

# MARK-UP

## **RULE 9-8 ERROR CORRECTIONS AND COLLECTION OF OVERPAYMENTS**

A.C.A. § 24-7-205

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### **I. RULES**

- A. If a change or error in ATRS' records discovered during the ATRS look back period results in either an overpayment or underpayment to ATRS, the Board authorizes ATRS to correct the error in the records and to adjust any benefit or adjust any other amount payable to the corrected amount and take all necessary action as the circumstances may require including the options allowed under A.C.A. § 24-7-205(b).
- B. If a benefit participant under a qualified domestic relations order pursuant to A.C.A. §§ 9-18-101—103, is paid any benefit or payment by ATRS to which the benefit participant is not entitled, and it is discovered during the ATRS look back period, then a receivable is created and the Board or its designee(s), may collect the amount due to ATRS as set forth in A.C.A. § 24-7-205.
- C. Before making an adjustment of benefits or pursuing any other collection action under Nos. 1 and 2 above, a notice shall be provided to the person who is the subject of the adjustment. The notice will state the amount determined to be a receivable and the reasons underlying the determination. The notice shall also suggest alternate methods for payment of the receivable.
- D. Appeals to dispute collections shall be made according to the procedures and requirements of ATRS Rule 13. During the appeal process, retirement benefits may continue to be paid.
- E. ~~A determination, review, administrative action, cause of action, request to enforce, change or modify an obligation, duty, benefit calculation, designation, refund, contribution, service credit or other right arising under this section shall not be valid unless commenced within the look back period unless ATRS determines that the justification to commence the process is due to intentional nondisclosure, fraud, misrepresentation, or criminal act.~~
- E. Actions that affect rights on benefits cannot be corrected or adjusted further than a 5 year "look back" period unless a manifest

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injustice has occurred or an exception exists under A.C.A. § 24-7-205.

- F. The board or its designee may also make adjustments to the employer, member, and ATRS records beyond the look-back period if the board determines that the time limitation imposed by the look-back period will result in a manifest injustice in a specific case.
- G. The Board authorizes the Executive Director to waive interest on required contributions ~~under Nos. 1 and 2 above~~ in an amount not to exceed \$5,000. Any request to excuse an interest amount exceeding \$5,000 shall be submitted to the ATRS Board for review. The Executive Director shall report to the Board any amounts excused under this section.
- H. If required, a receivable under this section that is found by the Board or its designee to be uncollectible or for which adjustment or payment has been waived will be submitted to the Chief Fiscal Officer of the state for abatement pursuant to A.C.A. §§ 19-2-301 – 307.
- I. A determination by ATRS of a manifest injustice in a particular instance due to a technical error or error in judgment is always discretionary and governed by the provisions of Act 303 of 2013, codified as § 24-7-202(40).

**Adopted:** July 18, 2005  
**Amended:** December 18, 2009  
July 1, 2011 (Emergency)  
**Adopted:** August 8, 2011  
**Effective:** November 11, 2011  
**Approved by Board:** July 26, 2013  
**Amended:** October 9, 2013  
**Effective:** November 8, 2013

# **Summary of Proposed Rule Change**

for  
Arkansas Teacher Retirement System

## **Rule 9-8 Error Corrections and Collection of Overpayments**

### **Substantive changes**

This rule change is necessary after the passage of Act 241 of 2017 which allows an additional exception in the five (5) year look-back period for understated service credit of a member upon which all required contributions were paid at the time and when the understatement was due to an obvious or documented error by an employer or by ATRS.

### **Non-substantive changes**

Minor modifications to improve clarity and consistency to language.