

# MARK UP

ATRS Rule 6

MEMBERSHIP RULES ATRS RULE 6

MEMBERSHIP

A.C.A. 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

## I. Definitions

~~A.a.~~ "Administrator" shall mean a public school superintendent, assistant superintendent, principal, or vice principal; a higher education president, chancellor or director; or a community college, vocational/technical or educational cooperative director, president, or vice president, who is employed by a participating employer; OR any employee of an education related agency participating in ATRS that is an active member employed in a position grade GS13 or above or its equivalent. 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.~~ "Alternate Retirement Plans" refers to the retirement plan(s) of a public college or university, or the Division of Higher Education provided for under A.C.A. § 24-7-801 *et seq.*, or for a vocational technical school or the Department of Career Education (formerly the Division of Vocational and Technical Education) provided for under A.C.A. § 24-7-901 *et seq.*

~~C.b.~~ "Contributory service" is means service on which a member makes or made member contributions to ATRS<sub>-i</sub>;

~~D.c.~~ A "contributory election" is a written election by a member to make member contributions to ATRS. To be valid, an election must be on an election form provided by ATRS and signed by both the member and the employer. "Contributory election" means a member's written election to make member contributions to ATRS;

~~E.d.~~ "Noncontributory service" is means service on which a member does not make member contributions to the ATRS and for which the member accepts a reduced retirement annuity for the member's years of noncontributory service for which the member does not contribute<sub>-i</sub>;

# MARK UP

F.e. "Nonteacher" means any a member that who is not a teacher or administrator.;

G.f. "Organization" means: ~~(i) any private entity providing services for a public school district and whose employees were formerly employed by the school district and had been members of ATRS, and (ii) any educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services.~~

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;

H.g. "Preceding System" is means a previous reciprocal retirement system of record as defined below.;

I.h. "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 ~~The~~ Arkansas State Highway Employees' Retirement System (ASHERS), established by A.C.A. Arkansas Code § 24-5-103;

3. the ~~The~~ Arkansas Public Employees' Retirement System (APERS) established by A.C.A. Arkansas Code § 24-4-103;

4. the ~~The~~ Arkansas State Police Retirement System (ASPRS) established by A.C.A. Arkansas Code § 24-6-203;

5. the ~~The~~ Arkansas Judicial Retirement System (AJRS) established by A.C.A. Arkansas Code § 24-8-201;

6. the ~~The~~ Arkansas District Judge Retirement System (ADJRS) established by A.C.A. Arkansas Code §§ 24-8-801[repealed] – 24-8-824 [repealed];

7. the ~~The~~ Arkansas Local Police and Fire Retirement System (ALOPFI) provided for under A.C.A. Arkansas Code § 24-10-101; or

8. or an An alternate retirement plan for;

A. ~~a~~ A public college or university, or the Arkansas Division of Higher



# MARK UP

Education provided for under A.C.A. Arkansas Code § 24-7-801 *et seq.*;

B. ~~or for a~~ A vocational-technical school or the Department of Career Education (formerly the Division of Vocational and Technical Education) provided for under A.C.A. § 24-7-901 *et seq.*; or

C. ~~and agencies~~ An agency that may be assigned the duties under the agencies listed above 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.i. "State Employer" means:

1. the A public employer whose employees are covered under the:

A. ATRS-;

B. the Arkansas State Highway Employees' Retirement System ASHERS (A.C.A. Arkansas Code § 24-5-103);

C. the Arkansas Public Employees' Retirement System APERS (A.C.A. Arkansas Code § 24-4-103);

D. the Arkansas State Police Retirement System ASPRS (A.C.A. Arkansas Code § 24-6-203);

E. the Arkansas Judicial Retirement System AJRS (A.C.A. Arkansas Code § 24-8-201); or

F. ~~or the Arkansas District Judge Retirement System~~ ADJRS (A.C.A. Arkansas Code §§ 24-8-801 [repealed] — 24-8-824 [repealed]); or

2. "State employer" also includes a A public employer that is:

A. a A college, university, or the Arkansas Division of Higher Education (A.C.A. Arkansas Code § 24-7-801 *et seq.*);

B. ~~or a~~ A vocational-technical school or the Department of Career Education (formerly the Division of Vocational and Technical Education (A.C.A. Arkansas Code § 24-7-901 *et seq.*); and or

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

K.k. "Succeeding System" is means the current reciprocal retirement system of record, ~~following membership in a retirement system covered above~~ that follows a person's membership in a preceding retirement system-; and

L.l. "Teacher" means any a person employed by a school for the purpose of giving instructions instruction and whose employment requires state

# MARK UP

teaching licensure.

## II. Membership Rules

~~A. Effective July 1, 2001, those employees whose nonteaching service began before July 1, 1989, and whose nonteaching service is covered or coverable by the Arkansas Public Employees Retirement System may elect to be covered by ATRS. The elections shall be made prior to May 31 on a form provided by ATRS and shall be effective the following July 1 as provided by A.C.A. § 24-7-501(a)(2)(C).~~

### B.a. Membership in Another State Retirement System

1. Employees who are eligible for membership in ATRS are ineligible for membership in another state retirement system while employed in a position covered by ATRS, excluding service in the Arkansas General Assembly. 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.

### C.b. Erroneous Membership

#### 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



# MARK UP

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. Employer Participation in ATRS — Generally

1. The ATRS Executive Director of ATRS (executive director) shall monitor, from time to time, employers that participate in ATRS to ensure that only employers that meet meeting both the federal and state requirements for participation and continued participation remain employers in ATRS.

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

## d. 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.

## e. Membership Eligibility – Nonteaching Service Employees

# MARK UP

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))

## f. Membership Eligibility – College Plans

### 1. Nonmandatory Employer

- 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. 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;



# MARK UP

- 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.
- g. Membership Eligibility — Privatized Employers and Nonprofit Corporations
  - 1. A privatized employer or nonprofit corporation that would prefer to participate in and have its employees become members of ATRS may submit a written application to the executive director.
  - 2. The application shall:
    - A. Specify a proposed effective date for participation in ATRS; and
    - B. Include the following information and materials:
      - i. A certified copy of the articles of incorporation, bylaws, and other organizational documents of the privatized employer or nonprofit corporation;
      - ii. A copy of the privatized employer's or nonprofit corporation's:
        - a. Most recent three (3) years' annual financial statements, including balance sheet, financial statements, and statement of cash flows; or
        - b. If the privatized employer or nonprofit corporation does not have audited financial statements, the year-end compilation reports or internal balance sheet and income statements for the privatized employer or nonprofit corporation;
      - iii. A copy of the privatized employer's or nonprofit corporation's most recent three (3) years' federal and state income tax returns;
      - iv. A description of the privatized employer's or nonprofit corporation'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;
      - v. A description of how the privatized employer's or nonprofit

# MARK UP

corporation's board of directors or board of trustees is selected and whether any governmental agency has input in the selection of the board members;

vi. A description of the types of services provided by the privatized employer or nonprofit corporation; and

vii. A description of each government agency that would be responsible for providing the types of services provided by the privatized employer or nonprofit cooperation if the privatized employer or nonprofit corporation did not provide the services.

3. After ATRS reviews the privatized employer's or nonprofit corporation's application and accompanying information and materials, ATRS shall:

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

B. Request any necessary additional information and statements from the privatized employer or nonprofit corporation if ATRS determines that an IRS Ruling should be requested.

4. The privatized employer or nonprofit corporation shall provide ATRS with any additional information and statements requested by ATRS in relation to the IRS Ruling.

5. The privatized employer or nonprofit organization 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.

## h. Membership Eligibility — Private Provider Employees

1. Pursuant to Arkansas Code § 24-7-202(18)(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:

A. Board determines, pursuant to rules adopted by the Board, that the participation of employees described in this ATRS Rule 6.II.h.1. will not:

i. Impair ATRS' legal status, including:

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

b. ATRS' governmental plan status under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §



# MARK UP

1001 et seq.;

ii. Subject ATRS to additional federal requirements;

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

B. Private provider assumes responsibility for:

i. Required employer contributions; and

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

i. Membership Eligibility — Nonprofit Corporation Employees

1. Pursuant to Arkansas Code § 24-7-202(18)(F), effective July 1, 1997, an individual who meets the following requirements may be eligible to become a member of ATRS:

A. 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;

B. The individual's employment is related to:

i. Training public school employees or school board members;

ii. Teaching public school students; or

iii. Adult education programs; and

C. The individual's employment is unrelated to private schools.

2. A member described in this ATRS Rule 6.II.i.1 may become a member of ATRS if the:

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

i. Impair ATRS' legal status, including:

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

b. 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

# MARK UP

## B. Nonprofit corporation:

- i. Elects to participate in ATRS;
- ii. Assumes responsibility for employer contributions;
- iii. Assumes responsibility for fees for obtaining IRS Rulings or Employee Retirement Income Security Act of 1974 opinions; and
- iv. Is approved as a covered employer by the Board according to rules adopted by the Board.

## **III. ~~Contributory/Noncontributory Service Rules~~ Contributory Election**

### A.a. Contributory Election — Generally

~~A contributory member may not elect to become a non-contributory member.~~

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. Whether or not a member is considered contributory or non-contributory depends upon the year the member entered the system.~~

~~C. All service rendered before July 1, 1986, is contributory service.~~

~~D. All new members under contract for 181 or more days will make member contributions to ATRS.~~

~~E. New members under contract for 180 days or less:~~

- ~~1. Until June 30, 2007, all new members under contract for 180 days or~~



# MARK UP

~~less will have one (1) year from their hire date to make an irrevocable election to make member contributions.~~

~~2. Effective July 1, 2007, all new members under contract for 180 days or less may elect to become contributory members.~~

## b. Contributory Election — Member Contracts

### 1. Members Not Under Contract

A. A new 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.

~~F. Change from nonteacher to teacher under contract for 181 days or more:~~

~~1. Effective July 1, 2005, any active member whose status later changes from nonteacher status to teacher status under contract for 181 days or more shall make the member contributions regardless of an earlier election to be noncontributory.~~

~~2. If the change of status from nonteacher to teacher occurs during a year in which service has already been reported as noncontributory, and the member is under contract for 181 days or more, the change to contributory will occur beginning with the next fiscal year.~~

~~G. New members not under contract:~~

# MARK UP

- ~~1. Until June 30, 2007, new members who are not under contract will not make member contributions.~~
- ~~2. Effective July 1, 2007, all new members who are not under contract may elect to become contributory members.~~

## H. ~~Contributory member election:~~

- ~~1. Until June 30, 2007, active members who have previously elected to be noncontributory may make an irrevocable election to become contributory members.~~
- ~~2. Effective July 1, 2007, any noncontributory member may elect to become a contributory member.~~

## c. Contributory Election - Noncontributory Members

### 1. A noncontributory member may make a contributory election.

~~a.2. If the election is made~~ 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 will become is effective immediately.

~~3. If the election is~~ 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 shall become is effective July 1 of the next fiscal year.

~~b.4. Any member's election to become contributory is irrevocable. All service rendered after the election is filed with ATRS shall be contributory.~~ 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.~~

~~c. All active members, as of July 1, 1999, were required to make an irrevocable election to be contributory or noncontributory on or before June 30, 2000. An election to become contributory remains in effect for the remainder of the member's career. If no election was made by June 30, 2000, the member remained in the plan he/she was in as of that date.~~

~~i. Noncontributory inactive members or noncontributory rescinding retirees who reenter ATRS after June 30, 2007, may elect to become contributory members. If no election is made, the member will be enrolled in the plan that he/she was in prior to reentry.~~

## d. Contributory Election – Noncontributory Inactive Members and Rescinding Retirees



# MARK UP

## 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.

~~J. Employees of state agencies:~~

~~1. Full-time employees of state agencies covered by ATRS shall be contributory.~~

~~2. Part-time employees of state agencies covered by ATRS shall be noncontributory. Effective July 1, 2007, part-time employees of state agencies covered by ATRS may elect to become contributory.~~

~~K. Inactive members who had been contributory on a maximum salary of \$7,800.00, return to work on or after July 1, 1995, and elect to become contributory will make contributions on their full salary.~~

### 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.

~~L. If a member enters ATRS and is reported incorrectly by the employer for the first year as a noncontributory member, ATRS will accept the member the first year as a noncontributory member. ATRS shall notify the employer of the member's contributory status. Effective the next July 1,~~

# MARK UP

~~the member shall make member contributions to ATRS.~~

~~M. If an inactive member returns to covered employment as an active member after July 1, 1999, and is reported incorrectly by the employer as a noncontributory member for the first year, ATRS will accept the member the first year as a noncontributory member. ATRS shall notify the employer of the member's contributory status. Effective the next July 1, the member shall make member contributions to ATRS.~~

## 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 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 July 1, the member shall make contributions to ATRS and the covered employer shall correctly report the member as contributory.

## **IV. Erroneous Membership Rules**

~~A. Employees 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 may become a member of the eligible retirement system.~~

~~B. After July 1, 1979, ATRS will make no further effort to correct the retirement system membership of persons who were erroneously enrolled in another state retirement system before January 1, 1979. ATRS will not accept as members persons who were erroneously enrolled in another state retirement system before January 1, 1979, unless that person's contributions were refunded prior to July 1, 1979.~~



# MARK UP

- ~~C. If an employee was erroneously enrolled in ATRS before January 1, 1979, and if his/her contributions were not refunded prior to July 1, 1979, the employee shall continue to be a member of ATRS. The member shall receive service credit for all paid membership service in ATRS and any free service creditable under Act 427 of 1973 as amended. He shall also be entitled to reciprocal service credit as provided by § 24-7-401 through 408.~~
- ~~D. If ATRS discovers that an employee became erroneously enrolled in a state retirement system on or after January 1, 1979, ATRS will notify both the employer and employee that the membership is erroneous and that it may be corrected as prescribed by Act 13 of 1991.~~
- ~~E. If a person who is employed before July 1, 1989, as a school janitor, bus driver, or cafeteria worker is enrolled in the Arkansas Public Employees Retirement System under the provision of Act 63 of 1965, and later is promoted to a position of school maintenance worker or supervisor, bus mechanic or transportation supervisor, or cafeteria manager, respectively, the employee shall continue to be a member of the Arkansas Public Employees Retirement System as long as they are employed in one of these respective capacities.~~
- ~~F. If ATRS discovers that an employee became erroneously enrolled in a state retirement system on and after January 1, 1979, ATRS will notify both the employer and employee that the membership is erroneous and that it should be corrected as prescribed by A.C.A. § 24-2-302 et seq.~~

## 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. Summary of Reciprocal Service **Reciprocal Service Credit**

# MARK UP

## 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 § 24-2-402(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)



# MARK UP

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 shall 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

# MARK UP

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. ~~If a member leaves state employment and their position is covered by any of the retirement systems listed above and enters the employ of another state employer whose position is covered by any of these retirement systems, the member shall be entitled to a deferred annuity~~



# MARK UP

according to A.C.A. § 24-2-401 et seq. 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.

## ~~A. Age and Service Retirement with Reciprocal Service Credit~~

### i. Reciprocal Service Credit – Age and Service Retirement

#### 1. Annuity Benefit Payments

- A. If ATRS is the a member's preceding system, the member's annuity begins 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, or after attainment of age 60 years, whichever is later.
- B. However, should the member have If the member has combined service of at least 25 twenty-five (25) years, the age limitation normal retirement age requirement shall not apply.
- C. The deferred annuity shall not begin prior to the date of leaving the employ of the last state employer unless the member reaches age 65. 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 the member's preceding system, the member is eligible to apply for retirement benefits without leaving the employ of the last state employer upon reaching age 65 employment with his or her last state employer upon attaining the normal retirement age.
- B. The member's annuity will begin 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 was is filed, or after attainment of age 65, whichever is later.
- C. Only service credited and salaries earned prior to the ATRS effective date of benefits will be used in the ATRS benefit calculation. 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.

# MARK UP

## ~~B. Disability Retirement with Reciprocal Service Credit~~

### k. Reciprocal Service Credit – Disability Retirement

1. A member is eligible to apply for disability retirement benefits under ~~A.C.A. § 24-2-405~~ 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 ~~annuity for disability retirement~~ disability retirement benefits payable by the preceding reciprocal system shall:
  - ~~A. begin~~ Begin the first day of the month following the month in which the member's disability retirement application was is filed with the preceding system; and
  - ~~B. , but not prior to the date of leaving the employ of the last state employer~~ 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. Reciprocal Service Rules~~

- ~~A. A member who leaves a position covered by the Teacher Retirement System, becomes employed by a reciprocal system, and files a reciprocal service agreement becomes an inactive member and may become eligible for the benefit formula in effect at the time of retirement.~~
- ~~B.~~
  1. ~~Benefits will not be paid under reciprocity from ATRS as the preceding~~



# MARK UP

~~system until the member has ceased to be in the employ of a state employer unless the member reaches age 65.~~

~~2. If ATRS is the preceding system, the member is eligible to apply for benefits without leaving the employ of the last state employer upon reaching age 65. The member's annuity will begin the first day of the month following the month the application was filed or after attainment of age 65, whichever is later. Only service credited and salaries earned prior to the ATRS effective date of benefits will be used in the ATRS benefit calculation.~~

- ~~C. Benefits will not be paid to a member under reciprocity from ATRS as the preceding system earlier than age 60 unless the member has 25 or more years of combined service.~~
- ~~D. No minimum benefits apply under Act 488 of 1965 [A.C.A. § 24-2-402(5)(E)], as amended, for reciprocal service unless the member has five (5) or more years of credited service in ATRS.~~
- ~~E. If survivor benefits are payable by more than one reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more, as a percentage of the deceased member's final pay or as a minimum dollar amount than the largest amount payable by a single reciprocal system. ATRS will prorate minimum benefits payable with other reciprocal systems that have a minimum benefit provision in their plans. Each reciprocal system shall pay a proportionate share of the minimum amount based on the ratio of service in that system to the total service in all reciprocal systems. If the reciprocal system is an alternate retirement plan, survivor benefits shall be contingent upon provisions of that benefit having been provided by the alternate retirement plan and having been selected by the member as a benefit. [A.C.A. § 24-2-402 (5)]~~
- ~~F. If an employee of the Department of Human Services who becomes a member of the Public Employees Retirement System under the provisions of Act 793 of 1977, as amended, leaves employment with the Department of Human Services and becomes employed in another position covered by ATRS, the benefits for service, both before and after any service under Act 793, shall be subject to the benefit provisions of the Teacher Retirement law. Such member shall be eligible to establish reciprocity under the provisions of Act 488 of 1965 as amended.~~
- ~~G. If an ATRS member has service credited during the same fiscal year with another reciprocal system and the combined service is greater than one year of service credit, ATRS will credit service as follows:~~
- ~~1. If credit by the reciprocal system is less than three (3) months, ATRS will credit service for one (1.00) year.~~
  - ~~2. If credit by the reciprocal system is three (3) or more months but less~~

# MARK UP

than six (6) months, ATRS will 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, ATRS will credit service for one half (1/2) year.

4. If credit by the reciprocal system is for nine (9) months but less than twelve (12) months, ATRS will credit service for one fourth (1/4) year.

H. While participating in a reciprocal system, back contributions, additional contributions, and repayment of refund payments made to ATRS shall be made according to payment methods contained in Rule 8—Purchase Payment Rules, except employer pick up is prohibited while working for a noncovered ATRS employer.<sup>4</sup>

I. A member may elect to waive all or part of concurrent service credited to the member in ATRS and have the waived concurrent service credited under a reciprocal system by submitting their intention to ATRS on an ATRS approved form (A.C.A. § 24-7-601 (g)).

## **VII. Privatized Employers and Nonprofit Corporations Rules**

A.C.A. § 24-2-202(18)(E) (F) allows the employees of certain privatized employers performing services for public school districts and certain educational nonprofit corporations to become members of ATRS.

A. Effective July 1, 1997, under certain conditions, membership in ATRS shall include employment in an enterprise privatized by a public school district. If a public school district should privatize any of its services, any individual who is or was employed by the school district in one of those services and who is or has been a member of ATRS may elect to remain a member, provided the Board of Trustees determines by adopting rules that participation of these employees in ATRS will not in any way impair any legal status of ATRS, including, but not limited to, its status as a governmental plan, pursuant to the federal Internal Revenue Code and ERISA, or its tax qualified status under the Internal Revenue Code; will not subject the plan to additional federal requirements and will not have a substantial adverse impact on the actuarial soundness of ATRS. In addition, the private provider must assume all responsibility for the required employer contributions and any fees for obtaining IRS rulings or ERISA opinions.

B. Effective July 1, 1997, under certain conditions, membership in ATRS shall include employment in positions with educational nonprofit corporations licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services, provided the nonprofit corporation has elected to participate in ATRS, and the Board of Trustees determines by adopting rules that participation of these employees in ATRS will not in any way impair any legal status of ATRS, including, but



## MARK UP

~~not limited to, its status as a governmental plan, pursuant to the Internal Revenue Code and the Employee Retirement Income Security Act of 1974, or its tax-qualified status under the Internal Revenue Code; will not subject the plan to additional federal requirements; and will not have a substantial adverse impact on the actuarial soundness of ATRS. Such employment shall be related to the training of public-school employees or school board members, teaching public-school students, or in adult education programs. The employment shall not be related in any manner to private schools. Each educational nonprofit corporation shall be approved according to rules established by the Board of Trustees to be considered an employer, and such nonprofit corporation assumes all responsibility for the required employer contributions and any fees for obtaining IRS rulings or ERISA opinions.~~

### ~~C. Application for Membership.~~

~~Any organization that desires its employees to become members of ATRS shall make written application to the Executive Director of ATRS, specifying the proposed effective date for such participation.~~

### ~~D. Information Provided to ATRS.~~

~~Each application for membership shall contain the following information and materials:~~

- ~~1. A certified copy of the Articles of Incorporation, Bylaws, and other organizational documents of the organization;~~
- ~~2. A copy of the most recent three (3) years' annual financial statements, including balance sheet, financial statements, and statement of cash flows, or if such organization does not have audited financial statements, the year-end compilation reports or internal balance sheet and income statements for the organization;~~
- ~~3. A copy of the most recent three (3) years' federal and state income tax returns;~~
- ~~4. A description of the sources of funding of the organization, including the percentage of such funds provided by federal or state government and the type of such government funds;~~
- ~~5. A description of how the board of directors or board of trustees is selected, and whether any governmental agency has input in the selection of board members;~~
- ~~6. A description of the types of persons served by the organization, and which government agency or agencies would be responsible for providing such services if the organization did not do so.~~

### ~~E. Tax Ruling.~~

# MARK UP

~~After counsel for ATRS has reviewed the above information provided to ATRS, such counsel shall determine whether a ruling should be requested from the Internal Revenue Service that the participation of the employees of the organization will not jeopardize the status of ATRS as a "governmental plan." If counsel determines that such a ruling should be requested, the organization shall provide any additional information and statements requested by counsel in connection with such ruling request.~~

## ~~F. Fees.~~

~~If counsel for ATRS determines that a ruling should be requested, the organization shall pay to ATRS not less than the sum of \$3,000.00 or the actual cost for the fees and costs associated with such ruling request.~~

## **VIII. Confidentiality of Member Accounts**

~~A. In compliance with the ATRS Code of Ethics, ATRS shall keep all members' salary, employment history, retirement account, and other personal data or information compiled by ATRS for purposes of establishing and maintaining a member's retirement account confidential. Such information shall not be disclosed to any third party without the express written consent of the member or other valid legal process.~~

~~B. Individual member's records which are kept for the purpose of compiling information for the member's retirement or social security records shall not be open to the public under A.C.A. § 24-4-1003.~~

## **IX. College Plan Rules**

~~A. Generally, an ATRS member who became employed by a non-mandatory employer prior to July 1, 2011, may continue to participate in ATRS instead of an alternative program offered by the non-mandatory employer if the ATRS member continues providing consistent service to the non-mandatory employer. For new employees after July 1, 2011, participation is governed by A.C.A. § 24-7-1601 et seq.~~

~~B. A post-secondary or higher education employer may elect to offer ATRS participation to its employees by fulfilling the requirements under A.C.A. § 24-7-1605.~~

~~C. If an eligible non-mandatory employer college elects to offer ATRS participation to its employees, then the employer must regularly report information to ATRS on forms developed by ATRS as allowed by ATRS law. In addition to standard ATRS reporting forms, a post-secondary or higher education employer shall provide supplemental reports on any form approved and adopted by the ATRS Board as a required form.~~

---

<sup>1</sup> From July 1, 1991, until December 31, 1991, an active member of the



# MARK UP

Arkansas Public Employees Retirement System who was an active member of ATRS prior to January 1, 1978, and who became a member of the Arkansas Public Employees Retirement System within thirty (30) days of departure from ATRS may establish reciprocity between the two systems and purchase out-of-state service rendered prior to January 1, 1978, in accordance with the provisions and conditions contained in A.C.A. § 24-7-601 and § 24-7-603. Effective July 1, 1993, for a ninety (90) day period, employees of the Arkansas Rehabilitation Services may transfer from the Arkansas Public Employees Retirement System to ATRS under Act 574 of 1993. Any employee making the change will establish reciprocity between the two systems, and Act 793 of 1977 shall no longer apply.

– **VI. Contributory/Non-Contributory 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 <del>Non-Contributory</del> <u>Noncontributory</u>
<b>1991 - 1999</b>	All Members	<del>Non-Contributory</del> <u>Noncontributory</u> unless elect Contributory
<b>School District Employees</b>		
<b>1999 - 2007</b>	Active	<del>One-time</del> <u>One-time</u> election to be Contributory or <del>Non-Contributory</del> , <u>Noncontributory</u> , no election made by 7/1/2000, status on 6/30/2000
	Inactive	<del>One-time</del> <u>One-time</u> election to be Contributory or <del>Non-Contributory</del> <u>Noncontributory</u> upon reentering system, no election then status <u>enrolled in the plan that he or she was enrolled in before reentering ATRS</u>

# MARK UP

	New	<p>Contract 181 <u>one hundred eighty-one (181)</u> days or more - Contributory</p> <p>-</p> <p>Contract 180 <u>one hundred eighty (180)</u> days or less - <del>Non-Contributory</del>, <u>Noncontributory</u>, may elect Contributory, election must be made one <u>(1)</u> year from hire date</p> <p>-</p> <p>No contract, member must be <del>non-contributory</del> <u>noncontributory</u></p>
<b>2005 - <u>2021</u></b>	<del>Non-teacher</del> <u>Nonteacher</u> to Teacher or Administrator	<p>Contract 181 <u>one hundred eighty-one (181)</u> days or more - Contributory. If position change happens during the year, election is effective first of next fiscal year</p> <p>-</p> <p>All <del>Non-Contributory</del> <u>Noncontributory</u> members may elect Contributory</p>
<b>2007 - <u>2021</u></b>	All Members	May elect Contributory
	New	<p>Contract 181 <u>one hundred eighty-one (181)</u> days or more - Contributory</p> <p>-</p> <p>Contract 180 days or less – <del>Non-Contributory</del></p> <ul style="list-style-type: none"> <li>• <u>Noncontributory, may elect Contributory</u></li> <li>• <u>No contract — Noncontributory, may elect Contributory</u></li> </ul>
	Inactive	May elect Contributory
<b><u>2021</u></b>	<u>Nonteacher to Teacher or Administrator</u>	<p><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></p> <p>=</p> <p><u>All Noncontributory members may elect Contributory</u></p>
<b><u>2021 -</u></b>	<u>All Members</u>	<u>May elect Contributory</u>
	<u>New</u>	<p><u>Contract one hundred eighty-five (185) days or more - Contributory</u></p> <p>=</p> <p><u>Contract one hundred eighty-four (184) days or less - Noncontributory, may elect Contributory</u></p> <p>=</p> <p><u>No contract - Noncontributory, may elect Contributory</u></p>
	<u>Inactive</u>	<u>May elect Contributory</u>



# MARK UP

State Agency Employees		
1999 - 2007	Full-Time Employment	Must be Contributory
	Part-Time Employment	Must be Non-Contributory <u>Noncontributory</u>
2007 -	Full-Time Employment	Must be Contributory
	Part-Time Employment	Non-Contributory, <u>Noncontributory</u> , may elect to be Contributory

**~~Once you are a contributory member of ATRS, your contributory status is irrevocable.~~**

~~If election to be contributory is made before the preparation of the first salary payment to the member in the fiscal year, the election will become effective immediately. If the election is after the preparation of the first payroll containing the first salary payment to the member in the fiscal year, the election shall become effective July 1 of the next fiscal year.~~

~~If a member enters ATRS and is reported incorrectly by an employer for the first year, ATRS will accept the election reported by the employer the first year. ATRS shall notify the employer of the member's correct status. Effective the next July 1, the member shall be reported with the correct status.~~

~~Inactive members who had been contributory on a maximum salary of \$7,800.00, return to work on or after July 1, 1995, and elect to become contributory will make contributions on their full salary.~~

## 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

## MARK UP

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





---

**DECEMBER 15, 2021**

**SUMMARY OF PROPOSED RULE AMENDMENT**

**ATRS RULE 6 – MEMBERSHIP RULES**

**I. PURPOSE**

To amend ATRS Rule 6 – Membership Rules (Rule 6) in accordance with legislation enacted during the Regular Session, 2021, and to redraft current provisions for clarity and to correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate. The amendments to Rule 6 are necessary for the proper operation and administration of the Arkansas Teacher Retirement System.

**II. BACKGROUND AND DISCUSSION**

A.C.A. § 24-7-301 provides that the Board of Trustees of the Arkansas Teacher Retirement System is responsible for the general administration and proper operation of the Arkansas Teacher Retirement System and for implementing the Arkansas Teacher Retirement System Act, A.C.A. § 24-7-201 et seq.

A.C.A. § 24-7-305(b) gives the Board of Trustees of the Arkansas Teacher Retirement System the authority to promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System. Acts 2021, No. 595 requires the Arkansas Teacher Retirement System to promulgate rules pursuant to the provisions of each act identified by the Bureau of Legislative Research as requiring the promulgation of one (1) or more rules.

Rule 6 currently references sixty-five (65) years of age in lieu of using the term "normal retirement age" as "normal retirement age" in A.C.A. § 24-7-202(27) was previously defined to mean sixty-five (65) years of age. Acts 2021, No. 290 amended the definition of "normal retirement age" in A.C.A. § 24-7-202(27) to mean sixty-five (65) years of age if a member has at least five (5) years of actual service or at least sixty (60) years of age if a member has a combined total of thirty-eight (38) years or more of credited service in the Arkansas Teacher Retirement System, Teacher Deferred Retirement Option Plan, or reciprocal service in another eligible state retirement system. As such, Rule 6 is being amended to use the term "normal retirement age", so that rules concerning the normal retirement age will apply to members who meet the definition of "normal retirement age" as amended by Acts 2021, No. 290.

Rule 6 currently provides that effective July 1, 2005, an active member who changes status from nonteacher to teacher under contract for one hundred eighty-one (181) days or more shall be a contributory member of the Arkansas Teacher Retirement System regardless of an earlier noncontributory election. Acts 2021, No. 443 amended the law to provide that effective July 1, 2021, an active member whose status changes from nonteacher to administrator or teacher under a contract for one hundred eighty-five (185) days or more shall become a contributory member regardless of an earlier election to be a noncontributory member. Rule 6 is being amended to reflect the amendment to the law in Acts 2021, No. 443.

Rule 6 currently provides that effective July 1, 2007, a new member of the Arkansas Teacher Retirement System who is under contract for one hundred eighty (180) days or less may elect to become a contributory member. Acts 2021, No. 443 amended the law to provide that effective July 1, 2021, a member under contract with a covered employer for one hundred eighty-five (185) days or more shall be a contributory



---

member. Additionally, Acts 2021, No. 443 amended the law to provide that a member under contract with a covered employer for less than one hundred eighty-five (185) days may make an irrevocable election to become a contributory member. Rule 6 is being amended to reflect the amendments to the law in Acts 2021, No. 443.

A.C.A. § 24-7-601(e) was amended by Acts 2021, No. 427 to clarify when reciprocal service earned from participation in an alternate retirement plan may be used to establish eligibility for a benefit from the Arkansas Teacher Retirement System. Rule 6 is being amended to address the clarification provided in Acts 2021, No. 427.

Rule 6 refers to "participating employer" when "employer" or "covered employer" as defined in A.C.A. § 24-7-202(17) is intended. Rule 6 is being amended to use the term "employer" or "covered employer" instead of "participating employer" as appropriate. Corresponding amendments were made in Acts 2021, No. 279 and Acts 2021, No. 279.

Rule 6 is being amended to redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.

### III. KEY POINTS

Rule 6 is being amended to:

- Substitute references to "sixty-five (65) years of age" with "normal retirement age" as appropriate;
- Provide that an active member whose status changes from nonteacher to administrator or teacher under a contract for one hundred eighty-five (185) days or more shall become a contributory member regardless of an earlier election to be a noncontributory member;
- Provide that a member under contract with a covered employer for one hundred eighty-five (185) days or more shall be a contributory member;
- Provide that a member under contract with a covered employer for less than one hundred eighty-five (185) days may make an irrevocable election to become a contributory member;
- Clarify when reciprocal service earned from participation in an alternate retirement plan may be used to establish eligibility for a benefit from the Arkansas Teacher Retirement System;
- Amend "participating employer" to "employer" or "covered employer" as appropriate; and
- Redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.



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

DEPARTMENT/AGENCY Arkansas Teacher Retirement System  
DIVISION \_\_\_\_\_  
DIVISION DIRECTOR Clint Rhoden  
CONTACT PERSON Jennifer Liwo  
ADDRESS 1400 West Third Street, Little Rock, AR, 72201  
PHONE NO. (501) 682-1517 FAX NO. (501) 682-2359 E-MAIL jenniferl@artrs.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Clint Rhoden  
PRESENTER E-MAIL clintr@artrs.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5th Floor  
Little Rock, AR 72201

\*\*\*\*\*

1. What is the short title of this rule? ATRS Rule 6 - Membership Rules

2. What is the subject of the proposed rule? Provides agency definitions and rules concerning membership in the Arkansas Teacher Retirement System.

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

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

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes  No

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

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No  If yes, please provide a brief summary explaining the rule.

N/A

Does this repeal an existing rule? Yes  No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

N/A

Is this an amendment to an existing rule? Yes  No  If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

Rule 6 is being amended to redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate. Additionally, in accordance with amendments to law resulting from the 2021 regular session, Rule 6 is being amended to: (1) Substitute references to "sixty-five (65) years of age" with "normal retirement age" as appropriate; (2) Provide that an active member whose status changes from nonteacher to administrator or teacher under a contract for one hundred eighty-five (185) days or more shall become a contributory member regardless of an earlier election to be a noncontributory member; (3) Provide that a member under contract with a covered employer for one hundred eighty-five (185) days or more shall be a contributory member; (4) Provide that a member under contract with a covered employer for less than one hundred eighty-five (185) days may make an irrevocable election to become a contributory member; (5) Clarify when reciprocal service earned from participation in an alternate retirement plan may be used to establish eligibility for a benefit from the Arkansas Teacher Retirement System; and (6) Amend "participating employer" to "employer" or "covered employer" as appropriate.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

A.C.A. §§ 24-7-305(b) and 25-15-216

7. What is the purpose of this proposed rule? Why is it necessary?

Rule 6 is being amended to redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.

Additionally, in accordance with amendments to law resulting from the 2021 regular session, Rule 6 is being amended to: (1) Substitute references to "sixty-five (65) years of age" with "normal retirement age" as appropriate; (2) Provide that an active member whose status changes from nonteacher to administrator or teacher under a contract for one hundred eighty-five (185) days or more shall become a contributory member regardless of an earlier election to be a noncontributory member; (3) Provide that a member under contract with a covered employer for one hundred eighty-five (185) days or more shall be a contributory member; (4) Provide that a member under contract with a covered employer for less than one hundred eighty-five (185) days may make an irrevocable election to become a contributory member; (5) Clarify when reciprocal service earned from participation in an alternate retirement plan may be used to establish eligibility for a benefit from the Arkansas Teacher Retirement System; and (6) Amend "participating employer" to "employer" or "covered employer" as appropriate.

The amendments to Rule 6 are necessary for the proper operation and administration of the Arkansas Teacher Retirement System.



8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

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

9. Will a public hearing be held on this proposed rule? Yes  No  If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

01/14/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

06/01/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See attached.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). See attached.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Members and staff of the Arkansas Teacher Retirement System.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT Arkansas Teacher Retirement System

DIVISION \_\_\_\_\_

PERSON COMPLETING THIS STATEMENT Jennifer Liwo

TELEPHONE NO. (501) 682-1517 FAX NO. (501) 682-2359 EMAIL: jenniferl@artrs.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE ATRS Rule 6 - Membership Rules

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes  No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No

If an agency is proposing a more costly rule, please state the following:

a) How the additional benefits of the more costly rule justify its additional cost;

N/A

b) The reason for adoption of the more costly rule;

N/A

c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

N/A

d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

N/A



4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

N/A

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

N/A

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?  
Yes  No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.