RULE 7-1
CALCULATION OF FINAL AVERAGE SALARY

A.C.A. § 24-7-202, A.C.A. § 24-7-602, A.C.A. § 24-7-705, and
A.C.A.§ 24-7-736
(SEE ALSO POLICY NOS. 7-3 AND 7-4.)

I. DEFINITIONS

A. **Participating Employer** means an employer who participates in the Arkansas Teacher Retirement System whose employees are eligible for membership under A.C.A. § 24-7-501 or other applicable law.

B. **Partial Year Service Year** means service in a fiscal year that constitutes less than a full year of service due to less than the required service days at an ATRS employer due to a reduction in service credit caused by an adjustment in ATRS service credit because reciprocal service credit occurs in the same fiscal year, due to a member retiring prior to the end of a fiscal year, or due to any other law or policy that provides a member less than a full year of service in a fiscal year.

II. REGULATIONS

A. For purposes of calculating a member's final average salary, ATRS will include salary received from all participating employers during a fiscal year.

B. For purposes of determining if a salary year constitutes a full service year, the following shall be excluded from the limits under A.C.A § 24-7-736:

~~i~~1. Any salary year which constitutes member service during two (2) or fewer quarters in a fiscal year; or

~~ii~~2. Any salary year that constitutes less than one (1) year of service credit under the schedule set forth in ATRS Policy No. 7-2.

C. Regardless of any provision in statute or regulation to the contrary, salary or other compensation paid which exceeds 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 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.

D. Certain renumeration paid by an ATRS employer to ATRS members shall not be treated as salary in the calculation of ATRS benefits although it would otherwise meet the definition of salary prior to the adoption of this Rule by the ATRS Board.

1. Any renumeration or salary paid as an incentive payment, bonus, separation payment, additional salary or a special payment made in return for or in consideration of an ATRS member's agreement to separate from the ATRS employer, retire, or not renew the member's contract with the ATRS employer shall not be treated as salary by ATRS.

   a. This salary limitation applies if:

      i. The offering by the ATRS employer applies to two (2) or more ATRS members;
      ii. The offering is proposed as an early retirement incentive plan, staff reduction plan, buyout plan that is offered to ATRS members to either directly retire or separate employment from the ATRS employer;
      iii. The offering is made in return for the voluntary decision of the ATRS member to participate in the program in return for the additional renumeration or salary.

   b. This salary limitation does not apply if:

      i. It is an offering to one (1) ATRS member by the ATRS employer;
      ii. It is part of a standing offer to all ATRS members at the time of retirement for the payment of annual time, sick time, or related retirement payment;
      iii. It is a payment or bonus made to all members or specific categories of members that is not dependent or conditioned upon the member's separation from or retirement from the employer;
      iv. It is a payment made in the settlement of litigation or paid to avoid threat of litigation.

2. ATRS employers shall not withhold member contributions or pay employer contributions from the renumeration paid that is subject to the salary limitation established by this Rule.

3. Any ATRS employer offering of an early retirement plan, separation plan, or contract non- renewal plan, that would result in renumeration being paid by the employer that would be limited from treatment of salary by this Rule shall notify ATRS of the plan prior to payment of any renumeration that is subject to this salary limitation.

4. Upon request of an ATRS employer, the ATRS staff shall review any potential plan or payment that could be subject to this salary limitation in order to provide guidance as to whether the salary limitation would apply to the renumeration paid by the proposed plan or payment.

5. Any decision by ATRS staff on a particular plan or payment may be appealed to the ATRS Board using the ATRS appeal procedure as set forth in Rule 13.

~~D~~E. If a conflict exists between the statute or policy governing the treatment of a member's salary between the participating employer's laws or policies relating to compensation and the calculating of a member's final average salary for benefits, the System's laws and regulations shall control.

IV. RULES (Amended by Act 146 of 2005, and Act 1325 of 2009).

A. Effective April 1, 1998, when calculating a member's final average salary, the System shall calculate final average salary using the three (3) years in which the member received the highest salary from a participating employer subject to the foregoing limitations.

B. The final average salary used for members with reciprocal service shall be the highest salary years credited by either the ATRS participating employer or the reciprocal system under A.C.A. § 24-7-402.

C. For members who are retiring and who are employed in agencies or other institutions that use the state 26-week payroll, employers should report to ATRS 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.

D. For members who are retiring and who are employed by employers using a fiscal year ending June 30, employers should report to ATRS the salary contributions, and actual days worked through the current fiscal years ending June 30. Contributions should not be withheld on any salary earned after the end of the current fiscal year, nor should any salary or days of service be reported for that period.

E. For retiring members, employee contributions remitted on salary paid after the end of the current fiscal year or current year payroll period, whichever applied, will be refunded as promptly as possible.

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