

BOARD OF TRUSTEES COMPOSITION AND ELECTIONS

A.C.A. § 24-7-301

(Amended by Acts 418 of 1997, 866 of 1999, and 97 of 2007)

A.C.A. § 24-7-301 provides that the general administration and responsibility for the proper operation of the Arkansas Teacher Retirement System and for making effective the provisions of the Teacher Retirement laws are vested in the Board of Trustees of 15 persons. The Bank Commissioner, the Treasurer of the State, the Auditor of the State, and the Commissioner of the Department of Education serve as ex officio trustees. Eleven (11) members serve as elected trustees, seven (7) who are active members of the System with at least five (5) years of actual service in force, one (1) who is a member of a racial ethnic group and is either an active or retirant member, and three (3) who are retirant members. For these purposes, participants in the Teacher Deferred Retirement Plan (T-DROP) will be considered active members. The active and retirant trustees shall be elected in accordance with such rules and regulations as the Board shall from time to time adopt to govern such elections.

ACTIVE MEMBER TRUSTEES

1. There shall be four (4) active member trustees each of whom must be employed in a position requiring state teaching licensure or employed by an ATRS-covered agency in a position between Grades 17-23. Such a trustee shall NOT be employed as a school administrator (superintendent, assistant superintendent, principal, vice principal, president, chancellor or director of a state institutions of higher education, community/technical college, or vocational center/cooperative), or employed in a position Grade 24 and above with an ATRS covered agency. One (1) active member trustee will be elected from each of the four (4) congressional districts of the State of Arkansas.

Active members employed in positions requiring state licensure, but not administrators' licenses, will elect these trustees. Such members must NOT be employed in positions as school administrators (superintendent, assistant superintendent, principal, vice principal, president, chancellor, or director of a state institutions of higher education, community/technical college, or vocational center/cooperative) or employed by an ATRS-covered agency in a position Grade 24 and above.

2. There shall be two (2) active member trustees each of whom must be employed in a position requiring school administrator licensure (superintendent, assistant superintendent, principal, vice principal, president,

chancellor, or director of a state institution of higher education, community/-technical college, or vocational center/cooperative), or employed by an ATRS-covered agency in a position Grade 24 and above, one (1) of which must be a superintendent.

These trustees will be elected by members employed as school administrators (superintendent, assistant superintendent, principal, vice principal, president, chancellor, or director of a state institution of higher education, community/technical college, or vocational center/cooperative) or employed by an ATRS-covered agency in a position Grade 24 and above.

3. There shall be one (1) active member trustee who is employed in a position that does not require state teaching licensure or is employed by an ATRS-covered agency in a position Grade 16 and below.

This member trustee shall be elected by members who are employed in positions not requiring state teaching licensure or are employed by an ATRS-covered agency in a position Grade 16 and below.

MINORITY TRUSTEE

There shall be one (1) member trustee of a minority racial ethnic group who is either an active or a retired member of the System. This member trustee shall be elected by the active and retired membership of the System.

RETIRANT MEMBER TRUSTEES

There shall be three (3) retirant member trustees who receive an annuity paid by the System. These trustees shall be elected by the retired membership of the System. Retirant trustees must reside in Arkansas.

TERM OF OFFICE AND VACANCIES

1. The term of office of each ~~member and retirant~~ elected trustee ~~elected after July 1, 1997,~~ shall be six (6) years.
2. Each trustee shall continue to serve as trustee until his or her term expires ~~successor is elected and has qualified.~~
3. In a year in which a six (6) year term of a trustee expires, the position shall be filled under the regular election schedule in ATRS Policy No. 4-3.
4. A trustee elected to fill an unexpired term in a special election will serve for the remainder of the six (6) year term of the vacating trustee.

RULES ON TERM OF OFFICE / VACANCIES

1. An active member trustee shall be ineligible to serve after becoming inactive or retiring.
2. An active member trustee shall be ineligible to serve if he or she changes employment category during his or her term of office and the employment category is a requirement of the trustee position, i.e., an administrator becomes a classroom teacher.
3. A retirant member trustee shall be ineligible to serve after becoming active.
4. An absence that is excused by a majority of the members of the Board shall not constitute a vacancy. Attendance on either day of a two-day Board meeting is sufficient to meet the attendance requirement.
5. The Board of Trustees or its designee will notify the Board member after the second consecutive absence.
6. A vacancy will occur if the Board votes to declare a position vacant due to one of the following:
 - A. A member or retirant trustee is absent for three (3) consecutive regular Board meetings and the absences are not excused by the Board;
 - B. A trustee is ineligible due to a change in status under A.C.A. § 24-7-302(a)(2)(A-B) resulting in three (3) consecutive absences at regular Board meetings prior the expiration of the trustee's term; or
 - C. Resignation or death of a trustee which will create three (3) or more consecutive absences at regular Board meetings prior to the expiration of the trustee's term.

~~, unless the absence is excused by a majority of the members of the Board. Attendance on either day of a two-day Board meeting is sufficient to meet the attendance requirement. The Executive Director will notify the Board member of this policy after the second consecutive absence. (Revised May 15, 2001.)~~

~~When a~~ If the Board declares a vacancy under the section above, the Board may vote to hold a special election to fill an unexpired term under ATRS Policy No. 4-3. If the Board does not certify a vacancy under this section, occurs in the office of a member or retirant trustee, the vacancy will be filled during the next annual ATRS election held upon expiration of an elected trustee's term, utilizing approved election requirements and procedures for that position. (Revised May 15, 2001.)

~~In any year in which the six (6) year term of an active member and/or retirant member trustee expires, the position shall be filled either by election or reelection.~~

BOARD POSITIONS

Position #1 (1st Congressional District)
Position #2 (2nd Congressional District)
Position #3 (3rd Congressional District)
Position #4 (4th Congressional District)
Position #5 (Administrator - Superintendent only)
Position #6 (Administrator)
Position #7 (Nonlicensed)
Position #8 (Minority)
Position #9 (Retirant)
Position #10 (Retirant)
Position #11 (Retirant)

POSITION QUALIFICATIONS AND VOTER ELIGIBILITY IN EACH ELECTION

1. Positions #1-#4 (Active Member Trustees from Congressional Districts)

A. Qualifications for candidacy:

- i. Must be an active member of ATRS (includes T-DROP participants);
- ii. Must have five (5) years of actual service in ATRS;
- iii. Must be employed in a position requiring a state teaching license or employed by an ATRS-covered agency in a position between Grades 17-23. Such candidate shall not be employed as a school administrator (superintendent, assistant superintendent, principal, vice-principal, president, chancellor, or director of a state institution of higher education, community/technical college, or vocational center/cooperative) or employed in a position Grade 24 and above with an ATRS-covered agency;
- iv. Must be employed in the congressional district from which he/she is seeking election; and
- v. If a candidate holds two or more positions, i.e., works as a teacher and bus driver, eligibility shall be determined by his/her primary employment.

B. Eligible voters include:

Active ATRS members (includes T-DROP participants) who are employed in the congressional district. Such members must also be employed in positions that require a state teaching license or employed by an ATRS-covered agency in a position between Grades 17-23. Such members

must not be employed in positions as school administrators (superintendent, assistant superintendent, principal, vice principal, president, chancellor, or director of a state institution of higher education, community/technical college, or vocational center/cooperative) or employed in an ATRS-covered position Grade 24 and above.

2. Position #5 (Administrator - Superintendent only)

A. Qualifications for candidacy:

- i. Must be an active member of ATRS (includes T-DROP participants);
- ii. Must have five (5) years of actual service in ATRS;
- iii. Must be employed as an Arkansas school superintendent.

B. Eligible voters include:

Active ATRS members (includes T-DROP participants) employed as school administrators (superintendent, assistant superintendent, principal, vice principal, president, chancellor, or director of a state institution of higher education, community/technical college, or vocational center/cooperative), or employed by an ATRS-covered employer in a position Grade 24 or above.

3. Position #6 (Administrator)

A. Qualifications for candidacy:

- i. Must be an active member of ATRS (includes T-DROP participants);
- ii. Must have five (5) years of actual service in ATRS;
- iii. Must be employed as a school administrator (superintendent, assistant superintendent, principal, vice principal, president, chancellor, or director of a state institution of higher education, community/technical college, or vocational center/cooperative), or employed by an ATRS-covered employer in a position Grade 24 or above.

B. Eligible voters include:

Active ATRS members (includes T-DROP participants) employed as school administrators (superintendent, assistant superintendent, principal, vice principal, president, chancellor, or director of a state institution of higher education, community/technical college, or vocational center/cooperative) or employed by an ATRS-covered employer in a position Grade 24 or above.

4. Position #7 (Nonlicensed)

A. Qualifications for candidacy:

- i. Must be an active member of ATRS (includes T-DROP participants);
- ii. Must have five (5) years of actual service in ATRS;
- iii. Must be employed in a position that does not require a state teaching license (includes school secretaries, school bus drivers, school cafeteria and maintenance workers) or employed by an ATRS-covered agency in a position Grade 16 and below.

B. Eligible voters include:

Active ATRS members (includes T-DROP participants) employed in positions that do not require a state teaching license (includes school secretaries, school bus drivers, school cafeteria and maintenance workers) or employed by an ATRS-covered agency in a position Grade 16 and below.

5. Position #8 (Minority)

A. Qualifications for candidacy:

- i. Must be an active member of ATRS (includes T-DROP participants) or a retirant member receiving an annuity paid by ATRS;
- ii. Must have five (5) years of actual service in ATRS;
- iii. Must be of a racial ethnic minority group.

B. Eligible voters include:

Active ATRS members (includes T-DROP participants), and retirant members receiving an annuity paid by ATRS.

6. Positions #9-#11 (Retirant Member Trustees)

A. Qualifications for candidacy:

- i. Must be a retirant member receiving an annuity paid by ATRS; and
- ii. Must be a resident of Arkansas.

B. Eligible voters include:

ATRS retirant members receiving an annuity paid by ATRS.

Survivors of ATRS members who receive benefits from the System are not eligible to participate in the election of Board of Trustee members. (Revised November 18, 1997.)

Amended: April 26, 2007

ELECTION PROCEDURES FOR ELECTED TRUSTEES

A.C.A. § 24-7-302

ADVERTISEMENT OF VACANCY

During the month of November prior to the year in which a trustee is to be elected, a notice of such election shall be submitted to the Arkansas Association of Educational Administrators (AAEA), the Arkansas Education Association (AEA), the Arkansas State Employees Association (ASEA), the Arkansas Retired Teachers Association (ARTA), and the ATRS website. The System shall also publish a Public Notice in the Arkansas Democrat-Gazette, which will run for at least five (5) days. This announcement shall include the trustee position number and description of the position for which the election is to be held, a listing of counties if election is for a congressional district, voter qualifications/eligibility to vote, the procedure for nominating a candidate, and an announcement indicating that nominating petitions can be obtained from the Teacher Retirement System.

NOMINATIONS

1. Nomination for election shall be upon petition signed by not less than twenty-five (25) voters eligible to vote in the specified election. The petition must include the last four digits of the Social Security number of the nominee and each signer in order for the Retirement System to verify the petition. Nominating petitions and a candidate information form must be filed with the Executive Director of the Teacher Retirement System not later than January 31 of the year in which the member's or retirant trustee's term expires.
2. Should only one qualified candidate file a timely and verified petition, that person shall be declared by the Board of Trustees as elected to fill the vacant trustee position.

BALLOTS

1. The Board of Trustees shall employ an independent contractor to conduct all or part of the election process. ATRS will provide the contractor with compatible media containing the addresses of eligible voters and any other materials required to conduct the scope of the election process for which the contractor has been employed.
2. The order of candidates listed on the ballot(s) will be determined by a drawing from the petitions received by the Retirement System. The drawing will be

conducted by representatives of the Retirement System's staff and witnessed by a representative of the group(s) from which a trustee will be elected, i.e., administrator, certified, non-certified, minority, or retiree. A letter to document and verify the drawing will be signed by all in attendance.

3. Ballots will be mailed directly to the homes of eligible voters in accordance with the ATRS policies governing the schedule for active and retirant trustee elections.
4. The date the ballot is to be mailed, the word, "Ballot," and the deadline for receipt of the ballot will be printed on the ballot, along with a brief statement from each candidate. The ballot shall be returned to the contractor. Instructions on the ballots will inform voters that the ballots are not to be copied nor returned to the Retirement System office, which would render them invalid.
5. Neither the voters' addresses nor Social Security numbers will be requested, and no space will be provided for them on the ballot.
[Note: Moved to 4-2-3 below]
6. The System's return address will be printed on the ballots in order for undeliverable pieces to be returned for correction of the System's records.
7. In the event the post office provides corrected addresses for undeliverable ballots, ATRS will correct its records and then remail the ballot to the voter. However, should the undeliverable ballot be received by the System less than (5) days prior to the deadline for returning ballots, the System will correct its records and will not remail the ballot to the voter.
8. The independent contractor will be instructed that ballots will be mailed no earlier, nor later, than the scheduled date ballots are to be mailed. If one of the scheduled dates is on a weekend or holiday, ballots will be mailed on the next regular work day following such weekend or holiday.
9. Should it be determined by the Board of Trustees or its agent that the independent contractor has mailed ballots earlier or later than the contracted date, ATRS will assess the contractor a penalty of not less than five thousand dollars (\$5,000.00) in each instance and for each election the ballots are mailed early or late.
10. The System has final approval of the ballot and accompanying instructions.

CAMPAIGN MATERIALS

1. One (1) set of mailing labels of eligible voters and their addresses will be made available to each candidate upon request.
2. The mailing labels will be printed by the election contractor from eligible voter data provided by the System.
3. Campaign materials sent to voters will be mailed by the election contractor from its place of business. All postage incurred for mailing such materials shall be the responsibility of the candidate requesting the labels. The System shall review and pre-approve campaign materials prior to submission to the election contractor for mailing.

Approved: May 10, 2000

SCHEDULE FOR ACTIVE ~~AND RETIRANT~~ TRUSTEE ELECTIONS

A.C.A. § 24-7-302

REGULAR ELECTION SCHEDULE

The regular election schedule will be as follows:

- ◆ Deadline for nomination: January 31 15
- ◆ Drawing for ballot position: February 1
- ◆ Ballots mailed: March 15
- ◆ Deadline for ballots to be returned: April 15
- ◆ Results certified: April 20

If no candidate receives a majority of votes, a run-off will be held between the two candidates receiving the highest number of votes. The schedule for the run-off will be as follows:

- ◆ Run-off ballots mailed: May 1
- ◆ Deadline for ballots to be returned: June 1
- ◆ Results certified: June 5

If one of the above fixed dates is on a weekend or holiday, the above procedures will occur on the next regular work day following such weekend or holiday.

If a candidate receives a majority of the votes cast on the first ballot, he/she will be considered qualified to assume office on July 1. If a run-off is necessary, the candidate receiving the majority of the votes cast will be considered qualified and will assume office on July 1.

SPECIAL ELECTION TO FILL UNEXPIRED TERMS FOR ELECTED TRUSTEES

On the date that an elected trustee position is declared vacant by the Board, if more than two (2) years remain until the term expires, the Board will hold a special election in accordance with this regulation; provided, however, that if the Board determines there is inadequate time to hold a special election so as to allow the newly elected trustee to participate in at least one (1) year of regularly scheduled Board meetings, then no special election will be held and the vacancy will remain until the next regular election.

The Board will notify the System's membership that a special election will be held as soon as administratively feasible upon declaring a vacancy and will announce

the schedule for the special election, which will include the following:

1. The date the vacancy occurred;
2. The time period for circulating petitions for nominating signatures;
3. The deadline for filing petitions with the System;
4. The date the Board will verify the validity of petitions;
5. The date ballots will be sent to eligible voters;
6. The election date; and
7. The date results of the election will be announced.

CHALLENGE PROCEDURES

A challenge of any ATRS trustee election shall be directed to the ATRS Executive Director within 10 calendar days of the certification of the results of the election in question. The Executive Director will issue a recommendation in writing within 10 calendar days. The Executive Director's recommendation may be appealed to the Board of Trustees within 10 additional days. The Board of Trustees will take action on the appeal within 10 days of its receipt. The challenger will pay expenses incurred by the Retirement System as a result of an election being challenged, unless the Board upholds the challenger's assertion.

TERMS FOR POSITIONS CREATED BY ACT 418 OF 1997

The terms of Position No. 6 (Administrator), Position No. 7 (Non-licensed), and Position No. 8 (Minority), shall commence on January 1, 1998, and shall expire June 30, 2003.

Amended: April 26, 2007

ASSET ALLOCATION

A.C.A. § 24-2-602 and § 24-1-101

The Board of Trustees is responsible for the prudent investment of funds and to maintain a proper allocation of the System's investment assets. The Board of Trustees, in conjunction with its advisors, shall set and adjust the System's asset allocation ranges as necessary to provide an optimal allocation to obtain its target returns.

~~It is the goal of the Retirement System to maintain the following asset allocation ranges:~~

Asset Category	Minimum	Target	Maximum
Domestic Equity	35.0%	40.0%	45.0%
International Equity	15.0%	17.5%	20.0%
Domestic Fixed Income	20.0%	25.0%	30.0%
Alternatives ⁴	4.0%	6.0%	8.0%
Real Estate	3.0%	5.0%	7.0%
Timberland	0.0%	1.5%	3.0%
Arkansas-related Investments ²	3.0%	5.0%	7.0%
Cash Equivalents	0.0%	0.0%	3.0%

REBALANCING

The asset allocation ranges established by ~~this policy~~ the Board represent the Board's judgment of a portfolio mix that provides the greatest risk/return value. Allowing the portfolio to exceed the Board limits strays from the financial discipline, which the Board believes will—over time—provide the appropriate risk-adjusted return to the Retirement System.

The Executive Director is responsible to rebalance among the allowable asset classes and individual portfolios at such time that any of the asset classes falls outside of the designated range. The Executive Director will monitor the asset values by classification and for each investment manager on a monthly basis, based on month-end data provided by the custodian bank. The Executive Director shall submit a report to the Board detailing the movement of funds

¹ In determining the asset allocation for Alternatives, the actual amount disbursed by ATRS, not the commitments, is applicable. (Includes domestic private equity, foreign private equity and mezzanine financing)

² A.C.A. § 24-2-608 requires ATRS to seek to invest not less than 5% nor more than 10% of its portfolio in Arkansas-related investments when appropriate investment alternatives are available and when such investments may be made in accordance with the prudent investor rule.

necessary to carry out that rebalancing at the next scheduled meeting following the completion of such transactions.

Whenever the minimum or maximum range on any major asset class has been exceeded, a transfer of funds will occur so as to bring the actual allocation within the prescribed range. Since many alternative, timberland, and real estate investments are not liquid, and valuations may be estimates or appraisals and may be time-lagged, the Executive Director shall use best efforts to use commitments, capital calls, capital contributions, and distributions to rebalance such investments.

Normal plan cash flows should be used to the extent possible to rebalance. Interest, dividends, and plan contributions should be used to the extent possible to fund asset classes that are below their target. Withdrawals should be made from asset classes that are above their target.

Adopted: October 7, 2003

REPORTING EMPLOYEE (MEMBER) CONTRIBUTIONS

A.C.A. § 24-7-411

(SEE ALSO RULE NOS. 7-1 AND 7-4.)

DEFINITIONS (Amended by Act 638 of 1995, Act 11 of 1999, and 146 of 2005)

1. **Salary** means any remuneration paid an employee in a position or positions covered by the System and on which the employer withholds federal income tax. It includes remuneration received from all covered employers during a school fiscal year; however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitations on compensation for "eligible employees" shall not be less than the amount allowed under the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995.
2. **Covered salary** means, effective July 1, 2003, employees' regular and federal salaries for the current fiscal year plus supplemental salary payments received for the previous fiscal year, plus adjustments agreed upon by both the employer and the Teacher Retirement System. For each member who first became a member before July 1, 1971, the covered salary for each year after June 30, 1969, is the first \$7,800.00 of the member's total annual salary for all covered employment (Salary Option 2) unless he/she has elected to make contributions to the System on full salary. For each member who first became a member after June 30, 1971, or has elected to make contributions on full salary, the covered salary is his or her full salary for all covered employment (Salary Option 1). If, however, a member making contributions only on the first \$7,800.00 of total annual salary (Salary Option 2) receives a refund of contributions and subsequently returns to covered service as a noncontributory member, he or she shall be considered on full salary for reporting purposes (Salary Option 1).
3. **Covered Employer** means each employer for whom a member renders service in a covered position.

RULES (Amended by Act 638 of 1995, Act 206 of 1997, and Act 11 of 1999)

1. After June 30, 1997, each employer will pay the member contributions for each salary earned by contributory members, and those contributions will then be treated as employer contributions in determining tax treatment under the provisions of the federal Internal Revenue Code and the Arkansas Income Tax Act. The contributions will not be included as gross income of the

member until they are distributed or made available to the member. The employer will pay these member contributions from the same source of funds used in paying the salary to the member. The employer may pay these contributions by a reduction in the cash salary of the member, or by a setoff against future salary increases, or by a combination of a reduction in salary and a setoff against future salary increases. If member contributions are paid by the employer as provided under this subsection, they shall be treated for all purposes of the Teacher Retirement System in the same manner and to the same extent possible as member contributions made prior to the date the employer began payment of the member's contributions as described.

2. Each employer shall deduct the member contributions from the salary of each contributory member on each payroll from the date of entrance into the System until retirement, and the employer shall remit the contributions to the System; however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount allowed by the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995.
3. In order that each member of the Teacher Retirement System may receive credit for days of service, covered salary, and contributions on a timely basis, each employer shall report employee and employer contributions to the System on the following schedule:

Monthly Remittance Contribution Reports (~~D-1 Regular Members; T-1 T-DROP Members~~)

Date Due: Fifteenth ~~Tenth~~-(15th) calendar day following the end of each month. To avoid the late report penalties (see Nos. 6 and 7 on page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working dateday.

Quarterly Retirement Reports (~~D-2A Regular Members; T-DROP Members~~)

Date Due: Fifteenth ~~Tenth~~-(15th) calendar day following the end of each quarter. ~~Tenth~~-(10th) calendar day following the end of each month. To avoid the late report penalties (see Nos. 6 and 7 page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working day date.

4. Each of the above reports must be on forms or electronic media either furnished by the Teacher Retirement System or approved by the System.
5. Overpayments or underpayments of member contributions reported from the local level shall be handled in the following manner by the ATRS office:
 - A. If an underpayment of less than \$25.00 was reported from the local level, no attempt will be made to collect the difference of this underpayment.
 - B. If an overpayment of contributions of less than \$5.00 is reported from the local level, no refund of this amount will be made to the member, except upon written request from the member. The total amount reported by the employing authority shall be credited to contributions.
 - C. Should an underpayment of contributions occur as a result of a member's changing status from noncontributory to contributory, the member must remit to the System the contributions due based on gross salary earned retroactive to July 1 of that fiscal year. Service credit will be granted upon completion of contribution and applicable interest payments for that fiscal year.
 - D. Should an overpayment of member contributions occur as a result of - changing status from contributory to noncontributory, the System will refund the overpayment of member contributions to the employer.
6. Beginning July 1, 1998, should an employer fail at any time to report the salary of a member and remit the contributions to the System, the System shall have the right to collect from the employee and the employer the contributions due, if any, from each, together with interest beginning with the subsequent fiscal year; provided further that in no case shall a member be given credit for service rendered until any contributions and interest due from each are paid in full. Service credit will be granted upon completion of contribution and applicable interest payments for that fiscal year.
7. For persons who are retiring and who are employed in agencies or other institutions that use the state 26-week payroll, employers should report to Teacher Retirement the salary, contributions, and actual days worked through the current year payroll period. Contributions should not be withheld on any salary earned after the close of the current year's payroll, nor should any salary or days of service be reported for that period of time.

Amended: August 11, 1998
July 18, 2005

EMPLOYER CONTRIBUTIONS

A.C.A. § 19-5-106, § 24-7-401, § 24-7-1303
(As Amended by Act 1968 of 2005, and Acts 97 and 298 of 2007)
(SEE ALSO RULE NOS. 7-1 AND 7-3.)

DEFINITIONS

1. **Salary** means the remuneration paid to an employee in a position covered by the Arkansas Teacher Retirement System and on which the employer withholds federal income tax.
2. **Participating employers** means local school districts, cooperative education services areas, vocational centers, the Department of Correction, open enrollment charter schools, all public postsecondary institutions, the educational components of certain state agencies and instrumentalities, or an educational nonprofit corporation approved by the Board of Trustees in accordance with rules and regulations established by the Board.
3. **Adjustments** include error corrections, payments for members who were omitted from the correct reporting period, and any adjustments agreed to by both the employer and the Teacher Retirement System.

RULES FOR THE EMPLOYER CONTRIBUTION RATE

1. Effective July 1, 2003, the employer contribution (matching) rate shall be the rate established by the Board of Trustees of the Arkansas Teacher Retirement System prospectively for each year pursuant to A.C.A. § 24-2-701(c) and § 24-7-401(c).
2. The rate shall be set by the Board following consultation with its actuary. In determining such rate, the Board shall consider the financial objectives set forth in A.C.A. § 24-2-701 and § 24-7-401 and shall base the rates on the actuary's determination of the rate required to fund the plan in accordance with these financial objectives.
 - A. The employer contribution rates for the fiscal years ending June 30, 2008, and June 30, 2009, shall not exceed fourteen percent (14%).
 - B. If the costs of benefit commitments for service previously rendered are overfunded, the plan may deduct a level payment that, if deducted annually over a reasonable period of future years, will fully liquidate the overfunded portion of the costs.

3. The Arkansas Teacher Retirement System shall annually notify the local school districts, the Department of Education, and other participating employers of the employer contribution rate established by the Board for the upcoming fiscal year.
4. Pursuant to A.C.A. § 24-7-103, participating employers shall pay the Teacher Retirement employer contributions for eligible employees in accordance with these rules and regulations.
5. The Department of Education shall pay from the Public School Fund the Teacher Retirement employer contributions for eligible employees of participating employers as required by the department's biennial appropriations act and in accordance with rules established by the Board. Beginning with the 1996-97 school year, special language in the Department of Education's biennial appropriations for grants and aids to local school districts requires that the appropriation for Teacher Retirement matching each fiscal year be used for employees of the Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals, and the school operated by the Department of Correction.¹

RULES FOR REPORTING EMPLOYER CONTRIBUTIONS

1. The annual employer contributions to be paid each fiscal year by participating employers shall be the current ATRS employer contribution rate multiplied by the active employees' total salaries
2. The employer contributions are to be remitted to ATRS in the manner, form, and frequency and shall be accompanied by supporting documentation as determined by the System. Timely payment of contributions shall be a condition of continued participation in the System.
3. In order to ensure that members of the Teacher Retirement System receive credited service in a timely manner, employers shall report employee and employer contributions to the System on the following schedule:

¹ Active employers as of 2006-2007 are: 1307 SW AR Educ. Coop., 1308 SE AR Educ. Coop., 1330 Western AR Educ. Coop., 1332 North Central Educ. Coop., 1336 Ozark Unlimited Resource Coop., 1337 NE AR Educ. Coop., 1338 Howard Dawson Educ. Coop., 1339 Arch Ford Coop., 1345 Wilbur D. Mills Educ. Serv. Coop., 1349 AR River Educ. Services Coop., 1350 Great Rivers Educ. Coop., 1351 NW AR Educ. Services Coop., 1353 DeQueen-Mena Educ. Coop., 1354 Crowley's Ridge Coop., 1355 South Central Services Coop., 1359 Conway Vocational Center, 1362 Jonesboro Vocational Center, 1363 Monticello Vocational Center, 1365 North Central Career Center, 1366 River Valley Vocational Center, 1370 Russellville Vocational Center, 1371 Metropolitan Vocational Center, 1372 Texarkana Vocational Center, 1373 Warren Vocational Center, 06864 Easter Seals, 1-328 AR Department of Corrections. Inactive employers as of 2006-2007 are: 1358 Camden Vocational Center, 1360 Fayetteville Vocational Center, 1367 AR Educ. Service Center.

Monthly ~~Remittance~~ Contributions Reports (~~D-1 Active Members; T-1 T-DROP~~ ~~Members~~)

Date Due: ~~Tenth~~ Fifteenth (10⁵th) calendar day following the end of each month. To avoid late report penalties and interest penalties on late contributions (see Nos. 6 and 7 on page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working ~~date~~ day.

Quarterly Retirement Reports (~~D2A Active Members; T-DROP Members~~)

Date Due: ~~Tenth~~ Fifteenth (10⁵th) calendar day following the end of each quarter. To avoid the late report penalties (see Nos. 6 and 7 on page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working ~~date~~ day.

4. Each of the reports listed above must be on forms or electronic media either furnished by the Teacher Retirement System or approved by the System.
5. For Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals, and the school operated by the Department of Correction (paid by the Department of Education from the Public School Fund), the Teacher Retirement System shall certify to the Department of Education at the close of each quarterly report the amount of employer contributions due. The amount will be based on the employers' reported salaries.
6. The monthly remittance of employer contributions shall be due in the ATRS office by the tenth (10th) calendar day following the end of each month. Under A.C.A. § 24-7-411, a \$150.00 late report penalty and a 6% interest penalty on late contributions will be assessed on reports and contributions not received by the 15th day of the month or postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working date.
7. The System may certify to the state's Chief Fiscal Officer the names of participating employers who are delinquent in reporting and remitting contributions under this policy. Upon notification, the Chief Fiscal Officer may direct a transfer of funds on deposit in the State Treasurer's Office for any delinquent employer payments plus the six percent (6%) interest penalty to the System. (A.C.A. § 19-5-106)
8. Supplemental salary payment reports for previous years will be accompanied by the employer contributions due (based upon the rate in effect the year payment was due).

9. The Arkansas Teacher Retirement System shall return to participating employers overpaid matching amounts due to erroneous submission of payments or incorrect reporting of Salary Option 2 (first \$7,800.00) member salaries. If an overpayment of employer matching amount is less than \$25.00, the refund will not be issued to the employer unless requested in writing by the employer.
10. The Arkansas Teacher Retirement System shall not collect from participating employers an underpayment of employer contribution amount if less than \$25.00.
11. For members retiring who are employed by agencies or other institutions that use the state's 26-week payroll schedule, employers should adhere to the state's fiscal year payroll schedule for reporting the last salary payment of the state's fiscal year and for the termination date of employment.

RULES FOR REPORTING T-DROP EMPLOYER CONTRIBUTIONS

1. The annual T-DROP employer contributions to be paid each fiscal year beginning September 1, 2003, by participating employers shall be the contribution rate as defined below multiplied by the total T-DROP member salaries. (A.C.A. § 24-7-1303)
 - A. For members whose effective date in T-DROP is before September 1, 2003, the employer contribution rate to the Arkansas Teacher Retirement System on behalf of all members in T-DROP shall be at the rate of:
 - One percent (1%) for the period from September 1, 2003, through June 30, 2005
 - Three percent (3%) for the period from July 1, 2005, through June 30, 2007
 - Six percent (6%) for the period from July 1, 2007, through June 30, 2009
 - Nine percent (9%) for the period from July 1, 2009, through June 30, 2011
 - Twelve Percent (12%) for the period from July 1, 2011, through June 30, 2013
 - After July 1, 2013, the percentage rate established by the entity having the authority to set the employer contribution rate for the System pursuant to A.C.A § 24-7-401.
 - B. For members whose effective date in T-DROP is on or after September 1, 2003, the employer contribution rate on behalf of members in T-DROP shall be the rate established by the entity having the authority to set the employer contribution rate for the System pursuant to A.C.A § 24-7-401.

2. Until and on August 31, 2003, employer contributions on behalf of the members participating in the T-DROP may be retained by the school district.
3. Except for employer contributions to the Arkansas Teacher Retirement System beginning September 1, 2003, the school district shall not make contributions to any tax-qualified retirement plan on behalf of any employee participating in the T-DROP.

Amended: June 17, 2003
April 6, 2004
Reaffirmed: June 15, 2004
Amended: July 18, 2005
April 26, 2007

REFUNDS OF MEMBER CONTRIBUTIONS

A.C.A. § 24-7-711

DEFINITIONS

1. **Accumulated Contributions** - The total of all amounts contributed by a member and standing to his/her credit in the individual account in the member's deposit account, together with regular interest credited thereon.
2. **Regular Interest** means such rate or rates per annum, compounded annually, as the Board shall from time to time adopt that ATRS uses to compute interest on a member's contributions.

RULES

1. Should an overpayment of contributions of less than \$5.00 be reported from the local level, no refund of this amount will be made to the member, except upon the written request from the member. The total amount reported by the employing authority shall be credited to contributions.
2. On refunded contributions, the rate for all interest credited before June 30, 1984, is 3%, compounded annually, after the first year of contributions. The rate of interest credited on and after June 30, 1984, is 6%, compounded annually, after the first year of contributions. Interest shall be computed on each member's individual account as of June 30 each year by multiplying the balance in the member's individual account as of July 1 (including all contributions and interest credit from previous years) plus one-half (1/2) his contributions for the year ending on June 30 by 3% percent.
3. Interest is not paid on contributions made in the year in which a refund is paid.
4. On and after June 30, 1984, the Board of Trustees shall ~~annually~~ set the rate of interest ~~during the first regular meeting of the Board~~, based on the reports of the actuary and the investment counsel at periodic intervals as determined by the Board.
5. Any members receiving a refund who have previously received a refund and repaid the contributions shall be refunded the 6% purchased interest paid on such refund. This same policy shall be applicable to interest paid on purchase of in-state service, out-of-state service, and military service.

6. Effective May 19, 1992, refunds of contributions will be made within six (6) months from the date of receipt of the written application in the Teacher Retirement System office.
7. Certification of the amount of contributions to be refunded may be made to a lending agency (bank, etc.) upon the written request of a member. Refunds must be made to the member as payee, but may be sent to the lending agency if authorized by the member. Employers are responsible for the accuracy of information on salaries and contributions that they certify to the System on refund applications. If information certified by an employer causes the System to overpay a refund, and if the System is unable to secure reimbursement of the overpayment from the member receiving the refund, the employer shall reimburse the System the amount of such overpayment.
8. A refund of contributions forfeits credited military service. Repayment of the refund plus interest reestablishes the forfeited military service. If military service was not credited to a member prior to refund of the contributions, repayment of the refund is not necessary to establish military service credit, provided the member meets the requirements listed above.
9. Beginning January 1, 1993, should a member, or spouse if the member is deceased, become eligible to receive a refund of contributions and elect to make a direct rollover of a distribution to an eligible retirement plan of all or part of the eligible rollover distribution, the amount shall be paid to the trustee of the eligible retirement plan.

Amended: July 18, 2005

PURCHASE OF DOMESTIC FEDERAL SERVICE

(A.C.A. § 24-7-611, § 27-7-202)

DEFINITIONS

1. **Board** means the Board of Trustees of the Arkansas Teacher Retirement System (ATRS).
2. **Domestic federal service** means service rendered as a teacher or administrator in any school or similar institution located on a military base or installation that is administered by the Department of Defense.
3. **System** means the Arkansas Teacher Retirement System.

RULES

1. An active member shall be eligible to purchase domestic federal service under the following conditions¹:
 - A. Domestic federal service credit eligible for purchase shall be limited to service for which no benefit except social security could be payable by another system similar in purpose to this System, and on which the member left on deposit his or her contributions to that system.
 - B. Domestic federal service purchased shall be limited to ten (10) years.
2. The cost to purchase domestic federal service is the employee and employer contribution rates in effect at the time of purchase times the greater of:
 - A. The first full year of annual salary the member received for actual service to a covered employer earned immediately preceding the purchase; or
 - B. The average of the member's three highest annual salaries to a covered employer. If the member does not have at least three salaries that comprise three years of service, the cost statement shall be based solely upon the first full year's covered annual salary for Arkansas service immediately preceding the purchase. If the member has not earned one full year of Arkansas service, no cost statement will be provided

¹ The Board shall not implement the purchase of domestic federal service until the System has reduced its unfunded accrued liabilities being amortized over a period exceeding thirty (30) years to a level less than the standards prescribed for those public retirement systems under § 24-1-104 and § 24-1-105.

3. Interest will be added to the cost statement as follows:
 - A. If the cost is based solely on the member's first full year annual salary immediately preceding the purchase, interest will accrue from the end of the preceding year used in the computation until paid in full.
 - B. If the cost is based upon the average of the member's three (3) highest salaries, interest will accrue from the end of the latest year used in the computation until paid in full.
 - C. Interest will accrue annually on any unpaid balance based upon the initial payment date until paid in full.
4. The domestic federal service will become credited service in the System when:
 - A. The member payments have been paid in full; and
 - B. The member has established five (5) or more years of actual service exclusive of domestic federal service.
5. Should a member cease to be an active member before the federal domestic service has been established as System credited service, the member payments contributed shall be refundable, together with regular interest; however, due to IRS regulations, purchase account payments made through employer pick-up are subject to the restrictions as stated in Rule No. 8-6 (Rollover Eligibility).
6. To be eligible to establish one (1) year of domestic federal service, a minimum of one hundred twenty (120) days must have been worked. Fractional years of domestic federal service may be purchased in accordance with A.C.A. § 24-7-601 and § 24-1-611(c). A month of domestic federal service shall be considered as twenty (20) days.
7. Certification of domestic federal service must be submitted to ATRS on a form provided by the System.
8. All domestic federal service shall be counted as contributory service.
9. Purchased domestic federal service shall be credited to the fiscal year in which it was rendered.
10. Repayments of refunds or the purchase of service may be made by employer pick-up (tax-deferred deductions). See Rule No. 8-5 (Purchase Payments).

11. ATRS will accept participant rollover contributions and/or direct rollovers of distributions for the purchase of service credit under certain circumstances. See Rule No. 8-4 (Direct Rollover Eligibility).

Adopted:

PURCHASE OF FEDERAL RETIREMENT SERVICE

A.C.A. § 24-1-107, § 24-7-702
A.C.A § 24-1-107, A.C.A. § 24-7-601

DEFINITIONS

1. **Board** means the Board of Trustees of the Arkansas Teacher Retirement System (ATRS).
2. **Federal Retirement Service** means service credited with a federal retirement system as a result of employment with federal government agencies.
3. **System** means the Arkansas Teacher Retirement System.

RULES

1. Beginning August 12, 2005, an active member shall be eligible to purchase federal retirement service under the following conditions¹(Act 2091 of 2005):
 - A. Federal retirement service eligible for purchase is limited to service for which no benefit is payable from the federal retirement system in which he or she had previously been a member.
 - B. Federal retirement service purchased shall be limited to ten (10) years.
2. The cost to purchase federal retirement service is the employee and employer contribution rates in effect at the time of purchase times the greater of:
 - A. The first full year of annual salary the member received for actual service to a covered employer earned immediately preceding the purchase; or
 - B. The average of the member's three highest annual salaries to a covered employer. If the member does not have at least three salaries that comprise three years of service, the cost statement shall be based solely upon the first full year's covered annual salary for Arkansas service immediately preceding the purchase. If the member has not earned one full year of Arkansas service, no cost statement will be provided.

¹ The Board shall not implement the purchase of federal retirement service until the System has reduced its unfunded accrued liabilities being amortized over a period exceeding thirty (30) years to a level less than the standards prescribed for those public retirement systems under A.C.A. § 24-1-104 and § 24-1-105.

- C. Interest will be added to the cost statement of federal credited service from the date the federal service began to the date of payment. Interest will accrue annually on any unpaid balance based upon the initial payment date.
3. The federal retirement service will become credited service in the System when:
- A. The member payments have been paid in full; and
- B. The member has established five (5) or more years of actual service exclusive of federal retirement service.
4. Should a member cease to be an active member before the federal retirement service has been established as System credited service, the member payments contributed shall be refundable, together with regular interest; however, due to IRS regulations, purchase account payments made through employer pick-up are subject to the restrictions as stated in Rule No. 8-6 (Rollover Eligibility).
5. To be eligible to establish one (1) year of federal retirement service, a minimum of one hundred twenty (120) days must have been worked. Fractional years of domestic federal service may be purchased in accordance with A.C.A. §§24-7-601 and 24-1-107). A month of domestic federal service shall be considered as twenty (20) days.
6. Certification of federal retirement service must be submitted to ATRS on a form provided by the System.
7. All federal retirement service shall be counted as contributory service.
8. Purchased federal credited service shall be credited to the fiscal year in which it was rendered.
9. Repayments of refunds or the purchase of service may be made by employer pick-up (tax-deferred deductions). See Rule No. 8-5 (Purchase Payments).
10. ATRS will accept participant rollover contributions and/or direct rollovers of distributions for the purchase of service credit under certain circumstances. See Rule No. 8-4 (Direct Rollover Eligibility).

Adopted:

RETIRANT'S RETURN TO COVERED EMPLOYMENT

A.C.A. § 24-7-708 and § 24-7-202

(Amended by Act 1293 of 1995, Act 384 of 1997, Act 30 of 1999, Act 1146 of 2001, and Act 911 of 2005 and Acts 612 and 698 of 2007)

DEFINITIONS

1. **Covered salary** means remuneration paid from a covered employer to an ATRS retirant on which waiver contributions are paid.
2. **Earnings limitation** means the limitation applicable to a member's retirement annuity when a retiree receives remuneration from a covered employer.
3. **Normal retirement age** means sixty-five (65) years of age.
4. **Retirant** means a member receiving an ATRS retirement annuity.
5. **Retires** means that a member ceases to be active and is eligible to receive an ATRS annuity.

AGE AND SERVICE RETIRANT

1. If a retirant returns to work service for a covered employer¹ without rescinding retirement under A.C.A. § 24-7-717, then for each twelve-month period ending June 30, the amount of the member's covered salary shall be subject to a limitation equivalent to twice the limitation imposed by the Social Security retirement test.²
2. A retirant entering into a position of employment with the Department of Education is exempt from No. 1 of this section and shall be employed with no limitations placed on his or her earnings (Act 698 of 2007).
3. For any retired member hired by the Department of Education pursuant to No. 2 of this section, the employee and employer contribution rate shall

¹ Prior to July 1, 1991, the earnings limitation applied to retirants who were

- Employees with ATRS, ASHERS, or ASERS from July 1, 1971, through June 30, 1977;
- Employees with a public employer, whose employers are covered by a state-supported retirement plan or the University of Arkansas from July 1, 1977, through June 30, 1978;
- Employees of a public employer whose employees are covered by a retirement plan supported wholly or in part by state contributions from July 1, 1978, through June 30, 1991.

² The Social Security earnings limitation ceases upon reaching Social Security "full retirement age" as defined P.L. 106-182.

commence at the rate in effect at the time of the employment and shall be remitted by the employer in the manner prescribed by the System. Any contribution amounts paid by the employer under this section shall not be refundable and shall not constitute the addition of service credit.

42. Effective July 1, 1992, a retirant who is under normal retirement age may receive earnings from a covered employer up to twice the Social Security earnings limitation amount without affecting his/her ATRS annuity benefits. If his/her ATRS covered earnings exceed that amount, ATRS will reduce the member's retirement annuity \$1 for each \$2 earned in covered salary above the earnings limitation amount.
- A. A retirant reaching the System's normal retirement age may return to service without being subject to the earnings limitation.³ Normal retirement age for the System means sixty-five (65) years of age or older.
 - B. For each year ending June 30, the Social Security retirement test to be considered shall be the test in effect for the calendar year beginning the January 1 immediately preceding June 30. The retirant's earnings shall be his or her remuneration for the employment for the year ending June 30.
 - C.
 - i. For those retirants exceeding the earnings limitation, the System will suspend annuity payments to collect the reduction when the earnings limitation is exceeded. If at the end of the fiscal year, the System has not received from the suspension the amount due from the retirant exceeding the earnings limitation, the System may carry over suspension of benefits into the next fiscal year.
 - ii. Upon written request by the retirant upon reemployment, the System may initiate an equal monthly reduction of the retirant's retirement annuity in the fiscal year in which the earnings limitation will be exceeded to collect the earnings limitation reduction.
 - iii. The amount recovered by ATRS will not exceed the amount of benefits paid during the year(s) in which the earnings limitation is/was exceeded.
 - iv. In extraordinary hardship circumstances, the retirant may request an alternate method of repayment other than total suspension of benefits for a violation of the earnings limitation.
 - v. For questions not covered by this rule, see Rule No. 9-7 (Error Corrections and Collection of Overpayments).

³ In establishing an equivalent limitation for the System, ATRS considers full retirement age to be the "normal retirement age" for the System under A.C.A. § 24-7-202(19).

52. A. Upon acceptance of employment with a covered employer, the retirant and employer must report to ATRS that the retirant has returned to covered employment. A Statement of Employment form must be completed immediately by employers and retirants upon acceptance of employment for each retirant hired in a position covered by ATRS.
- B. Employers will report monthly all retirants who have returned to employment in an ATRS covered position. The monthly report will be filed on a Return to Service form, which will be furnished by ATRS.
- C. In the event that both a retirant and employer fail to notify the System of a retiree's return to covered employment, any retirement benefits paid in violation of this policy during the time of employment are subject to collection by the System under the overpayment policy. ATRS reserves the right to immediately suspend the retirement annuity until all benefits overpaid to the retirant are repaid to the System.
63. A. Effective July 1, 1977, a retirant may receive remuneration as an employee from any private employer or as a member of the General Assembly without any effect on his/her annuity.⁴
- B. Effective July 1, 1991, an age and service retiree may be employed by a public employer whose employees are not covered by ATRS without any effect on his/her annuity.
74. When a retirant returns to covered employment and does not rescind his/her retirement, the retirant shall not accrue additional service credit in the System, and no contributions shall be remitted on behalf of the retirant.⁵
85. For the return to work rules applicable to disability retirees receiving benefits under A.C.A. § 24-7-704, see Policy No. 9-3 (Disability Retirement).

WAIVER OF EARNINGS LIMITATION (Act 30 of 1999, Act 1146 of 2001, ~~and~~ Act 911 of 2005, and Act 612 of 2007)

1. A. In accordance with rules and regulations adopted by the State Board of Education, the Arkansas Department of Education (ADE) may request of the ATRS Executive Director a waiver of the conditions subjecting annuities to the ATRS earnings limitation.

⁴ From July 1, 1971, through June 30, 1977, this "exemption" covered employees receiving remuneration "from any other public employer or private employer."

⁵ Act 1293 of 1995 provided that if a retirant is employed in a covered position by a public college, university, or vocational-technical school, his/her annuity shall not be subject to the limitations provided in No. 1 above. This exemption was repealed by Act 384 of 1997, effective July 1, 2007.

- B. All requests for waiver must originate with ADE and be submitted to the ATRS Executive Director for approval within sixty (60) days of employment. If approved, the waiver shall be effective for one (1) year from the date of hire or until the end of the current fiscal year, whichever comes first, with the option to renew annually for up to a total of ~~three (3)~~ six (6) years as requested by ADE (Act 612 of 2007). Waiver renewals are not automatic and any extensions must be approved by the ATRS Executive Director.
 - C.. Waiver requests (1) initiated by the employer prior to the member's effective date of retirement or (2) filed within thirty (30) days following the member's effective date of retirement will not be eligible for consideration by ATRS.
 - ~~D. Effective for the fiscal year beginning July 1, 2006, retirants who have completed the 10-year maximum duration period allowed under T-DROP will not be eligible for a waiver.~~
2. Effective July 1, 2005, under Act 911 of 2005, the ATRS Executive Director is authorized to take appropriate action on waivers of the ATRS earnings limitations requested by the Department of Education:
- A. If the retiree is hired by a public school district due to a shortage of certified teachers in a critical academic area in which the retiree is certified; OR
 - B. If the retiree is hired as a superintendent due to a reconstitution or reorganization of a public school district as allowed in A.C.A. §§ 6-15-201 et seq., §§ 6-15-401 et seq., or §§ 6-20-1901 et seq., following an appropriate determination by the State Department of Education that:
 - i. The public school district has failed to meet standards of accreditation pursuant to A.C.A. §§ 6-15-201 et seq.; OR
 - ii. The public school district is in academic distress status for failing to meet the minimum level of academic achievement on the ACTAAP examinations pursuant to A.C.A. §§ 6-15-401 et seq.; OR
 - iii. The public school district is in fiscal distress status pursuant to A.C.A. §§ 6-20-1901 et seq.; AND
 - iv. An appropriately qualified applicant, as determined by the State Department of Education, who is not an ATRS-covered retirant is not available to be employed.

3. Critical academic areas in which there is a shortage of certified teachers shall be determined annually by the State Department of Education.
4. Employers shall maintain audit files identifying personnel granted a waiver and documenting the reasons for the waiver and will be responsible for reporting to ATRS all retirees who have returned to employment under these provisions.
5. Beginning July 1, 2005, a covered employer who employs a retired member who is approved for a waiver under this policy shall remit to the System an amount equal to the combined employee and employer contribution rate in effect for the fiscal year worked. This waiver fee shall be paid on all covered salary earned in the fiscal year and shall not be charged to or collected from the retirant. These amounts shall be recorded by the System in the ADE Waiver Income Account. (Act 911 of 2005).

Amended: June 15, 2004
July 18, 2005
October 4, 2005
December 6, 2005
June 19, 2007