make contributions on his or her full salary if the inactive member:

(1) Was contributory and earned a maximum salary of seven thousand eight hundred dollars (\$7,800); and

(2) Returns to work on or after July 1, 1995.

(c)(1) An inactive member or rescinding retiree may make a contributory election if the inactive member or rescinding retiree:

(A) Was noncontributory; and

(B) Reenters the Arkansas Teacher Retirement System after June 30, 2007.

(2) If the inactive member or rescinding retiree does not make a contributory election, the inactive member or rescinding retiree shall be enrolled in the plan that he or she was enrolled in before reentering the system.

### **§ 6-116. Contributory election — Member contracts.**

(a) A member who is not under contract may make a contributory election.

(b)(1) A member under contract for one hundred eighty-five (185) days or more shall make contributions to the Arkansas Teacher Retirement System.

(2) A member under contract for one hundred eighty-four (184) days or less may make a contributory election.

(3) If a member enters into a contract with a covered employer after the fiscal year starts, the system may prorate the number of contracted days to determine whether the member should be classified as a contributory member or a noncontributory member who may make an election to become a contributory member of the system.

(c)(1) Regardless of a member's earlier noncontributory election, an active member whose status changes from nonteacher to teacher or administrator under contract for one hundred eighty-five days (185) or more shall make member contributions to the system.

(2) An active member's change of status from noncontributory to contributory due to his or her status change from nonteacher to teacher or administrator is effective on the first day of the next fiscal year if the active member:

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(A) Changes status from nonteacher to teacher or administrator during a year in which the active member's service has already been reported as noncontributory; and

(B) Is under contract for one hundred eighty-five (185) days or more.

### **§ 6-117. Contributory election — State agency employees.**

(a) A full-time employee of a state agency covered by the Arkansas Teacher Retirement System shall be contributory.

(b)(1) A part-time employee of a state agency covered by the system shall be noncontributory.

(2) A part-time employee of a state agency covered by the system may make a contributory election.

### **§ 6-118. Contributory election — Employer reporting errors.**

(a)(1) A member shall be considered to be noncontributory for the first year of service with a covered employer if the member:

(A) Was an inactive member who returned to covered employment as an active member after July 1, 1999; and

(B) Is reported incorrectly as noncontributory by his or her covered employer for his or her first year of service with the covered employer.

(2) The Arkansas Teacher Retirement System shall notify the covered employer of the member's contributory status.

(3) The member shall begin making contributions to the system effective the next July 1 following the member's first year of service with the covered employer.

(b)(1) A member shall be considered to be noncontributory for his or her first year of service with a covered employer if the member is a new member of the system and incorrectly reported as noncontributory by his or her covered employer for the first year.

(2) The system shall notify the covered employer of the member's contributory status.

(3) The member shall begin making contributions to the system effective the next July 1 following the member's first year of service with the covered employer and the covered employer shall correctly report the member as contributory.

### **§ 6-119. Reciprocal service credit.**

(a) A member who leaves a position covered by the Arkansas Teacher Retirement System, becomes employed by a reciprocal system, and files a reciprocal service agreement shall become an inactive member of the Arkansas Teacher Retirement System and may be eligible for an annuity benefit according to the annuity benefit formula in effect at the time of the member's effective retirement date.

(b) Minimum benefits under Acts 1965, No. 488, Arkansas Code § 24-2402(5)(E), as amended, for reciprocal service shall not apply unless a member has five (5) or more years of credited service in the Arkansas Teacher Retirement System.

(c)(1) If the Arkansas Teacher Retirement System is a member's preceding system, the Arkansas Teacher Retirement System shall not pay annuity benefits to the member under reciprocity unless the member:

(A) Attains the normal retirement age; or



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(B) Leaves his or her employment with his or her state employer.

(2) If the Arkansas Teacher Retirement System is a member's preceding system, the member, after attaining the normal retirement age, is eligible to apply for retirement benefits without leaving his or her employment with his or her last state employer.

(3) The member's annuity benefit payments shall begin after the member attains the normal age of retirement or on the first day of the month following the month in which the member's application is filed, whichever occurs last.

(4) The Arkansas Teacher Retirement System shall only consider service credited to the member and salaries earned by the member before the member's effective retirement date to calculate the member's annuity benefit.

### **§ 6-120. Reciprocal service credit — Calculation of service credit.**

If a member of the Arkansas Teacher Retirement System has service credited during the same fiscal year with another reciprocal system and the combined service is greater than one (1) year of service credit, the Arkansas Teacher Retirement System shall credit service as follows:

(1) If credit by the reciprocal system is less than three (3) months, the Arkansas Teacher Retirement System shall credit service for one (1) year;

(2) If credit by the reciprocal system is three (3) or more months but less than six (6) months, the Arkansas Teacher Retirement System shall credit service for three-fourths (3/4) year;

(3) If credit by the reciprocal system is six (6) or more months but less than nine (9) months, the Arkansas Teacher Retirement System shall credit service for one-half (1/2) year; and

(4) If credit by the reciprocal system is for nine (9) months but less than twelve (12) months, the Arkansas Teacher Retirement System shall credit service for one-fourth (1/4) year.

### **§ 6-121. Reciprocal service credit — Contributions and repayments.**

(a) While an employee participates in a reciprocal system, back contributions, additional contributions, and repayment of refund payments made to the Arkansas Teacher Retirement System shall be made in accordance with the payment method provisions of ATRS Rule 8.

(b) Employer pick-up is prohibited while the employee works for an employer that is not a covered employer of the Arkansas Teacher Retirement System.

### **§ 6-122. Reciprocal service credit — Concurrent service.**

(a) Unless the reciprocal system is the Arkansas Public Employees' Retirement System or an alternate retirement plan, beginning July 1, 2013, the Arkansas Teacher Retirement System shall allow a member who earns concurrent service in both the Arkansas Teacher Retirement System and a reciprocal system to receive full service credit in the Arkansas Teacher Retirement System without reduction of service credit due to the concurrent service.

(b) The Arkansas Teacher Retirement System shall not recognize concurrent service added to a member's credited service in the Arkansas Teacher Retirement System that, for the purpose of vesting, retirement eligibility, or calculating final average salary, either:

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(1) Credits the member with more than one (1) year of credited service for a fiscal year; or

(2) Combines salary earned in the Arkansas Teacher Retirement System and a reciprocal system in a fiscal year.

(c)(1) A member may waive all or part of the concurrent service credited to him or her in the Arkansas Teacher Retirement System and have the concurrent service credited to him or her under a reciprocal system if:

(A) The member acknowledges that the waiver is a voluntary surrender of the member's concurrent service credit in the Arkansas Teacher Retirement System;

(B) The member acknowledges that the waiver cancels his or her concurrent service credit in the Arkansas Teacher Retirement System; and

(C) The member submits to the Arkansas Teacher Retirement System a concurrent service credit waiver form approved by the Arkansas Teacher Retirement System.

(2) If a member waives all or part of the concurrent service credited to him or her in the Arkansas Teacher Retirement System and has the concurrent service credited to him or her under a reciprocal system, the Arkansas Teacher Retirement System may refund the employer-accrued contributions and employee-accrued contributions.

### **§ 6-123. Reciprocal service credit — Alternate retirement plans.**

(a) A member of the Arkansas Teacher Retirement System may establish reciprocal service credit from an alternate retirement plan if he or she completes and submits a request to establish the reciprocal service credit on a form approved by the Arkansas Teacher Retirement System.

(b) Distributions from an alternate retirement plan may prevent reciprocal service from being established if the Arkansas Teacher Retirement System is unable to verify that the withdrawals were made without penalty under Internal Revenue Service guidelines concerning rollovers to eligible plans, withdrawals, that are not subject to early withdrawal, etc.

### **§ 6-124. Reciprocal service credit — Arkansas Public Employees' Retirement System.**

From July 1, 1991, until December 31, 1991, an active member of the Arkansas Public Employees' Retirement System may establish reciprocity between the Arkansas Public Employees' Retirement System and the Arkansas Teacher Retirement System and purchase out-of-state service rendered before January 1, 1978, in accordance with Arkansas Code §§ 24-7-601 and 24-7-603, if the active member:

(1) Was an active member of the Arkansas Teacher Retirement System before January 1, 1978; and

(2) Became a member of the Arkansas Public Employees' Retirement System within thirty (30) days of leaving the Arkansas Teacher Retirement System.

### **§ 6-125. Reciprocal service credit — Arkansas Rehabilitation Services.**

(a) Effective July 1, 1993, for a ninety (90) day period, an employee of the Arkansas Rehabilitation Services may transfer his or her membership from the Arkansas Public Employees' Retirement System to the Arkansas Teacher Retirement System under Acts

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1993, No. 574.

(b) An employee who transfers his or her membership from the Arkansas Public Employees' Retirement System to the Arkansas Teacher Retirement System shall establish reciprocity between the two (2) systems and Acts 1977, No. 793 shall not apply to the employee.

### **§ 6-126. Reciprocal service credit — Department of Human Services.**

(a) The law applicable to the Arkansas Teacher Retirement System shall be used to determine the annuity benefits to which an employee is entitled for service provided before or after Acts 1977, No. 793 if the employee:

(1) Was an employee of the Department of Human Services and became a member of the Arkansas Public Employees' Retirement System under the provisions of Acts 1977, No. 793, as amended; and

(2) Left employment with the Department of Human Services and became employed in a position covered by the Arkansas Teacher Retirement System.

(b) A member meeting the description of § 6-125(a) may establish reciprocity under Acts 1965, No. 488, as amended.

### **§ 6-127. Reciprocal service credit — Effective date of benefits.**

(a)(1) If the Arkansas Teacher Retirement System is a member's preceding system, the member's annuity benefit payments shall begin after the member attains the normal age of retirement or on the first day of the month following the month in which the member's retirement application was filed, whichever is later.

(2) If the member has combined service of at least twenty-five (25) years, the normal retirement age requirement shall not apply.

(3)(A) Deferred annuity benefit payments to the member shall not begin before the date on which the member leaves employment with his or her last state employer unless the member attains the normal retirement age.

(B) A member is entitled to a deferred annuity benefit if the member:

(i) Leaves his or her state employment in a position that is covered by one (1) of the reciprocal systems; and

(ii) Enters subsequent state employment in a position that is covered by another of the reciprocal systems.

(b)(1) If the Arkansas Teacher Retirement System is the member's preceding system, the member is eligible to apply for retirement benefits without leaving employment with his or her last state employer upon attaining the normal retirement age.

(2) The member's annuity benefit payments shall begin after the member attains the normal retirement age or on the first day of the month following the month in which the member's retirement application is filed, whichever is later.

(3) The Arkansas Teacher Retirement System shall use only service credited to the member and salaries earned by the member before the member's effective retirement date to calculate the member's annuity benefit.

(c)(1) A member is eligible to apply for disability retirement benefits from each reciprocal system in which the member has credited service according to the rules for eligibility promulgated by that reciprocal system.

(2) The member's disability retirement benefits payable by the preceding reciprocal

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system shall:

(A) Begin the first day of the month following the month in which the member's disability retirement application is filed with the preceding system; and

(B) Not begin before the date on which the member leaves employment with his or her last state employer.

**§ 6-128. Reciprocal service credit — Survivor annuity benefits.**

(a) If survivor annuity benefits are payable by more than one (1) reciprocal system to an eligible survivor of a deceased member, a survivor who receives annuity benefit payments shall not receive, as a percentage of the deceased member's final salary or as a minimum dollar amount, more than the largest amount payable by a single reciprocal system.

(b)(1) The Arkansas Teacher Retirement System shall prorate minimum benefits payable to a survivor with other reciprocal systems that have a minimum benefit provision in their plans.

(2) Each reciprocal system shall pay a proportionate share of the minimum benefit based on the ratio of the member's service in that reciprocal system to the member's total service in all the reciprocal systems.

(c) If the reciprocal system is an alternate retirement plan, survivor annuity benefits shall be contingent on whether the:

(1) Alternate retirement plan provides survivor annuity benefits; and

(2) Member selected survivor annuity benefits as a benefit under the alternate retirement plan.

**Contributory and Noncontributory Service Chart by Year of Entry into System**

(Elections and Re-entry may affect Individual Member Service Status)

| <u>All Members</u>               |                    |   |
|----------------------------------|--------------------|---|
| <u>1937 - 1986</u>               | <u>All Members</u> | <u>Contributory</u>   |
| <u>1986 - 1991</u>               | <u>All Members</u> | <u>Contributory unless elect Noncontributory</u>  |
| <u>1991 - 1999</u>               | <u>All Members</u> | <u>Noncontributory unless elect Contributory</u>  |
| <u>School District Employees</u> |                    |   |
| <u>1999 - 2007</u>               | <u>Active</u>      | <u>One-time election to be Contributory or Noncontributory, no election made by 7/1/2000, status on 6/30/2000</u> |

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|                    |   |  |
|--------------------|---|--|
|                    | <u>Inactive</u>                               | <u>One-time election to be Contributory or Noncontributory upon reentering system, no election then enrolled in the plan that he or she was enrolled in before reentering ATRS</u>   |
|                    | <u>New</u>                                    | <u>Contract one hundred eighty-one (181) days or more - Contributory</u><br>-<br><u>Contract one hundred eighty (180) days or less - Noncontributory, may elect Contributory, election must be made one (1) year from hire date</u><br>-<br><u>No contract, member must be noncontributory</u> |
| <u>2005 - 2021</u> | <u>Nonteacher to Teacher or Administrator</u> | <u>Contract one hundred eighty-one (181) days or more - Contributory. If position change happens during the year, election is effective first of next fiscal year</u><br>-<br><u>All Noncontributory members may elect Contributory</u>  |
| <u>2007 - 2021</u> | <u>All Members</u>                            | <u>May elect Contributory</u>  |
|                    | <u>New</u>                                    | <u>Contract one hundred eighty-one (181) days or more - Contributory</u><br>-<br><u>Contract 180 days or less –</u><br>• <u>Noncontributory, may elect Contributory</u><br>• <u>No contract — Noncontributory, may elect Contributory</u>  |
|                    | <u>Inactive</u>                               | <u>May elect Contributory</u>  |
| <u>2021</u>        | <u>Nonteacher to Teacher or Administrator</u> | <u>Contract one hundred eighty-five (185) days or more - Contributory. If position change happens during the year, election is effective first of next fiscal year.</u><br><br><u>All Noncontributory members may elect Contributory</u>   |
| <u>2021 -</u>      | <u>All Members</u>                            | <u>May elect Contributory</u>  |

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|                                      |                             |   |
|--------------------------------------|-----------------------------|---|
|                                      | <u>A member with</u>        | <u>Contract one hundred eighty-five (185) days or more - Contributory</u>                           |
|                                      | <u>A member with</u>        | <u>Contract one hundred eight-four (184) days or less - Noncontributory, may elect Contributory</u> |
|                                      | <u>New</u>                  | <u>No contract – Noncontributory, may elect Contributory unless already Contributory</u>            |
|                                      | <u>Inactive</u>             | <u>May elect Contributory</u>   |
| <b><u>State Agency Employees</u></b> |                             |   |
| <b><u>1999 - 2007</u></b>            | <u>Full-Time Employment</u> | <u>Must be Contributory</u>   |
|                                      | <u>Part-Time Employment</u> | <u>Must be Noncontributory</u>  |
| <b><u>2007 -</u></b>                 | <u>Full-Time Employment</u> | <u>Must be Contributory</u>   |
|                                      | <u>Part-Time Employment</u> | <u>Noncontributory, may elect to be Contributory</u>  |

**Authority: Arkansas Code §§ 24-2-202, 24-2-401 — 24-2-408, 24-7-202, 24-7-406, 24-7-501, 24-7-502, and 24-7-1601 — 24-7-1607.**

### **History**

|                          |                          |                              |
|--------------------------|--------------------------|------------------------------|
| <u>Adopted:</u>          | <u>August 11, 1998</u>   | <u>6-10</u>                  |
| <u>Amended:</u>          | <u>June 15, 2004</u>     | <u>6-1</u>                   |
| <u>Amended:</u>          | <u>July 18, 2005</u>     | <u>6-1, 6-2, 6-10</u>        |
|                          | <u>April 26, 2007</u>    | <u>6-1, 6-2, 6-11</u>        |
|                          | <u>July 1, 2011</u>      | <u>(Emergency) 6-1, 6-12</u> |
| <u>Adopted:</u>          | <u>August 8, 2011</u>    | <u>6-1, 6-12</u>             |
| <u>Effective:</u>        | <u>November 11, 2011</u> | <u>6-1, 6-12</u>             |
| <u>Adopted by Board:</u> | <u>April 2, 2012</u>     | <u>6-1</u>                   |
| <u>Amended:</u>          | <u>May 2, 2012</u>       | <u>6-1</u>                   |
| <u>Effective:</u>        | <u>September 4, 2012</u> | <u>6-1</u>                   |
| <u>Amended:</u>          | <u>May 2, 2012</u>       | <u>6-2</u>                   |

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|                           |                          |                  |
|---------------------------|--------------------------|------------------|
| <u>Effective:</u>         | <u>September 4, 2012</u> | <u>6-2</u>       |
| <u>Approved by Board:</u> | <u>July 26, 2013</u>     | <u>6-2, 6-12</u> |
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| <u>Effective:</u>         | <u>November 8, 2013</u>  |                  |
| <u>Approved by Board:</u> | <u>February 5, 2018</u>  | <u>6-2</u>       |
| <u>Effective:</u>         | <u>February 16, 2018</u> | <u>6-2</u>       |
| <u>Effective:</u>         | <u>May 28, 2020</u>      | <u>Rule 6</u>    |
| <u>Effective:</u>         | <u>May 20, 2022</u>      | <u>Rule 6</u>    |
| <u>Effective:</u>         | <u>TBD</u>               | <u>Rule 6</u>    |

**ATRS RULE 6**  
**MEMBERSHIP AND EMPLOYER PARTICIPATION**

~~Arkansas Code §§ 24-2-202, 24-2-401 — 24-2-408, 24-7-202, 24-7-406,  
24-7-501, 24-7-502, and 24-7-1601 — 24-7-1607~~

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**I. Definitions**

- a. ~~"Administrator" means:~~
1. ~~An employee of a covered employer in one (1) of the following positions:~~
    - A. ~~Public school superintendent, assistant superintendent, principal, or vice principal;~~
    - B. ~~A higher education president, chancellor, or director;~~
    - C. ~~A community college, vocational or technical school, or educational cooperative director, president, or vice president; or~~
  2. ~~An employee of an education-related agency participating in the Arkansas Teacher Retirement System (ATRS) who is an active member employed in a GS13 grade position, its equivalent, or above;~~
- b. ~~"Contributory service" means service on which a member makes or made member contributions to ATRS;~~
- c. ~~"Contributory election" means a member's written election to make member contributions to ATRS;~~
- d. ~~"Noncontributory service" means service on which a member does not make member contributions to ATRS and for which the member accepts a reduced retirement annuity for the member's years of noncontributory service;~~
- e. ~~"Nonteacher" means a member who is not a teacher or administrator;~~
- f. ~~"Organization" means:~~
1. ~~A private entity that:~~
    - A. ~~Provides services for a public school district; and~~
    - B. ~~Has employees who were previously employed by the public school district and members of ATRS; or~~
  2. ~~An educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services;~~
- g. ~~"Preceding System" means a previous reciprocal retirement system of record;~~
- h. ~~"Post-secondary higher education plan" or "PSHE plan" means a plan establishing the right of a new employee of a post-secondary or higher education employer to participate in ATRS on or after July 1, 2011;~~
- i. ~~"Reciprocal System" means:~~



- ~~1. ATRS operations as of June 30, 1957, and continued by statutes;~~
  - ~~2. The Arkansas State Highway Employees' Retirement System (ASHERS), established by Arkansas Code § 24-5-103;~~
  - ~~3. The Arkansas Public Employees' Retirement System (APERS) established by Arkansas Code § 24-4-103;~~
  - ~~4. The Arkansas State Police Retirement System (ASPRS) established by Arkansas Code § 24-6-203;~~
  - ~~5. The Arkansas Judicial Retirement System (AJRS) established by Arkansas Code § 24-8-201;~~
  - ~~6. The Arkansas District Judge Retirement System (ADJRS) established by Arkansas Code §§ 24-8-801[repealed] 24-8-824 [repealed];~~
  - ~~7. The Arkansas Local Police and Fire Retirement System (ALOPFI) provided for under Arkansas Code § 24-10-101; or~~
  - ~~8. An alternate retirement plan for:
 
    - ~~A. A college, university, or the Division of Higher Education provided for under Arkansas Code § 24-7-801 et seq.;~~
    - ~~B. A vocational technical school or the Division of Career and Technical Education, the Adult Education Section of the Division of Workforce Services, the Division of Higher Education, and the Office of Skills Development provided for under Arkansas Code § 24-7-901 et seq.; or~~
    - ~~C. An agency that may be assigned the duties under one (1) or more of the agencies listed in this ATRS Rule 6 I.i.1-8 through a state reorganization or transformation plan;~~~~
- ~~j. "State Employer" means:~~
- ~~1. A public employer whose employees are covered under the:
 
    - ~~A. ATRS;~~
    - ~~B. ASHERS (Arkansas Code § 24-5-103);~~
    - ~~C. APERS (Arkansas Code § 24-4-103);~~
    - ~~D. ASPRS (Arkansas Code § 24-6-203);~~
    - ~~E. AJRS (Arkansas Code § 24-8-201); or~~
    - ~~F. ADJRS (Arkansas Code §§ 24-8-801[repealed]—24-8-824 [repealed]);~~

~~or~~~~
  - ~~2. A public employer that is:
 
    - ~~A. A college, university, or the Division of Higher Education whose employees are covered by an alternate retirement plan provided for under Arkansas Code § 24-7-801 et seq.;~~
    - ~~B. A vocational technical school of the Division of Career and Technical Education, the Adult Education Section, and the Office of Skills~~~~

~~Development, whose employees are covered by an alternate retirement plan provided for under Arkansas Code § 24-7-901 et seq.; or~~

~~G. An agency that may be assigned the duties of one (1) or more of the agencies listed in this ATRS Rule 6 I.j.1. and 2. through a state reorganization or transformation plan;~~

~~k. "Succeeding System" means the current reciprocal retirement system of record that follows a person's membership in a preceding retirement system; and~~

~~l. "Teacher" means a person employed by a school for the purpose of giving instruction and whose employment requires state teaching licensure.~~

## **II. Membership and Employer Participation Rules**

### ~~a. Employee Membership in Another State Retirement System~~

~~1. Excluding service as a member of the General Assembly, an employee who is eligible for membership in ATRS is ineligible for membership in another state retirement system while he or she is employed in a position covered by ATRS.~~

### ~~b. Erroneous Membership of Employees~~

#### ~~1. Erroneous Enrollment Before January 1, 1979 — Employees~~

~~A. An employee who was erroneously enrolled in ATRS before January 1, 1979, shall continue to be a member of ATRS if the employee's contributions were not refunded before July 1, 1979. B. The employee shall:~~

~~i. Receive service credit for all paid membership service in ATRS and any free service creditable under Acts 1973, No. 427 as amended; and~~

~~ii. Be entitled to reciprocal service credit as provided by Arkansas Code §§ 24-7-401 — 24-7-408.~~

#### ~~2. Erroneous Enrollment on or after January 1, 1979 — Employees~~

~~A. An employee who is erroneously enrolled in a state retirement system on or after January 1, 1979, may:~~

~~i. Elect to remain a member of the system of record; or~~

~~ii. Become a member of the eligible retirement system.~~

#### ~~3. Correction of Erroneous Enrollment Occurring Before January 1, 1979 — ATRS Obligations~~

~~A. Effective July 1, 1979, ATRS shall not:~~

~~i. Be required to correct the state retirement system membership of an employee who was erroneously enrolled in another state retirement system before January 1, 1979; and~~

~~ii. Accept an employee who was erroneously enrolled in another state retirement system before January 1, 1979, as a member of ATRS~~

~~unless the employee's contributions were refunded before July 1, 1979.~~

~~4. Correction of Erroneous Enrollment Occurring on or after January 1, 1979—  
ATRS Obligations~~

~~A. If ATRS discovers that an employee is erroneously enrolled in a state retirement system on or after January 1, 1979, ATRS shall notify both the covered employer and employee that the:~~

~~i. Employee is erroneously enrolled in the state retirement system;  
and~~

~~ii. Error may be corrected as provided by Acts 1991, No. 13 or  
Arkansas Code § 24-2-302 et seq.~~

~~c. Employee Membership Eligibility— School Janitors, Bus Drivers, and  
Cafeteria Workers Employed Before July 1, 1989~~

~~1. An employee shall continue to be a member of APERS if the employee:~~

~~A. Was employed before July 1, 1989, as a school janitor, bus driver, or  
cafeteria worker;~~

~~B. Was enrolled in APERS under the provision of Acts 1965, No. 63;~~

~~C. Was promoted to a position of school maintenance worker or supervisor,  
bus mechanic or transportation supervisor, or cafeteria manager,  
respectively; and~~

~~D. Remains employed in the position to which he or she was promoted.~~

~~d. Employee Membership Eligibility— Nonteaching Service Employees~~

~~1. Effective July 1, 2001, an employee whose nonteaching service began before  
July 1, 1989, and is covered or coverable by APERS may elect to be covered  
by ATRS.~~

~~2. An employee shall submit his or her election to be covered by ATRS before  
May 31 on a form provided by ATRS.~~

~~3. An employee's timely submitted election to be covered by ATRS is effective  
on July 1 of the following year. (Arkansas Code § 24-7-501(a)(2)(C))~~

~~e. Employee Membership Eligibility— College Plans~~

~~1. Employees of Nonmandatory Employers~~

~~A. A member of ATRS who was employed by a nonmandatory employer  
before July 1, 2011, may continue to participate in ATRS instead of an  
alternative program offered by the nonmandatory employer if the member  
continues providing consistent service to the nonmandatory employer.~~

~~B. A nonmandatory employer shall be considered a post-secondary or higher  
education employer (PSHE employer) if the nonmandatory employer  
enrolls a new eligible member with ATRS on or after July 1, 2011.~~

~~C. If an eligible nonmandatory employer college elects to offer ATRS participation to its employees, the nonmandatory employer shall report information regularly to ATRS, on forms approved by ATRS, as required or permitted by the law applicable to ATRS.~~

~~2. Employees of PSHE Employers~~

~~A. A PSHE employer may elect to offer ATRS participation to its employees by fulfilling the requirements of Arkansas Code § 24-7-1605.~~

~~B. In addition to standard ATRS reporting forms, a PSHE Employer shall provide supplemental reports on any form required, approved, and adopted by the Board.~~

~~3. PSHE Employees Hired After July 1, 2011~~

~~A. The participation of new employees hired by a PSHE employer after July 1, 2011, is governed by Arkansas Code § 24-7-1601 et seq.~~

~~B. An employee of a PSHE employer who is hired after July 1, 2011, may participate in a PSHE plan if the employee:~~

~~i. Is benefits-eligible as determined by the PSHE employer;~~

~~ii. Is a vested member of ATRS at the time of initial employment;~~

~~iii. Is not a vested member of ATRS, but meets the requirements of a less restrictive PSHE plan adopted by the specific PSHE employer; and~~

~~iv. Signs an irrevocable PSHE plan participation form provided by ATRS~~

~~C. A PSHE plan employee shall remain a member of ATRS as long as he or she is employed by a PSHE employer.~~

~~D. A PSHE plan employee's election to participate in ATRS is irrevocable unless the PSHE plan employee obtains a termination refund from ATRS after his or her election to participate.~~

~~f. Employer Participation in ATRS~~

~~1. Executive Director Review of Employer Participation~~

~~A. This ATRS Rule 6 II.f.1. applies to an employer that participates in ATRS under the provisions of Arkansas Code § 24-7-202(D), (E), or (F).~~

~~B. Every five (5) years from the effective start date of an employer's participation in ATRS, the Executive Director of ATRS (executive director) shall review the employer's participation in ATRS to ensure that the employer meets both federal and state requirements for participation and continued participation in ATRS.~~

~~C. If the executive director determines that an employer no longer meets the requirements for continued participation in ATRS, the executive director shall notify the Board of Trustees of the Arkansas Teachers Retirement System (Board) to allow appropriate review and action by the Board.~~

## ~~2. Application for Employer Participation~~

~~A. An employer that would prefer to participate in and have its employees become members of ATRS may submit a written application to the executive director.~~

~~B. The application shall:~~

- ~~i. Specify a proposed effective date for participation in ATRS; and~~
- ~~ii. Include the following information and materials:~~
  - ~~a. A certified copy of the articles of incorporation, bylaws, and other organizational documents of employer;~~
  - ~~b. A copy of the employer's:~~
    - ~~1. Most recent three (3) years' annual financial statements, including balance sheet, financial statements, and statement of cash flows; or~~
    - ~~2. If the employer does not have audited financial statements, the year-end compilation reports or internal balance sheet and income statements for the employer;~~
  - ~~c. A copy of the employer's most recent three (3) years' federal and state income tax returns;~~
  - ~~d. A description of the employer's sources of funding, including the percentage of the funds that is provided by federal or state government and the type of government funding provided;~~
  - ~~e. A description of how the employer's board of directors or board of trustees is selected and whether any governmental agency has input in the selection of the board members;~~
  - ~~f. A description of the types of services provided by the employer; and~~
  - ~~g. A description of each government agency that would be responsible for providing the types of services provided by the employer if the employer did not provide the services.~~

~~C. After ATRS reviews the employer's application and accompanying information and materials, ATRS shall:~~

- ~~i. Determine whether an Internal Revenue Service ruling (IRS Ruling) should be requested concerning whether or not the participation of the employees of the employer jeopardizes ATRS' status as a governmental plan; and~~
- ~~ii. Request any necessary additional information and statements from the employer if ATRS determines that an IRS Ruling should be requested.~~

- ~~D. The employer shall provide ATRS with any additional information and statements requested by ATRS in relation to the IRS Ruling.~~
- ~~E. The employer shall pay ATRS three thousand dollars (\$3,000) or the actual cost for fees and costs associated with obtaining the IRS Ruling if ATRS determines that an IRS Ruling should be requested.~~
- ~~F. The Board shall consider and vote on an application for employer participation.
 
  - ~~i. When considering an application for employer participation, the Board:
 
    - ~~a. Shall consider any relevant constitutional arguments brought to the attention of the executive director concerning the employer's application for employer participation;~~
    - ~~b. Shall consider Rev. Rul. 89-49; and~~
    - ~~c. May consider any other relevant rulings issued by the Internal Revenue Service or the Department of Labor.~~~~~~

~~3. Employer Participation — Education-Related Agency or Organization~~

- ~~A. Pursuant to Arkansas Code § 24-7-202(19)(D), an individual may be eligible to become a member of ATRS if the:
 
  - ~~i. Individual is employed in a position with an education-related agency or organization;~~
  - ~~ii. Individual's employment is related to:
 
    - ~~a. Training public school employees or school board members;~~
    - ~~b. Teaching public school students; or~~
    - ~~c. Adult education programs;~~~~
    - ~~iii. Individual's employment is unrelated to private schools;~~
  - ~~iv. Individual is or has been a member of ATRS for a minimum of five (5) years; and~~
  - ~~v. Individual elects to become or remain a member of ATRS.~~~~
- ~~B. A member described in this ATRS Rule 6.II.f.3 may become a member of ATRS if the:
 
  - ~~i. Board determines, pursuant to rules adopted by the Board, that the participation of employees employed by the education-related agency or organization will not:
 
    - ~~a. Impair ATRS' legal status, including:
 
      - ~~1. ATRS' tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.; and~~~~~~~~

~~2. ATRS' governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.;~~

~~b. Subject ATRS to additional federal requirements;~~

~~c. Have a substantial adverse impact on ATRS' actuarial soundness; and~~

~~ii. Education-related agency or organization:~~

~~a. Elects to participate in ATRS;~~

~~b. Assumes responsibility for employer contributions;~~

~~c. Assumes responsibility for fees for obtaining IRS Rulings or Employee Retirement Income Security Act of 1974 opinions; and~~

~~d. Is approved as a covered employer by the Board according to rules adopted by the Board.~~

#### ~~4. Employer Participation — Private Provider Employees~~

~~A. Pursuant to Arkansas Code § 24-7-202(19)(E), effective July 1, 1997, if a public school district privatizes any of its services, an individual who is or was employed by the public school district in one (1) or more of the privatized services and who is or has been a member of ATRS may elect to remain a member of ATRS if the:~~

~~i. Board determines, pursuant to rules adopted by the Board, that the participation of employees described in this ATRS Rule 6.II.f.4. will not:~~

~~a. Impair ATRS' legal status, including:~~

~~1. ATRS' tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.; and~~

~~2. ATRS' governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.;~~

~~ii. Subject ATRS to additional federal requirements;~~

~~iii. Have a substantial adverse impact on ATRS' actuarial soundness; and~~

~~iv. Private provider assumes responsibility for:~~

~~a. Required employer contributions; and~~

~~b. Fees for obtaining IRS Rulings or Employee Retirement Income Security Act of 1974 opinions.~~

#### ~~5. Employer Participation — Nonprofit Corporation Employees~~

~~A. Pursuant to Arkansas Code § 24-7-202(19)(F), effective July 1, 1997, an individual who meets the following requirements may be eligible to become a member of ATRS:~~

~~i. The individual is employed in a position with an educational nonprofit corporation that is licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services; ii. The individual's employment is related to:~~

~~a. Training public school employees or school board members;~~

~~b. Teaching public school students; or~~

~~c. Adult education programs; and~~

~~iii. The individual's employment is unrelated to private schools.~~

~~B. A member described in this ATRS Rule 6.II.f.5 may become a member of ATRS if the:~~

~~i. Board determines, pursuant to rules adopted by the Board, that the participation of employees employed by the educational nonprofit corporation will not:~~

~~a. Impair ATRS' legal status, including:~~

~~1. ATRS' tax-qualified and governmental plan status under the Internal Revenue Code, 26 U.S.C. § 1 et seq.; and~~

~~2. ATRS' governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.;~~

~~b. Subject ATRS to additional federal requirements;~~

~~c. Have a substantial adverse impact on ATRS' actuarial soundness; and~~

~~ii. Nonprofit corporation:~~

~~a. Elects to participate in ATRS;~~

~~b. Assumes responsibility for employer contributions;~~

~~c. Assumes responsibility for fees for obtaining IRS Rulings or~~

~~Employee Retirement Income Security Act of 1974 opinions; and~~

~~d. Is approved as a covered employer by the Board according to rules adopted by the Board.~~

### **III. Contributory Election**

a. Contributory Election — Generally



- ~~1. The year in which a person becomes a member of ATRS shall determine whether or not the person is considered a contributory or noncontributory member of ATRS.~~
  - ~~2. A member's contributory status is irrevocable once the member becomes a contributory member of ATRS.~~
  - ~~3. All service rendered before July 1, 1986, is contributory service.~~
  - ~~4. A contributory member shall not elect to become a noncontributory member.~~
  - ~~5. A contributory election is valid if the contributory election is:
 
    - ~~A. Made on an election form provided by ATRS; and~~
    - ~~B. Signed by both the member and the covered employer.~~~~
  - ~~6. If a member makes a contributory election before the preparation of his or her first salary payment in the fiscal year, the contributory election is effective immediately.~~
  - ~~7. If a member makes a contributory election after the preparation of his or her first salary payment in the fiscal year, the contributory election is effective July 1 of the next fiscal year.~~
- ~~b. Contributory Election — Member Contracts~~
- ~~1. Members Not Under Contract
 
    - ~~A. A member who is not under contract may make a contributory election.~~~~
  - ~~2. Members Under Contract
 
    - ~~A. A member under contract for one hundred eighty-five (185) days or more shall make contributions to ATRS.~~
    - ~~B. A member under contract for one hundred eighty-four (184) days or less may make a contributory election.~~~~
  - ~~3. Contributory Elections Based on Status Change from Nonteacher to Teacher or Administrator Under Contract
 
    - ~~A. Regardless of a member's earlier noncontributory election, an active member whose status changes from nonteacher to teacher or administrator under contract for one hundred eighty-five days (185) or more shall make member contributions to ATRS.~~
    - ~~B. An active member's change from noncontributory status to contributory status due to the status change described in this ATRS Rule III.b.3.A is effective on the first day of the next fiscal year if the active member:
 
      - ~~i. Changes status from nonteacher to teacher or administrator during a year in which the active member's service has already been reported as noncontributory; and~~
      - ~~ii. Is under contract for one hundred eighty-five (185) days or more.~~~~~~
- ~~c. Contributory Election — Noncontributory Members~~

- ~~1. A noncontributory member may make a contributory election.~~
  - ~~2. If a noncontributory member makes a contributory election before the preparation of the first salary payment to the noncontributory member in the fiscal year, the contributory election is effective immediately.~~
  - ~~3. If a noncontributory member makes a contributory election after the preparation of the first payroll containing the first salary payment to the noncontributory member in the fiscal year, the contributory election is effective July 1 of the next fiscal year.~~
  - ~~4. All service rendered after a contributory election is filed with ATRS shall be contributory.~~
  - ~~5. A noncontributory member's contributory election that is filed with ATRS is irrevocable.~~
- ~~d. Contributory Election — Noncontributory Inactive Members and Rescinding Retirees~~
- ~~1. Previously Contributory Inactive Members~~
    - ~~A. An inactive member shall make contributions on his or her full salary if the inactive member:
 
      - ~~i. Was contributory and earned a maximum salary of seven thousand eight hundred dollars (\$7,800); and~~
      - ~~ii. Returns to work on or after July 1, 1995.~~~~
  - ~~2. Previously Noncontributory Inactive Members and Retirees~~
    - ~~A. An inactive member or rescinding retiree may make a contributory election if the inactive member or rescinding retiree:
 
      - ~~i. Was noncontributory; and~~
      - ~~ii. Reenters ATRS after June 30, 2007.~~~~
      - ~~B. If the inactive member or rescinding retiree does not make a contributory election, the inactive member or rescinding retiree shall be enrolled in the plan that he or she was enrolled in before reentering ATRS.~~
- ~~e. Contributory Election — State Agency Employees~~
- ~~1. Full-time Employees~~
    - ~~A. A full-time employee of a state agency covered by ATRS shall be contributory.~~
  - ~~2. Part-time Employees~~
    - ~~A. A part-time employee of a state agency covered by ATRS shall be noncontributory.~~
    - ~~B. A part-time employee of a state agency covered by ATRS may make a contributory election.~~

~~f. Contributory Election—Employer Reporting Errors~~

~~1. Inactive Members~~

~~A. ATRS shall consider a member as noncontributory if the member:~~

- ~~i. Was an inactive member who returned to covered employment as an active member after July 1, 1999;~~
- ~~ii. Is reported incorrectly as noncontributory by his or her covered employer for his or her first year of service with the covered employer.~~

~~B. ATRS shall notify the covered employer of the member's contributory status.~~

~~C. Effective the next July 1, the member shall make contributions to ATRS.~~

~~2. New Members~~

~~A. ATRS shall consider a member as noncontributory for his or her first year of service with a covered employer if the member is a new member of ATRS and incorrectly reported as noncontributory by his or her covered employer for the first year.~~

~~B. ATRS shall notify the covered employer of the member's contributory status.~~

~~C. Effective the next July 1, the member shall make contributions to ATRS and the covered employer shall correctly report the member as contributory.~~

**IV. Confidentiality of Member Accounts**

~~a. In compliance with the ATRS Code of Ethics, ATRS shall keep each member's salary, employment history, retirement account, and other personal data or other information compiled by ATRS for purposes of establishing and maintaining the member's retirement account confidential.~~

~~b. Disclosure~~

~~1. All member information compiled by ATRS for the purpose of establishing and maintaining the member's retirement account shall not be disclosed to a third-party unless:~~

~~A. The member provides ATRS with his or her written consent; or~~

~~B. A valid legal process requires the disclosure of the member's information.~~

~~2. Individual member records that are kept for the purpose of compiling information for a member's retirement or Social Security records shall not be open to the public under Arkansas Code § 24-4-1003.~~

**V. Reciprocal Service Credit**

~~a. Generally~~

- ~~1. A member who leaves a position covered by ATRS, becomes employed by a reciprocal system, and files a reciprocal service agreement shall become an inactive member of ATRS and may be eligible for an annuity benefit according to the annuity benefit formula in effect at the time of the member's effective retirement date.~~
  - ~~2. Minimum benefits under Acts 1965, No. 488, Arkansas Code § 24-2402(5)(E), as amended, for reciprocal service shall not apply unless a member has five (5) or more years of credited service in ATRS.~~
  - ~~3. If ATRS is a member's preceding system, ATRS shall not pay annuity benefits to the member under reciprocity unless the member:
 
    - ~~A. Attains the normal retirement age; or~~
    - ~~B. Leaves his or her employment with his or her state employer.~~~~
  - ~~4. If ATRS is a member's preceding system, the member, after attaining the normal retirement age, is eligible to apply for retirement benefits without leaving his or her employment with his or her last state employer.~~
  - ~~5. The member's annuity benefit payments shall begin after the member attains the normal age of retirement or on the first day of the month following the month in which the member's application is filed, whichever occurs last.~~
  - ~~6. ATRS shall only consider service credited to the member and salaries earned by the member before the member's effective retirement date to calculate the member's annuity benefit.~~
- ~~b. Reciprocal Service Credit—Calculation of Service Credit~~
- ~~1. If a member of ATRS has service credited during the same fiscal year with another reciprocal system and the combined service is greater than one (1) year of service credit, ATRS shall credit service as follows:
 
    - ~~A. If credit by the reciprocal system is less than three (3) months, ATRS shall credit service for one (1) year;~~
    - ~~B. If credit by the reciprocal system is three (3) or more months but less than six (6) months, ATRS shall credit service for three-fourths (3/4) year;~~
    - ~~C. If credit by the reciprocal system is six (6) or more months but less than nine (9) months, ATRS shall credit service for one-half (1/2) year; and~~
    - ~~D. If credit by the reciprocal system is for nine (9) months but less than twelve (12) months, ATRS shall credit service for one-fourth (1/4) year.~~~~
- ~~c. Reciprocal Service Credit—Contributions and Repayments~~
- ~~1. While an employee participates in a reciprocal system, back contributions, additional contributions, and repayment of refund payments made to ATRS shall be made in accordance with the payment method provisions of ATRS Rule 8.~~

2. ~~Employer pick-up is prohibited while the employee works for a noncovered ATRS employer.~~

~~d. Reciprocal Service Credit— Concurrent Service~~

1. ~~Unless the reciprocal system is APERS or an alternate retirement plan, beginning July 1, 2013, ATRS shall allow a member who earns concurrent service in both ATRS and a reciprocal system to receive full service credit in ATRS without reduction of service credit due to the concurrent service.~~
2. ~~ATRS shall not recognize concurrent service added to a member's credited service in ATRS that, for the purpose of vesting, retirement eligibility, or calculating final average salary, either:~~
  - A. ~~Credits the member with more than one (1) year of credited service for a fiscal year; or~~
  - B. ~~Combines salary earned in ATRS and a reciprocal system in a fiscal year.~~
3. ~~A member may waive all or part of the concurrent service credited to him or her in ATRS and have the concurrent service credited to him or her under a reciprocal system if:~~
  - A. ~~The member acknowledges that the waiver is a voluntary surrender of the member's concurrent service credit in ATRS;~~
  - B. ~~The member acknowledges that the waiver cancels his or her concurrent service credit in ATRS; and~~
  - C. ~~The member submits an ATRS approved concurrent service credit waiver form to ATRS. (Arkansas Code § 24-7-601).~~
4. ~~If a member waives all or part of the concurrent service credited to him or her in ATRS and has the concurrent service credited to him or her under a reciprocal system, ATRS may refund the employer-accrued contributions and employee-accrued contributions.~~

~~e. Reciprocal Service Credit— Alternate Reciprocal Retirement System~~

1. ~~A member of ATRS may establish reciprocal service credit from an alternate retirement plan if he or she submits an appropriate, approved, and completed ATRS form concerning the reciprocal service credit to ATRS.~~
2. ~~Distributions from an alternate retirement plan may prevent reciprocal service from being established if ATRS is unable to verify that the withdrawals were made without penalty under Internal Revenue Service guidelines concerning rollovers to eligible plans, withdrawals, that are not subject to early withdrawal, etc.~~

~~f. Reciprocal Service Credit— Active Members of APERS~~

1. ~~From July 1, 1991, until December 31, 1991, an active member of APERS may establish reciprocity between APERS and ATRS and purchase out-of-state service rendered before January 1, 1978, in accordance with Arkansas Code §§ 24-7-601 and 24-7-603, if the active member:~~

- A. ~~Was an active member of ATRS before January 1, 1978; and~~
  - B. ~~Became a member of APERS within thirty (30) days of leaving ATRS.~~
- g. ~~Reciprocal Service Credit—Arkansas Rehabilitation Services Employees~~
- 1. ~~Effective July 1, 1993, for a ninety (90) day period, an employee of the Arkansas Rehabilitation Services may transfer his or her membership from APERS to ATRS under Acts 1993, No. 574.~~
  - 2. ~~An employee who transfers his or her membership from APERS to ATRS shall establish reciprocity between the two (2) systems and Acts 1977, No. 793 shall not apply to the employee.~~
- h. ~~Reciprocal Service Credit—Department of Human Services Employees~~
- 1. ~~The law applicable to ATRS shall be used to determine the annuity benefits to which an employee is entitled for service provided before or after Acts 1977, No. 793 if the employee:~~
    - A. ~~Was an employee of the Department of Human Services and became a member of APERS under the provisions of Acts 1977, No. 793, as amended; and~~
    - B. ~~Left employment with the Department of Human Services and became employed in a position covered by ATRS.~~
  - 2. ~~A member meeting the description of this ATRS Rule 6 V.H.1. may establish reciprocity under Acts 1965, No. 488, as amended.~~
- i. ~~Reciprocal Service Credit—Member Entitlement to Deferred Annuity~~
- 1. ~~Pursuant to Arkansas Code § 24-4-401 et seq., a member is entitled to a deferred annuity benefit if the member:~~
    - A. ~~Leaves his or her state employment in a position that is covered by one (1) of the reciprocal systems; and~~
    - B. ~~Enters subsequent state employment in a position that is covered by another of the reciprocal systems.~~
- j. ~~Reciprocal Service Credit—Age and Service Retirement~~
- 1. ~~Annuity Benefit Payments~~
    - A. ~~If ATRS is a member's preceding system, the member's annuity benefit payments shall begin after the member attains the normal age of retirement or on the first day of the month following the month in which the member's retirement application was filed, whichever is later.~~
    - B. ~~If the member has combined service of at least twenty-five (25) years, the normal retirement age requirement shall not apply.~~
    - C. ~~Deferred annuity benefit payments to the member shall not begin before the date on which the member leaves employment with his or her last state employer unless the member attains the normal retirement age.~~

~~2. Applying for Retirement Benefits Before Leaving Employment~~

- ~~A. If ATRS is member's preceding system, the member is eligible to apply for retirement benefits without leaving employment with his or her last state employer upon attaining the normal retirement age.~~
- ~~B. The member's annuity benefit payments shall begin after the member attains the normal retirement age or on the first day of the month following the month in which the member's retirement application is filed, whichever is later.~~
- ~~C. ATRS shall use only service credited to the member and salaries earned by the member before the member's effective retirement date to calculate the member's annuity benefit.~~

~~k. Reciprocal Service Credit — Disability Retirement~~

- ~~1. A member is eligible to apply for disability retirement benefits from each reciprocal system in which the member has credited service according to the rules for eligibility promulgated by that reciprocal system. (Arkansas Code § 24-2-405)~~
- ~~2. The member's disability retirement benefits payable by the preceding reciprocal system shall:
  - ~~A. Begin the first day of the month following the month in which the member's disability retirement application is filed with the preceding system; and~~
  - ~~B. Not begin before the date on which the member leaves employment with his or her last state employer.~~~~

~~l. Reciprocal Service Credit — Survivor Annuity Benefits~~

- ~~1. If survivor annuity benefits are payable by more than one (1) reciprocal system to an eligible survivor of a deceased member, a survivor who receives annuity benefit payments shall not receive, as a percentage of the deceased member's final salary or as a minimum dollar amount, more than the largest amount payable by a single reciprocal system.~~
- ~~2. ATRS shall prorate minimum benefits payable to a survivor with other reciprocal systems that have a minimum benefit provision in their plans.~~
- ~~3. Each reciprocal system shall pay a proportionate share of the minimum benefit based on the ratio of the member's service in that reciprocal system to the member's total service in all the reciprocal systems.~~
- ~~4. If the reciprocal system is an alternate retirement plan, survivor annuity benefits shall be contingent on whether the:
  - ~~A. Alternate retirement plan provides survivor annuity benefits; and~~
  - ~~B. Member selected survivor annuity benefits as a benefit under the alternate retirement plan. (Arkansas Code § 24-2-402(5)).~~~~

**VI. Contributory and Noncontributory Service Chart by Year of Entry into System**

(Elections and Re-entry may affect Individual Member Service Status)

| <b>All Members</b>               |  |   |
|----------------------------------|--|---|
| <b>1937 - 1986</b>               | All Members                            | Contributory  |
| <b>1986 - 1991</b>               | All Members                            | Contributory unless elect Noncontributory   |
| <b>1991 - 1999</b>               | All Members                            | Noncontributory unless elect Contributory   |
| <b>School District Employees</b> |  |   |
| <b>1999 - 2007</b>               | Active                                 | One-time election to be Contributory or Noncontributory, no election made by 7/1/2000, status on 6/30/2000  |
|                                  | Inactive                               | One-time election to be Contributory or Noncontributory upon reentering system, no election then enrolled in the plan that he or she was enrolled in before reentering ATRS   |
|                                  | New                                    | Contract one hundred eighty-one (181) days or more - Contributory<br>-<br>Contract one hundred eighty (180) days or less - Noncontributory, may elect Contributory, election must be made one (1) year from hire date<br>-<br>No contract, member must be noncontributory |
| <b>2005 - 2021</b>               | Nonteacher to Teacher or Administrator | Contract one hundred eighty-one (181) days or more - Contributory. If position change happens during the year, election is effective first of next fiscal year<br>-<br>All Noncontributory members may elect Contributory   |
|                                  | All Members                            | May elect Contributory  |



|                               |  |   |
|-------------------------------|--|---|
| <b>2007 – 2021</b>            | New                                    | <del>Contract one hundred eighty-one (181) days or more – Contributory</del><br>-<br>Contract 180 days or less –<br>• Noncontributory, may elect Contributory<br>• No contract – Noncontributory, may elect Contributory              |
|                               | Inactive                               | May elect Contributory  |
| <b>2021</b>                   | Nonteacher to Teacher or Administrator | <del>Contract one hundred eighty-five (185) days or more – Contributory. If position change happens during the year, election is effective first of next fiscal year.</del><br><br>All Noncontributory members may elect Contributory |
| <b>2021 –</b>                 | All Members                            | May elect Contributory  |
|                               | A member with                          | <del>Contract one hundred eighty-five (185) days or more – Contributory</del>   |
|                               | A member with                          | <del>Contract one hundred eight four (184) days or less – Noncontributory, may elect Contributory</del>   |
|                               | New                                    | <del>No contract – Noncontributory, may elect Contributory unless already Contributory</del>  |
|                               | Inactive                               | May elect Contributory  |
| <b>State Agency Employees</b> |  |   |
| <b>1999 – 2007</b>            | Full-Time Employment                   | <del>Must be Contributory</del>   |
|                               | Part-Time Employment                   | <del>Must be Noncontributory</del>  |
| <b>2007 –</b>                 | Full-Time Employment                   | <del>Must be Contributory</del>   |
|                               | Part-Time Employment                   | <del>Noncontributory, may elect to be Contributory</del>  |

**HISTORY**

|                    |                   |                       |
|--------------------|-------------------|-----------------------|
| Adopted:           | August 11, 1998   | 6-10                  |
| Amended:           | June 15, 2004     | 6-1                   |
| Amended:           | July 18, 2005     | 6-1, 6-2, 6-10        |
|                    | April 26, 2007    | 6-1, 6-2, 6-11        |
|                    | July 1, 2011      | (Emergency) 6-1, 6-12 |
| Adopted:           | August 8, 2011    | 6-1, 6-12             |
| Effective:         | November 11, 2011 | 6-1, 6-12             |
| Adopted by Board:  | April 2, 2012     | 6-1                   |
| Amended:           | May 2, 2012       | 6-1                   |
| Effective:         | September 4, 2012 | 6-1                   |
| Amended:           | May 2, 2012       | 6-2                   |
| Effective:         | September 4, 2012 | 6-2                   |
| Approved by Board: | July 26, 2013     | 6-2, 6-12             |
| Amended:           | October 9, 2013   | 6-2, 6-12             |
| Effective:         | November 8, 2013  |                       |
| Approved by Board: | February 5, 2018  | 6-2                   |
| Effective:         | February 16, 2018 | 6-2                   |
| Effective:         | May 28, 2020      | Rule 6                |
| Effective:         | May 20, 2022      | Rule 6                |

# ATRS BOARD POLICY 1

## BOARD GOVERNANCE

A.C.A. § 24-7-301 et seq., A.C.A. § 24-7-401 et seq., and A.C.A. § 25-16-901 et seq.

### I. Definitions.

As used in this policy:

(1) “Benefit participant” means the same as defined in Arkansas Code § 24-7-202;

(2) “Member” means the same as defined in Arkansas Code § 24-7-202; and

(3) “Official board duties” means:

(A) Attending regular and called meetings of the Board of Trustees of the Arkansas Teacher Retirement System (“Board”);

(B) Attending committee meetings of the Board or any specially appointed committee comprised in whole or in part of trustees;

(C) Attending conferences as allowed by Board resolution;

(D) Attending legislative committee meetings when acting as the spokesperson for the Board; and

(E) Attending legislative sessions at the request of the Board or the Executive Director of the Arkansas Teacher Retirement System (“Executive Director”).

### II. Board of Trustees - Plan Administration

(a)(1) The authority and responsibility for the administration, management, and control of the Arkansas Teacher Retirement System (“~~ATRS~~” or “~~System~~”)(“ATRS”, “the System”, or “the Plan”), and for the construing and carrying out the provisions of the plan Plan is vested in the Board of Trustees of the Arkansas Teacher Retirement System (“Board”).

(2)(A) The Board is responsible for the governance of ATRS.

(B) ~~It is~~ The Board is accountable for establishing policies and for supervising the implementation of those policies in compliance with all applicable legal mandates.

(b)(1) The function of the Board is to make certain contributions that lead the System ~~toward the desired performance and ensure that it occurs~~ towards achieving the objectives specified in Board Policy 2 – Board Objectives.

(2) The Board shall recommend and oversee the Board and the Executive Director evaluation process.

(3) The Board shall recommend and oversee training and conference schedules for the Board.

(4)(A) The Board’s specific contributions are unique to its trusteeship role and necessary for the appropriate governance and management of the System.

(B) Board decisions ~~are to~~ shall be based on facts and expert opinions.

(c) The Board ~~will~~ should approach its task ~~with a style~~ in a manner that:

(1) ~~emphasizes~~ Emphasizes outward vision rather than an internal preoccupation;

~~(2) encouragement of diversity of viewpoints~~ Encourages diverse viewpoints;

~~(3) strategic~~ Emphasizes strategic leadership ~~more~~ rather than administrative detail;

~~(4) Provides a~~ clear distinction of Board and staff roles;

~~(5) Focuses on the~~ future rather than past or present; and

~~(6) Encourages~~ proactive rather than reactive action.

~~(d) Consequently, the~~ The contributions of the Board shall be include:

~~(1) The Acting as the~~ link between the System and its members benefit participants of the System.<sup>4</sup>

~~(2) Written governing policies~~ Developing policies for the System that, at the broadest levels, address:

~~(A) Governance Process~~ The governance process, including Specification of how the Board conceives, carries out, and monitors its own task tasks;

~~(B) Board-Staff Relationship~~ The relationship between the Board and ATRS staff, including ~~How~~ how authority is delegated and its appropriate use is monitored.

~~e. Ends~~

~~- System products, impacts, benefits, costs, and outcomes.~~

~~(C) The Ends Policies of the Board as set forth in Board Policy~~ 2 – Board Objectives; and

~~(D)(i) Limitations~~ of the System.

~~(ii) Constraints on executive authority that establish the prudence and ethics boundaries within which executive activity, decisions, and organizational matters shall be carried out~~ by the Executive Director.

~~(3) The assurance of Executive Director performance against Ends and Limitations policies above.~~ Ensuring that the Executive Director's performance does not contravene the ends or limitations of the System.

### **III. Board of Trustees - Guiding Principles**

~~(a) The Board is dedicated to the proposition that its paramount purpose is that of providing an adequate and equitable retirement plan for the members of the teaching profession, to protect this group in the event total and permanent disability causes them to be unable to continue employment in their profession, and to provide in part for their dependents in case of death.~~ The paramount purpose of the Board is to:

~~(1) Provide an adequate and equitable retirement plan for public school and education employees in Arkansas;~~

~~(2) Protect the membership of the System in the event that they should suffer a total and permanent disability that renders them unable to continue covered employment; and~~

~~(3) Provide, in-part, for the survivors and beneficiaries of deceased members of the System.~~

~~(b)(1) The Board is responsible for the prudent investment of System~~ the System's funds.

(2) The two (2) paramount considerations in fund investment are safety and yield, with yield being of first importance, provided such investments comply with legally mandated safeguards.

(c) ~~The Board should be fully informed of its financial liabilities, not only to the retirees and beneficiaries, but also to active members of the teaching profession, and to make those liabilities known to members of the state legislature, to other state officials, and to education-related organizations~~ the System's financial liabilities to benefit participants of the System. Information on the financial liabilities of the System should be made available to education-related organizations as well as the Arkansas General Assembly and other state officials.

(d) ~~The~~ To the extent that disclosure is not prohibited by law, the Board should provide ~~all interested citizens~~ the general public with information regarding the System's procedures for investing the System's funds, as well as the budgeting, control, and disbursement of those funds.

(e) The Board will actively promote the enactment of state and federal legislation that may improve the economic welfare of ATRS members.

(f) The Board endorses programs of counseling and information designed to assist members who are approaching retirement.

(g)(1) The Board should be knowledgeable of the most current information regarding effective, efficient governance and operation of state retirement systems that could augment prudent decisions for the benefit of members.

(2) To this end, ~~Board members~~ trustees are encouraged to participate actively in regional and national retirement organization programs that offer such information and training.

#### **IV. Board of Trustees - Code of Conduct**

(a) The Board expects of itself and its members ethical and business-like conduct.

(b)(1) ~~Board members~~ All trustees, as fiduciaries, shall discharge their duties solely in the best interest of ATRS members and for the exclusive purpose of providing optimum benefits.

(2)(A) ~~Board members must~~ Trustees should avoid any conflict of interest with respect to their fiduciary responsibility.

(B) ~~Board members must~~ Trustees shall not use their positions to obtain favorable treatment for themselves, family members, or close employees.

(c) ~~Board members~~ Trustees who desire specific information from firms employed by ATRS should make the request through the Executive Director.

(d) ~~Board members~~ Trustees shall not, directly or indirectly, solicit or accept any gift of value as defined by the Arkansas Ethics Commission.

(e) ~~Board members~~ Trustees shall decline any offer and shall not have any contact with an individual or anyone associated with a firm that the Board is considering employing ~~after requests for proposals (RFP's) or requests for qualifications (RFQ's) have been sent~~ through a competitive procurement until after the procurement process has concluded.

(f)(1) ~~Board members~~ Trustees shall not attempt to exercise individual authority over the operation of the System or ~~staff members except as explicitly set forth in Board policies~~ ATRS staff except as provided by law, rule, or policy applicable to the System.

~~(2) Board members' A trustee's~~ interaction with the ATRS staff, public, press, or other entities ~~must~~ should recognize the inability of ~~any Board member or Board members to speak for the Board~~ one (1) or more trustees to speak for the Board.

~~(g) Board members~~ All trustees shall report violations of any of these policies of conduct in writing to the Chair.

#### **V. Board Member of Trustees - Development**

(a) The Board is responsible for its own readiness for Board work and the performance of that work.

(b) The Board determines appropriate issues for Board work and appropriate issues to be addressed, as well as the education and data required to address those issues wisely.

~~(c)(1) The Board determines the need and mechanisms for Board development.~~

~~1. Among the mechanisms will be membership in the National Council on Teacher Retirement, Board-approved consultants, and seminars provided by employees of ATRS.~~

~~2. The Board's annual plan will include expected outcomes, costs, and scheduling of the Board development effort.~~

~~3. The Board will set forth the educational experiences it determines appropriate for a new Board member.~~

The Board determines the need and mechanisms for Board development, which may include:

(A) Membership in the National Council on Teacher Retirement or a similar organization;

(B) Engaging or employing Board-approved consultants;

(C) Educational development seminars provided by ATRS staff for the benefit of current and new trustees; and

(D) The development of a plan that may address the Board's expected outcomes, costs, and development schedule.

(2) The Board may enlist assistance from the Executive Director in determining the need and mechanisms for Board development.

#### **VI. Board of Trustees - Meetings**

The Board shall hold regular meetings at least quarterly. Additional meetings may be called by the Chair or scheduled by action of the Board in a regular meeting. The Board shall adopt its own rules of procedure, which shall be subject to the following:

(1)(A) The Board shall elect a Chair and Vice Chair from its own membership.

(B) The election will be in the odd numbered years at the first regular meeting after the beginning of the fiscal year.

(C) The Chair and Vice Chair shall be elected for a ~~term of two years~~ two-year term and may be reelected for two (2) additional two-year terms.

(D) The Chair and Vice Chair shall be either an active member or retiree ~~trustee~~ trustee.

~~(E)~~ A Board member trustee must have served at least one (1) full year as a member of the Board to be eligible for election to the position of Chair or Vice Chair.

~~(2)(A)~~ In the event of if a vacancy of the Chair or Vice Chair occurs for any reason other than completion of a term, the Board shall fill said vacancy by election from the existing Board members trustees for the remainder of the unexpired term at its next regular meeting.

~~(B)~~ A trustee trustee elected to fill an unexpired term of the Chair or Vice Chair shall be eligible for two (2) additional two-year terms.

~~(3)(A)~~ Quorum: Eight (8) trustees shall constitute a quorum at any meeting of the Board.

~~(B)~~ Each trustee trustee shall be entitled to one (1) vote on each question before the Board, and at least eight (8) affirmative votes shall be required for a decision by the Board at any meeting.

(4) *Robert's Rules of Order* shall be followed in the conduct of all meetings except when a departure from Robert's is authorized by action of the Board.

~~(5)(A)~~ Agenda The Board shall adopt an agenda at the beginning of each meeting.

~~(B)~~ By a majority vote of the Board, items An item may be added to the agenda before it is adopted.

~~(C)~~ The Executive Director shall prepare a tentative agenda and submit it to all trustees at least ten (10) days ~~prior to~~ before a regularly scheduled meeting. The meeting agenda and materials will be submitted to trustees no later than three (3) days before the regularly scheduled meeting.

~~D)(i)~~ Trustees who want ~~item(s)~~ one (1) or more items to be considered for the agenda should notify the Executive Director no later than seven (7) days ~~prior to~~ before a regularly scheduled meeting.

~~(ii)~~ Members or individuals who wish to have an item placed on the agenda at a regularly scheduled Board meeting should submit their request in writing to the Executive Director no later than twenty (20) days ~~prior to~~ before the meeting.

~~(E)(i)~~ Members or individuals who wish to make comments during a regularly scheduled Board meeting should indicate ~~on forms provided the subject on which they intend to speak.~~ the intended subject matter on a form provided by the System.

~~(ii)~~ A time limit of five (5) minutes will be allowed ~~members and individuals for presentation, unless extended by majority vote of the Board.~~ Members and individuals will be allowed a maximum of five (5) minutes to address the Board unless the time limit is extended by a majority vote of the Board.

~~(6)(A)~~ Minutes The Board shall keep an official record of the proceedings of each meeting of the Board, the final draft of which must be approved by the Board and signed by the Chair and the Executive Director.

~~(B)~~ The Board minutes are to contain only the action of the Board, information required by case law, and the vote thereon.



~~(7)(A) Public Meetings~~ All meetings of the Board shall be public and in compliance comply with the Freedom of Information Act, Arkansas Code § 25-19-101 et seq.

(B) All meetings of the Board shall be open public meetings and recorded in a manner that allows for the capture of sound. Representatives of the Little Rock news media shall be notified of each meeting of the Board.

(C) The agenda of the Board shall include only those items that, according to the law, rules, and policy applicable to the System, are within the Board's authority to consider or decide.

(D) Deliberations during the meetings of the Board must be timely, fair, orderly, thorough, efficient, limited in time, and germane to the issue being considered.

## **VII. Duties of the Chair and Vice Chair**

~~(a)(1) Duties of the chair~~ The duty of the Chair is to ensure the integrity of the Board's process and to represent the Board to outside parties.

(2) The Chair will see is responsible for ensuring that the Board operates consistent with its own rules and those legitimately imposed on it from outside ATRS the law, rules, and policies applicable to the System.

a. ~~Meeting discussion content will be only those issues that, according to Board policy, clearly belong to the Board to decide.~~

b. ~~Deliberation will be timely, fair, orderly, and thorough, but also efficient, limited in time, and kept to the point.~~

(3) The authority of the Chair consists only in making decisions on behalf of the Board that fall within and are consistent with Board policies the law, rules, and policy applicable to the System.

(4) The Chair is empowered to chair Board meetings with all the commonly accepted power of that position (e.g., ruling, recognizing, etc.).

(5) The Chair may also:

(A) Convene meetings of the Board, or committees thereof, as prescribed by law.;

(B) Certify actions taken by the Board.;

(C) Serve as the official spokesperson for the Board.;

(D) Appoint Board members trustees to committees.; and

(E) Perform other duties specifically requested by the Board that are deemed necessary and appropriate for the Board to fulfill its duties and responsibilities under law.

~~(b) Duties of the Vice Chair~~ The duties of the Vice Chair are to act as temporary chair in the absence of the regular chair Chair.

## **VIII. Reimbursement of Expenses**

~~(a) The Board, by majority vote of the total membership cast at the first regularly scheduled meeting of each calendar year, may authorize expense reimbursement for each trustee for performing~~ At the first regularly scheduled meeting of each calendar year, the Board may authorize the reimbursement of expenses for a trustee who performs official Board duties. Official Board duties are defined as follows:

1. ~~Attending regular and called Board meetings.~~



- ~~2. Attending committee meetings of the Board or any specially appointed committee comprised in whole or in part of Board members.~~
- ~~3. Attending conferences approved by the Board of Trustees.~~
- ~~4. Attending legislative committee meetings when acting as spokesperson for the Board.~~
- ~~5. Attending legislative sessions at the request of the Board or Executive Director.~~

~~B. Board members are subject to the same reimbursable expenses as state employees.~~

~~(b)(1) Board officers are authorized payment~~ A trustee may be reimbursed for personal expenses, not otherwise reimbursed, incurred in the performance of their ATRS related duties.

~~(2) Such reimbursement is to cover~~ Reimbursement for a trustee's personal expenses that are not otherwise reimbursed may cover:

~~(A) any~~ Any losses in salary or compensation that would otherwise result from their the trustee's attendance at Board or committee meetings, and will be paid to the ~~officer's~~ trustee's employer; and

~~(B) the~~ The costs of communication (long-distance telephone calls, postage, etc.) ~~with other trustees or staff members~~ with other trustees or ATRS staff via telephone, postage, etc.

## **IX. Procurement of Services**

~~(a)(1) ATRS shall utilize an equitable and open method of awarding contracts to providers of all contractual, management, and consultant services, including, but not limited to: (1) construction architects, engineers, and contractors; (2) building managers; (3) real estate, legal, and investment consultants; and (4) actuaries and auditors~~ comply with Arkansas Procurement Law, Arkansas Code § 19-11-201 et seq., Arkansas Code § 24-2-618, and all other laws concerning state agency purchases and contracts that are applicable to the System.

~~(2)(A) The Executive Director shall seek Board approval of a new contract before it is executed if the new contract procures the services of:~~

~~(i) The Board's investment counsel per Arkansas Code § 24-7-303(e);~~

~~(ii) An investment manager;~~

~~(iii) An investment fund;~~

~~(iv) External legal counsel;~~

~~(v) A securities monitoring law firm; or~~

~~(vi) The Board's appointed actuary per Arkansas Code § 24-7-303(d).~~

~~(B) For all other new contracts and contract renewals executed in the normal course of operations, the Executive Director shall report all executed new contracts and contract renewals to the Board bi-annually.~~

~~(b)(1) The method of awarding contracts will assure that all bona fide providers of such services will have equal opportunity to submit competitive bids or competitive proposals for consideration. Consistent with the Prudent Investor Rule and pursuant to A.C.A. § 24-2-618~~ Arkansas Code § 24-2-618, ATRS has a statutory goal to recruit and hire emerging managers and emerging investment funds.

~~(2)(A) For purposes of this Rule policy, "emerging managers" and "emerging investment funds" means a managing group or fund that is predominately owned by black or African American, Hispanic American, American Indian or Native American, Asian, or Pacific Islander.~~

~~(B) Each investment consultant retained by ATRS to recommend investment managers or investment funds shall submit an annual report to ATRS consistent with the requirements in A.C.A. § 24-2-618 Arkansas Code § 24-2-618 that addresses the goal of ATRS to recruit and hire emerging managers and emerging investment funds.~~

~~C. The Executive Director shall develop procurement procedures and a plan for implementing the process of awarding contracts.~~

~~D. The Board shall approve all procedures and contracts related to the procurement of services.~~

#### **X. Board of Trustees - Self-Evaluation**

~~(a)(1) The Board will regularly evaluate its own performance, taking whatever action is necessary to govern with excellence. The Board will review these policies of conduct at least annually and discuss the degree to which it complies. The Board may periodically evaluate its own compliance with the law, rules, or policies applicable to the System.~~

~~(2) The Board may enlist the assistance of the Executive Director in determining the appropriate evaluation matrix.~~

~~(b) The effective date for the start of any evaluation of the Board and the frequency of the evaluations will be determined by the Board.~~

#### **XI. Board of Trustees - Committee Principles and Procedures**

~~(a) The Board may establish committees to help carry out its responsibilities.~~

~~A. Board committees may not speak or act for the Board except when formally given such authority.~~

~~B. Committees ordinarily will assist the Board by preparing policy alternatives and implications for Board deliberation.~~

~~C. Board committees may not exercise authority over staff.~~

~~D. All members of the Board shall be notified as to the time and place of all committee meetings. A Board member may attend any committee meeting, but only committee members may vote on committee matters.~~

~~E. Appointments to committees shall be made before the next regular meeting after the Board elects the Chair.~~

~~F. A quorum of each committee and the number of affirmative votes needed for a motion to carry shall be a majority of the designated size of the committee.~~

~~G. Board committees shall elect their own Chair and Vice Chair unless otherwise indicated by Board policy.~~

~~H. The Executive Director shall serve as secretary and ex officio nonvoting member of Board committees or shall delegate another member of the staff to serve in this capacity.~~

~~I. Committees shall report to the Board following each of their meetings.~~

~~(b) A committee established by the Board:~~

(1) Shall assist the Board by preparing policy alternatives and implications as necessary for deliberation by the Board;

(2) Shall adopt an agenda at the beginning of each meeting;

(3) Shall report to the Board following a meeting of the committee;

(4) Shall not act on behalf of the Board unless given the authority to do so by the Board; and

(5) Shall not exercise authority over ATRS staff. However, a committee may request assistance from ATRS staff that will enable the committee to perform its duties.

(c)(1) ATRS staff shall notify all trustees of the time and place of each committee meeting and shall provide all trustees with the agenda of each committee as soon as reasonably possible.

(2)(A) A Trustee may attend a committee meeting

(B) Only committee members shall vote on committee matters.

(d) A quorum of each committee and the number of affirmative votes needed for a motion to carry shall be a majority of the designated size of the committee.

(e) Committees shall elect their own Chair and Vice Chair unless otherwise provided by the law, rules, and policies applicable to the System.

(f)(1) The Executive Director shall serve as the Secretary of the Board unless the Executive Director delegates another member of the ATRS staff to serve as Secretary of the Board.

(2) The Executive Director may delegate all or a part of the functions of the Secretary of the Board to another member of the ATRS staff.

(g) Appointments to committees shall be made before the next regular meeting after the Board elects the Chair of the Board.

(h) The minutes of each committee meeting shall be prepared and, at the committee's next scheduled meeting, shall be presented to the appropriate committee for review and approval.

(i)(A) All committees are subject to the same public disclosure and ethics laws, rules, and policies that are applicable to the System and the Board.

(B) All committee are subject to public disclosure and ethics laws, rules, and policies that are applicable to them by virtue of their position as a trustee or committee member.

## **XII. Investment Committee Charter**

(a)(1) There shall be is established an Investment Committee composed of eight members that shall be composed of eight (8) members.

(2) The Board Chair shall appoint five (5) members from the Board to serve on the Investment Committee, and the Board Chair shall serve as an ex officio voting member.

(3) The remaining two (2) members of the Investment Committee shall be the State Treasurer and the State Bank Commissioner upon their respective acceptance of the position their appointment as State Treasurer or State Bank Commissioner.

(b) The committee Investment Committee shall meet on call by the committee chair and/or the Executive Director Chair of the Investment Committee or the Executive Director, but not less than on a quarterly basis.

(c) The purposes of the committee Investment Committee shall be:

(1) To consider proposals for the adoption, amendment, and repeal of investment policies and procedures for recommendation to the Board for adoption, and to make recommendations to the Board concerning the same;

(2) To consider asset allocations for recommendation to the Board for adoption, and make recommendations to the Board concerning the adoption of asset allocations;

(3) To consider all investment proposals for approval or rejection, unless the Board assigns the proposals to other committees, and make recommendations to the Board concerning the approval or rejection of an investment proposal unless the investment proposal is assigned to another committee; and

(4) To monitor all phases of the investment program and to recommend any changes that may need to be made to the full Board.

(d) Unless related to a stated purpose of the Investment Committee, all matters that are a stated purpose of the Operations Committee or Audit Committee shall not be within the purview of the Investment Committee.

(e) The agenda will be set by the committee chair after conferring with the Executive Director and will be furnished in advance when practical. ATRS staff shall furnish the Investment Committee agenda to the Board in advance of the Investment Committee meeting.

D. The committee may act by majority consent of all the committee members.

E. The actions taken by the committee shall be reported at the next regularly scheduled meeting of the Board.

F. All public Board disclosures and the Code of Ethics are applicable to all members of this committee.

### **XIII. Operations Committee Charter**

(a)(1) There shall be is established an Operations Committee that shall be composed of up to eight (8) members.

(2) The Board Chair shall appoint five (5) members from the Board to serve on the Operations Committee, and the Board Chair shall serve as an ex officio voting member.

(3) The remaining two (2) members shall be the State Auditor and the Commission of Education Secretary of Education upon their respective acceptance of the position their appointments as State Auditor or Secretary of Education.

(b) The committee Operations Committee shall meet on call by the committee chair and/or the Executive Director Chair of the Operations Committee or the Executive Director.

(c) The purposes of the committee Operations Committee shall be:

(1) To receive and suggest and consider proposals for the adoption of new or revised policy to recommend to the Board for adoption, amendment, and repeal of the laws, rules, and policies applicable to the System and to make recommendations to the Board concerning the same;

(2) To receive and suggest and consider legislative proposals to recommend to the Board for adoption and to make recommendations to the Board concerning the same; and

~~(3) To suggest and develop legislative proposals for the benefit of ATRS and its members to recommend to the Board for adoption. To make recommendations to the Board for initiating, supporting, or opposing legislation.~~

~~(4) To recommend and oversee the Board and Executive Director evaluation process; and~~

~~(5) To recommend and oversee the Board's training and conference schedules.~~

(d) All Unless related to a stated purpose of the Operations Committee, all matters that are not within the jurisdiction/purposes a stated purpose of the Investment Committee or Audit Committees Committee shall be within the jurisdiction/purposes shall not be within the purview of the Operations Committee.

(e) The agenda will be set by the committee chair after conferring with the Executive Director and will be furnished in advance when practical. ATRS staff shall furnish the Operations Committee agenda to the Board in advance of the Investment Committee meeting.

~~E. The committee may act by majority consent of all the committee members.~~

~~F. The actions taken by the committee shall be reported at the next regularly scheduled meeting of the Board.~~

~~G. All public Board disclosures and the Code of Ethics are applicable to all members of this committee.~~

#### **XIV. Audit Committee Charter**

(a)(1) There shall be is established an Audit Committee that shall be composed of three (3) five (5) members of the Board appointed by the Chair and two at-large members from the public with extensive auditing experience approved by the Board.

(2) The Board Chair shall appoint three (3) members of Board to serve as members of the Audit Committee.

(3)(A) The Board shall approve two (2) people who are from the public and have extensive auditing experience to serve as at-large members of the Audit Committee.

(B) The at-large members must be independent and have no affiliation with ATRS.

(C)(i) At-large members may serve two (2) four-year terms.

(ii) If the initial term of an at-large member is for less than four (4) years they, then the at-large member may serve two (2) more four-year terms.

(iii) An at-large member's four-year term shall begin on the first of the month immediately following the Board's approval and appointment of the at-large member.

(b)(1) The committee Audit Committee shall meet as needed on call by either the committee chair the call of the Chair or the Audit Committee or the ATRS Internal Auditor. Actions taken by the committee shall be reported to the ATRS Board of Trustees.

(2) ATRS staff shall furnish the Audit Committee agenda along with appropriate briefing material to the Audit Committee and the Board in advance of the Audit Committee meeting.



(3) The Audit Committee may invite members of management, auditors, employees, or others to attend Audit Committee meetings and provide pertinent information as necessary.

(c)(1) The Audit Committee shall assist the Board in fulfilling the oversight responsibilities of the Board relating to financial reporting processes, the system of internal controls, the internal audit process, and the System's compliance with the law, rules, and policies, including ethical policies, applicable to the System.

(2) The purposes of the Audit Committee shall be:

(A) With regard to financial statements, to review with management and auditors the results of audits which have significant findings and recommendations, together with management's responses to findings and follow up on corrective actions;

(B) With regard to internal controls, to:

(i) Review the risk assessment to consider the effectiveness of the System's internal controls; and

(ii) Review with management and auditors any significant findings and recommendations on internal controls over financial reporting, together with management's responses;

(C) With regard to internal audits, to

(i) Review with management and the ATRS Internal Auditor the charter, activities, staffing, and organizational structure of the internal audit function;

(ii) Review and approve the audit plan and all major changes to the plan; and

(iii) Review reports prepared by Internal Audit and follow up on any findings and recommendations;

(D) With regard to compliance, to review the findings of any examinations by regulatory agencies and any auditor observations;

(E) With regard to reporting, to regularly report to the Board on the Audit Committee's activities and issues that arise with respect to the quality or integrity of the System's financial statement, compliance with legal or regulatory requirements, and the performance of the internal audit function;

(F) To perform other activities related to Audit Committee Charter or the audit functions as requested by the Board;

(G) To resolve any disagreements between management and the ATRS Internal Auditor regarding financial reporting;

(H) To review and assess the adequacy of the Audit Committee Charter and make recommendations to the Board concerning the same;

(I)(a) To approve administrative decisions regarding the appointment and removal of the ATRS Internal Auditor.

(b) The approval of the appointment or termination of the ATRS Internal Auditor by the Audit Committee shall not be final until confirmed by the Board; and

(J)(i) To perform an annual employee evaluation of the ATRS Internal Auditor.

(ii) The Audit Committee shall:

(a) Meet in executive session, with or without the ATRS Internal Auditor, for the purpose of conducting, reviewing, and discussing an evaluation of the ATRS Internal Auditor;

(b) Gather information as it deems necessary, including without limitation input from the Executive Director or other persons with direct knowledge of the Internal Auditor's performance, for the purpose of conducting a fair and thorough evaluation of the ATRS Internal Auditor;

(c)(1) Upon the completion of the evaluation of the ATRS Internal Auditor, report the completion of the evaluation to the Board.

(2) If by motion and second, a Trustee requests information concerning the specific results of the evaluation of the ATRS Internal Auditor and the majority of the Board votes in favor of such motion, the Board may meet in executive session to hear the Audit Committee's findings and recommendation on the evaluation of the ATRS Internal Auditor.

(4)(A) The Audit Committee is authorized to conduct or authorize investigations into any matters within its scope of responsibility and to seek any information that it may require from ATRS staff, all of whom are directed to cooperate with the Audit Committee's request.

(B) In the event the Audit Committee has difficulty obtaining the necessary information from ATRS staff, the Audit Committee may seek assistance from the Executive Director or the Board as the circumstances dictate.

~~D.— The committee has authority to conduct or authorize investigations into any matters within its scope of responsibility and to seek any information it requires from employees, all of who are directed to cooperate with the committee's request. In the event the committee has difficulty obtaining the necessary information from an employee or employees, the committee may seek assistance from the Executive Director or the Board of Trustees as the circumstances dictate.~~

~~E.— The committee may invite members of management, auditors, employees, or others to attend meetings and provide pertinent information as necessary.~~

~~F.— The committee will assist the Board of Trustees in fulfilling the Board's oversight responsibility relating to:~~

- ~~1. The financial reporting processes~~
- ~~2. The system of internal controls~~
- ~~3. The internal audit process~~
- ~~4. ATRS's compliance with laws and regulatory requirements and ethics policies~~

~~G.— Meeting agendas will be prepared and provided in advance to committee members, along with appropriate briefing material when practical.~~

~~H.— The committee may act by majority consent of all the members of the committee.~~

~~I.— Minutes of the meeting will be prepared and presented at the next scheduled Audit Committee meeting for review and approval.~~

- ~~J. The committee will carry out the following responsibilities:~~
- ~~1. **Financial Statements**~~
    - ~~a. Review with management and auditors the results of audits which have significant findings and recommendations, together with management's responses to findings and follow up on corrective actions.~~
  - ~~2. **Internal Control**~~
    - ~~a. Review the risk assessment to consider the effectiveness of ATRS's internal controls.~~
    - ~~b. Review with management and auditors any significant findings and recommendations on internal controls over financial reporting, together with management's responses.~~
  - ~~3. **Internal Audit**~~
    - ~~a. Review with management and the Internal Auditor the charter, activities, staffing, and organizational structure of the internal audit function.~~
    - ~~b. Review and approve the audit plan and all major changes to the plan.~~
    - ~~c. Review Internal Audit's reports and follow up on findings and recommendations.~~
  - ~~4. **Compliance**~~
    - ~~a. Review the findings of any examinations by regulatory agencies, and any auditor observations.~~
  - ~~5. **Reporting Responsibilities**~~
    - ~~a. Regularly report to the Board of Trustees on the committee's activities and issues that arise with respect to the quality or integrity of ATRS's financial statement, compliance with legal or regulatory requirements, and the performance of the internal audit function.~~
  - ~~6. **Other Responsibilities**~~
    - ~~a. Perform other activities related to this charter or the audit functions as requested by the Board of Trustees.~~
    - ~~b. Resolve any disagreements between management and the Internal Auditor regarding financial reporting.~~
    - ~~c. Review and assess the adequacy of the committee charter, and propose recommended changes as needed, and request Board of Trustees approval for recommended changes.~~
    - ~~d. Approve administrative decisions regarding the appointment and removal of the Internal Auditor. Approval of appointment or termination of the Internal Auditor by the Audit Committee is not final until confirmed by the Board of Trustees.~~
    - ~~e. Perform an annual employee evaluation of the Internal Auditor of ATRS. The audit committee shall:
      - ~~i. Meet in executive session, with or without the Internal Auditor,~~  
~~for the purpose of conducting, reviewing, and discussing an employee evaluation of the internal auditor;~~
      - ~~ii. Gather information as it deems necessary, including input from the Executive director or other persons with direct~~~~



~~knowledge of the Internal Auditor's performance, for the purpose of conducting a fair and thorough annual employee evaluation of the Internal Auditor;~~

- ~~iii. Report to the Board of Trustees when the Committee has completed the annual evaluation that the evaluation has been completed. If a Trustee requests by motion and second to learn the specific results of the Internal Auditor evaluation, and the majority of the Board votes in favor of such motion, the Board of Trustees may meet in executive session to hear the Committee's findings and recommendation on the employee evaluation.~~

(d)(1) The Audit Committee may periodically evaluate itself and report the results to the Board.

(2) The effective date for the start of any evaluation process and the frequency of evaluations shall be determined by the Audit Committee.

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## HISTORY

Adopted: June 12, 2002 as Rule 1-1 through 1-19

Amended: October 7, 2003

Amended: December 3, 2007

Amended: June 16, 2009

Amended: September 12, 2012

Amended: March 6, 2013

Amended: April 1, 2013

Amended: July 1, 2018

Amended: October 7, 2019 as Board Policy 1

Amended: September 27, 2021

Amended: September 25, 2023

Amended: April 15, 2024

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~~1 "Members" as used in the Board policies means plan participants of the Arkansas Teacher Retirement System.~~