

Summary of Proposed Rule Change

Arkansas Teacher Retirement System Rule 7 Reporting and Eligibility

SUBSTANTIVE CHANGES:

- Although this is technically a "new" rule because the rule has been renumbered and renamed, the language of the new rule is almost entirely imported from existing language in ATRS Rules 7-1, 7-2, 7-3 and 7-4.*
- ATRS reformed and reorganized the existing four (4) rules into one rule for consistency and professionalism.
- The existing rules 7-1, 7-2, 7-3 and 7-4 are, therefore, proposed to be stricken and repealed, and replaced with new ATRS Rule 7 - Reporting and Eligibility.
- Page 7-3, paragraph 7, to reflect ATRS Board of Trustee resolution regarding benchmarks for computation of final average salary.
- Page 7-7, Section F, to reflect an interest penalty increase from six percent (6%) in existing Rule 7-4, to eight percent (8%), as adopted by ATRS Board of Trustee resolution.

NON-SUBSTANTIVE CHANGES:

- To correct formatting issues, renumbering, grammar, and spelling, where appropriate.

* Language in the new rule that remains the same as the existing rules is highlighted in blue. Any language that is different or has been relocated from its original order in the existing rules, is *italicized* and appears in black font color, for easier identification.

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

Amended: August 11, 1998
 July 18, 2005
 June 16, 2009 (Emergency)

	October 5, 2009	(Permanent)
	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	
Approved by Board:	January 8, 2014	
Amended:	February 17, 2014	
Effective:	March 18, 2014	

~~PROOF OF SERVICE CREDIT~~

~~A.C.A. §§ 24-7-601—611, A.C.A. § 24-7-406,
and A.C.A. § 24-7-705~~

~~REGULATIONS~~

~~The Board shall determine the number of years and fractions thereof for paid service credited to members of the System. No fewer than one hundred sixty (160) days of employee service in a fiscal year (ending June 30) shall be credited as a full year of service.~~

~~Members employed less than one fourth (1/4) of a fiscal year are not eligible for credit or benefits in ATRS that fiscal year provided however, a contributory member's service days beginning in the 2011-2012 fiscal year, are carried forward from previous fiscal years until at least one quarter year of service is obtained by the member. If a contributory member obtains at least a quarter year of service in a fiscal year, whether using regular service days or accumulated service days, or both, the member begins the next fiscal year with no days of service carried forward.~~

~~RULES~~**~~1. FOR MEMBERS WITH SERVICE AFTER JULY 1, 1971~~**

~~A. Actual service credited to a member's account shall be determined in accordance with the following table:~~

Number of Days Worked in a Fiscal Year	Service Credit Earned
1—39	None
40-79	0.25 year
80-119	0.50 year
120-159	0.75 year
160 days or over	1.00 year

~~B. All contracts between an ATRS employer and member that specify the number of days worked by the member shall be used by ATRS to establish the number of days of service worked. If a member is employed in a position that a regular and typical work day includes eight (8) hours or more of work time (full day position), then four (4) hours of work in a day shall be required for a "day" of service. For "full day" members who do not work four (4) hours or more a day, the total number of hours worked in a fiscal quarter divided by four (4) will~~

~~determine the number of days to be credited. ATRS employers have specialized support positions that include work as bus drivers, custodial workers, cafeteria workers, and similar positions that a typical day of service by the member will be less than eight (8) hours of work a day. Effective for the 2011-2012 fiscal year, a member employed, without a contract specifying the number of days of service to be worked, in a specialized support position shall receive a full day of service credit, even if the member works less than four (4) hours in a service day, if the ATRS employer reasonably determines that the member performed the regular and usual service expected of a member in that position during the service day.~~

- ~~G. For purposes of days counted toward service credit, absences shall be counted as service if for paid leave including paid sick leave. However, for administrative leave, the member must be on call by the employer for the service to be counted.~~
- ~~D. The System shall not give service credit to a member until all required contributions and interest, if any, are remitted to the System.~~
- ~~E. The participating employers shall certify proof of service on such forms with any documentation required by the System.~~
- ~~F. If a member is retiring with an effective date other than October 1, January 1, April 1, or July 1, service credited for the year in which a member retires shall not exceed ¼ year for each full calendar quarter worked during the fiscal year.~~
- ~~G. In any case of question as to service credit of a member, the Board of Trustees has the final authority to decide the amount of service creditable to a member.~~

Amended:	July 18, 2005	
	June 16, 2009	(Emergency)
	October 5, 2009	(Permanent)
	July 1, 2011	(Emergency)
Adopted:	August 8, 2011	
Effective:	November 11, 2011	
Board Approved:	February 6, 2012	
Amended:	April 2, 2012	(Emergency)
Effective:	May 29, 2012	

EMPLOYEE (MEMBER) CONTRIBUTIONS

A.C.A. §§ 24-7-406, 411

~~RULES (amended by Acts 465 and 468 of 2009)~~

- ~~1. After June 30, 1997, each employer will remit the member contributions by employer "pick up" from the salary earned by contributory members, and those contributions will then be treated as employer contributions in determining tax treatment under the provision of the federal Internal Revenue Code and the Arkansas Income Tax Act. 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.~~
- ~~2. Member contributions shall be set by the Board by Resolution.~~
- ~~3. Overpayments or underpayments of member contributions shall be handled pursuant to the following:~~
 - ~~A. If an underpayment of member contributions of less than \$25.00 occurs, the System shall not collect the difference of this underpayment and no adjustment to member service credit will be made.~~
 - ~~B. If an overpayment of member contributions of less than \$25 occurs, a refund will not be issued unless requested by the member.~~
 - ~~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 the beginning of that fiscal year. Service credit will not be credited until the total amounts due are paid in full.~~
 - ~~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.~~
- ~~4. If the System is owed member contributions and interest by a member, the interest owed by the member may be waived by the Board or its designee under ATRS Rule No. 9-8 (Error Corrections and Collection of Overpayments).~~

Amended: August 11, 1998
 July 18, 2005

MARK-UP

~~Agency No. 088.00~~

~~February 11, 2008~~

~~December 18, 2009~~

~~Approved by Board:~~

~~July 26, 2013~~

~~Amended:~~

~~October 9, 2013~~

~~Effective:~~

~~November 8, 2013~~

~~REPORTING EMPLOYEE AND EMPLOYER CONTRIBUTIONS~~

~~A.C.A. §§ 24-7-401, 411, 708, 1303 and A.C.A. § 24-2-701~~

~~RULES FOR THE EMPLOYER CONTRIBUTION RATE~~

~~(A.C.A. § 24-7-401 as amended by Act 468 of 2009 and A.C.A. § 24-2-701)~~

- ~~1. The employer contribution 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 and A.C.A. § 24-7-401.~~
- ~~2. The Arkansas Teacher Retirement System shall annually notify participating employers of the employer contribution rate established by the Board for the upcoming fiscal year.~~
- ~~3. 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.~~

~~RULES FOR EMPLOYEE AND EMPLOYER REMITTANCES AND REPORTS~~

~~(A.C.A. §§ 24-7-401, 411)~~

- ~~1. Remittances of employee and employer contributions are due monthly.~~
- ~~2. Employer reports required by the System are due on a monthly and quarterly basis.~~
- ~~3. The employer reports required by the System must be on forms or electronic media either furnished by the Teacher Retirement System or approved by the System, and shall be accompanied by supporting documentation as determined by the System.~~
- ~~4. An employer report or remittance by an employer shall not be delinquent if received by the System on the 15th day of the month in which it is due or postmarked by the 14th day of the month. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next business day.~~
- ~~5. A \$150.00 late report penalty will be assessed on any required employer report not received by its due date.~~
- ~~6. If an employer fails to remit employee or employer contributions by the date due under No. 4 above, an interest penalty of 6% shall be assessed with daily interest accrual until paid.~~

- ~~7. The Board or its designee may, but is not required, to waive penalties and interest due from an employer if in its discretion it finds:
 - ~~A. The delinquency was not the result of the employer's nondisclosure, fraud, or other misrepresentation; and~~
 - ~~B. Based on the facts and circumstances, the required payment of the penalties and/or interest would be unduly penal, burdensome, or manifestly unjust.~~~~
- ~~8. The Board designates the Executive Director to waive penalties and interest from an employer in an amount not to exceed \$1,000 per fiscal year. The Executive Director shall report to the Board any amounts excused under this section. Any request to waive employer penalties and interest exceeding \$1,000 per fiscal year shall be submitted to the ATRS Board for consideration.~~
- ~~9. Annual billings for underpayments of employee or employer contributions that result in a balance of \$10 or less may be written off by the system.~~

~~RULES FOR REPORTING EMPLOYER CONTRIBUTIONS FOR ACTIVE MEMBERS~~

~~(A.C.A. §§ 24-7-401, 411)~~

- ~~1. The active employer contributions to be paid each fiscal year by participating employers shall be the current employer contribution rate multiplied by the active employees' total salaries.~~
- ~~2. The Department of Education shall pay from the Public School Fund, in accordance with rules established by the Board, the ATRS employer contributions due for eligible employees of Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals, and the school operated by the Department of Correction. ATRS 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.~~
- ~~3. 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)~~
- ~~4. Supplemental salary payment reports for previous years will be accompanied by the employer contributions due.~~
- ~~5. The Arkansas Teacher Retirement System shall return to participating~~

~~employers overpaid contribution amounts due to erroneous submission of payments or incorrect reporting of Salary Option 2 (first \$7,800.00) member salaries. If an overpayment of a contribution amount is less than \$25.00, the refund will not be issued to the employer unless requested in writing by the employer.~~

- ~~6. The Arkansas Teacher Retirement System shall not collect from participating employers an underpayment of employer contribution amount if less than \$25.00.~~
- ~~7. For members retiring and who are employed by agencies or other institutions that use the state's 26-week payroll schedule, employers should adhere to and report the salary, contributions, and actual days worked through the state's fiscal year payroll schedule and for the termination date of employment. 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.~~

~~RULES FOR REPORTING EMPLOYER CONTRIBUTIONS FOR T-DROP MEMBERS~~

~~(A.C.A. § 24-7-401, 1303 as amended by Act 743 of 2009 and A.C.A. § 24-2-701)~~

- ~~1. The T-DROP employer contributions shall be the employer contribution rate multiplied by the total T-DROP participant's salaries.~~
- ~~2. Effective July 1, 2009, the employer contribution rate for T-DROP participants shall be the percentage rate established by the Board pursuant to A.C.A. § 24-7-401 for the fiscal year.~~

~~RULES FOR REPORTING EMPLOYER CONTRIBUTIONS FOR RETIREES~~

~~(A.C.A. § 24-7-708 as amended by Act 743 of 2009)~~

- ~~1. The retiree contribution rate shall be the employer contribution rate multiplied by the total retirees' salaries employed by participating employers for that fiscal year.~~
- ~~2. Effective July 1, 2009, the employer contribution rate shall be the percentage rate established by the Board pursuant to A.C.A. § 24-7-401 for the fiscal year.~~

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

MARK-UP

~~Agency No. 088.00~~

~~April 26, 2007~~

~~February 11, 2008~~

~~December 18, 2009~~

~~Approved by Board: February 6, 2012~~

~~Amended: April 18, 2012~~

~~Effective: May 29, 2012~~

ATRS Rule 7

REPORTING AND ELIGIBILITY

A.C.A. §§ 24-7-103, 24-7-202, 24-7-401, 24-7-406, 24-7-411,
24-7-601 — 24-7-611, 24-7-705, 24-7-708, 24-7-736, 24-7-1303, 24-2-701

I. Calculation of Final Average Salary

A. Definitions

1. "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.
2. "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.

B. Rules

1. For purposes of calculating a member's final average salary, ATRS will include salary received from all participating employers during a fiscal year.
2. 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:
 - a. Any salary year which constitutes member service during two (2) or fewer quarters in a fiscal year; or
 - b. Any salary year that constitutes less than one (1) year of service credit under the schedule set forth in ATRS Rule 7.II. Proof of Service Credit.
3. Regardless of any provision in a State statute, rule, 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 ATRS in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of ATRS before the first plan year beginning after December 31, 1995.

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4. Certain remuneration 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.
 - a. Any remuneration 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.
 - i. This salary limitation applies if:
 1. The offering by the ATRS employer applies to two (2) or more ATRS members;
 2. 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;
 3. The offering is made in return for the voluntary decision of the ATRS member to participate in the program in return for the additional remuneration or salary.
 - ii. This salary limitation does not apply if:
 1. It is an offering to one (1) ATRS member by the ATRS employer;
 2. 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;
 3. 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;
 4. It is a payment made in the settlement of litigation or paid to avoid threat of litigation.
 - b. ATRS employers shall not withhold member contributions or pay employer contributions from the remuneration paid that is subject to the salary limitation established by this Rule.
 - c. Any ATRS employer offering of an early retirement plan, separation plan, or contract non-renewal plan, that would result in remuneration being paid by the employer that would be limited from

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treatment of salary by this Rule shall notify ATRS of the plan prior to payment of any remuneration that is subject to this salary limitation.

- d. 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 remuneration paid by the proposed plan or payment.
- e. 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.
5. 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, ATRS's laws and rules shall control.
6. Effective July 1, 2018, when calculating a member's final average salary, ATRS shall calculate final average salary using the five (5) years in which the member received the highest salary from a participating employer subject to the foregoing limitations.
7. *A one-time benchmark final average salary will be computed on service attained as of June 30, 2018. The benchmark final average salary is not provided to inactive ATRS members unless proof is provided to ATRS indicating the member was active in a reciprocal or alternative system in fiscal year 2018. The benchmark final average salary will be calculated using the three (3) years in which the member received the highest salary from a participating employer. This benchmark final average salary will be used at the time of retirement if it is higher than the five (5) year final average salary calculated above.*
8. 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. § 24-2-402.
9. 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.

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10. 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.
11. 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.

II. Proof of Service Credit

- A. The Board shall determine the number of years and fractions thereof for paid service credited to members of ATRS. No fewer than one hundred sixty (160) days of employee service in a fiscal year (ending June 30) shall be credited as a full year of service.
- B. Members employed less than one-fourth (1/4) of a fiscal year are not eligible for credit or benefits in ATRS that fiscal year provided however, a contributory member's service days beginning in the 2011-2012 fiscal year, are carried forward from previous fiscal years until at least one quarter year of service is obtained by the member. If a contributory member obtains at least a quarter year of service in a fiscal year, whether using regular service days or accumulated service days, or both, the member begins the next fiscal year with no days of service carried forward.

C. FOR MEMBERS WITH SERVICE AFTER JULY 1, 1971

1. Actual service credited to a member's account shall be determined in accordance with the following table:

<u>Number of Days Worked in a Fiscal Year</u>	<u>Service Credit Earned</u>
<u>1 –39</u>	<u>None</u>
<u>40-79</u>	<u>0.25 year</u>
<u>80-119</u>	<u>0.50 year</u>
<u>120-159</u>	<u>0.75 year</u>
<u>160 days or over</u>	<u>1.00 year</u>

2. All contracts between an ATRS employer and member that specify the number of days worked by the member shall be used by ATRS to establish the number of days of service worked. If a member is employed in a position that a regular and typical work day includes

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- eight (8) hours or more of work time (full-day position), then four (4) hours of work in a day shall be required for a "day" of service. For "full-day" members who do not work four (4) hours or more a day, the total number of hours worked in a fiscal quarter divided by four (4) will determine the number of days to be credited. ATRS employers have specialized support positions that include bus drivers, custodial workers, cafeteria workers, and similar positions for which a typical day of service by the member will be less than eight (8) hours of work a day. Effective for the 2011-2012 fiscal year, a member employed, without a contract specifying the number of days of service to be worked, in a specialized support position shall receive a full day of service credit, even if the member works less than four (4) hours in a service day, if the ATRS employer reasonably determines that the member performed the regular and usual service expected of a member in that position during the service day.
3. For purposes of days counted toward service credit, absences shall be counted as service if for paid leave including paid sick leave. However, for administrative leave, the member must be on call by the employer for the service to be counted.
 4. ATRS shall not give service credit to a member until all required contributions and interest, if any, are remitted to ATRS.
 5. The participating employers shall certify proof of service on such forms with any documentation required by ATRS.
 6. If a member is retiring with an effective date other than October 1, January 1, April 1, or July 1, service credited for the year in which a member retires shall not exceed one-fourth (1/4) year for each full calendar quarter worked during the fiscal year.
 7. In any case of question as to service credit of a member, the Board of Trustees has the final authority to decide the amount of service creditable to a member.

III. Employee (Member) Contributions

- A. After June 30, 1997, each employer will remit the member contributions by employer "pick up" from the salary earned by contributory members, and those contributions will then be treated as employer contributions in determining tax treatment under the provision of the federal Internal Revenue Code and the Arkansas Income Tax Act. 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.
- B. Member contributions shall be set by the Board by resolution.

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- C. Overpayments or underpayments of member contributions shall be pursuant to the following:
1. If an underpayment of member contributions of less than \$25 occurs, ATRS shall not collect the difference of this underpayment and no adjustment to member service credit will be made.
 2. If an overpayment of member contributions of less than \$25 occurs, a refund will not be issued unless requested by the member.
 3. Should an underpayment of contributions occur as a result of a member's changing status from noncontributory to contributory, the member must remit to ATRS the contributions due based on gross salary earned retroactive to the beginning of that fiscal year. Service credit will not be credited until the total amounts due are paid in full.
 4. Should an overpayment of member contributions occur as a result of *erroneous reporting*, ATRS will refund the overpayment of member contributions to the employer.
- D. If ATRS is owed member contributions and interest by a member, the interest owed by the member may be waived by the Board or its designee under ATRS Rules.

IV. Employer Contribution Rate

- A. The employer contribution rate shall be the rate established by the Board of Trustees of the Arkansas Teacher Retirement System prospectively for each year.
- B. ATRS shall annually notify participating employers of the employer contribution rate established by the Board for the upcoming fiscal year.
- C. Participating employers shall pay ATRS employer contributions for eligible employees in accordance with these rules.

V. Employee and Employer Remittances and Reports

- A. Remittances of employee and employer contributions are due monthly.
- B. Employer reports required by ATRS are due on a monthly and quarterly basis.
- C. The employer reports required by ATRS must be on forms or electronic media either furnished by ATRS or approved by ATRS, and shall be accompanied by supporting documentation as determined by ATRS.
- D. An employer report or remittance by an employer shall not be delinquent if received by ATRS on the 15th day of the month in which it is due or postmarked by the 14th day of the month. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next

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business day.

- E. A \$150 late report penalty will be assessed on any required employer report not received by its due date.
- F. If an employer fails to remit employee or employer contributions by the date due above, an interest penalty of *eight percent (8%)* shall be assessed with daily interest accrual until paid.
- G. The Board or its designee may, but is not required, to waive penalties and interest due from an employer if in its discretion it finds:
 - 1. The delinquency was not the result of the employer's nondisclosure, fraud, or other misrepresentation; and
 - 2. Based on the facts and circumstances, the required payment of the penalties and/or interest would be unduly penal, burdensome, or manifestly unjust.
- H. The Board designates the Executive Director to waive penalties and interest from an employer in an amount not to exceed \$1,000 per fiscal year. The Executive Director shall report to the Board any amounts excused under this section. Any request to waive employer penalties and interest exceeding \$1,000 per fiscal year shall be submitted to the ATRS Board for consideration.
- I. Annual billings for underpayments of employee or employer contributions that result in a balance of \$25 or less may be written off by ATRS.

VI. Reporting Employer Contributions

- A. The employer contributions to be paid each fiscal year by participating employers shall be the current employer contribution rate multiplied by the employees' total salaries.
- B. The Department of Education shall pay from the Public School Fund, in accordance with rules established by the Board, the ATRS employer contributions due for eligible employees of Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals, and the school operated by the Department of Correction. ATRS 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.
- C. ATRS may certify to the state's Chief Fiscal Officer the names of participating employers who are delinquent in reporting and remitting contributions under this rule. 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 *eight percent (8%)* interest penalty to ATRS. (A.C.A. § 19-5-106)

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- D. Supplemental salary payment reports for previous years will be accompanied by the employer contributions due.
- E. The Arkansas Teacher Retirement System shall return to participating employers overpaid contribution amounts due to erroneous submission of payments or incorrect reporting of Salary Option 2 (first \$7,800) member salaries. If an overpayment of a contribution amount is less than \$25, the refund will not be issued to the employer unless requested in writing by the employer.
- F. The Arkansas Teacher Retirement System shall not collect from participating employers an underpayment of employer contribution amount if less than \$25.
- G. For members retiring and who are employed by agencies or other institutions that use the state's 26-week payroll schedule, employers should adhere to and report the salary, contributions, and actual days worked through the state's fiscal year payroll schedule and for the termination date of employment. 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.