

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Teacher Retirement System

Department Administration

Contact Clint Rhoden, Ex. Director E-mail clintr@artsr.gov Phone 501-682-1517

Statutory Authority for Promulgating Rules §24-7-305

Rule Title: Rule 8: Purchases and Refunds

### Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published .....

Final Date for Public Comment .....

Reviewed by Legislative Council .....

Adopted by State Agency .....

Date

April 19, 2019

May 20, 2019

July 19, 2019

July 19, 2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Tammy Porter

tammyp@artsr.gov

7-26-2019

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Clint Rhoden

Signature

501-682-1517

Phone Number

clintr@artsr.gov

E-mail Address

Executive Director

Title

7-26-2019

Date

## **ATRS Rule 8**

### **PURCHASES AND REFUNDS**

A.C.A §§ 24-7-406, 24-7-601, 24-7-602, 24-7-607, 24-7-711, 24-7-719, 24-7-735,  
24-1-107

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#### **I. Definitions**

- A. "Back Contributions" means mandatory contributions payable for service and salary rendered in a covered position within the ATRS look-back period.
- B. "Private School Service" as defined in A.C.A. § 24-7-607, additionally, employment under the Head Start Programs will also be considered private school service and will have the same requirements for the issuance of teaching licenses by the Arkansas State Department of Education as determined by ATRS staff.

#### **II. Purchase of Service Credit/Repayment of Refunds - General**

- A. The Arkansas Code sets forth the service purchases available and the cost mechanism to be used in service purchases. The various types of service that can be purchased and the definitions for these are in the Arkansas Code. Unless greater explanation is required, the code's provisions are self-effecting without the need to be placed in the policy.
- B. Actuarial cost for purchase of service does not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service records. In addition, the actuarial cost of service does not apply to free military service credit that is established with ATRS.
- C. The actuarial cost for purchase of service shall use the member's highest salary year as the formula's "base year." The base year shall always be the member's highest salary year unless the highest salary year is more than 150% greater than the next highest salary year; in that case, the best two salary years shall be added together and divided by two to establish the base year for the formula.
- D. If a member does not have sufficient full service years to establish the base year for the purchase formula, then each partial year's service percentage shall be divided into each partial year's salary to establish a full year salary from the partial year salary to determine the base year for the formula.
- E. Salaries for actuarially purchased service shall not be used in the calculation of final average salary except for repaid refunds for

mandatorily reported service within the refunded service.

- F. All actuarially purchased service shall be purchased as contributory.
- G. Members seeking to purchase service with ATRS shall use forms developed by ATRS staff to establish the service.
- H. All service purchases must be accompanied by a service purchase commitment statement. Once the service purchase stated on the service purchase commitment statement is paid in full, the service purchase is final and may not be cancelled by the member.
- I. If an active member with an active purchase account dies, the member's spouse, ATRS beneficiary, or legal representative shall have up to six (6) months to pay the balance of the purchase account. If the purchase account is not paid in full within six (6) months of the date of death, the purchase account is cancelled and any payments shall be treated as part of the member's residual account balance. ATRS may extend the six (6) month period for good cause shown.

### **III. Special Provisions for the Repayment of Refunded Member Contributions**

- A. To be eligible to repay a refund, a person must be an active member of ATRS. A person who has received a refund may reestablish active membership by completing forty (40) days or more after reemployment by an ATRS covered employer.
- B. A member must purchase the total credited service forfeited by the refund in order to purchase the refunded service.
- C. If a member has received more than one refund, repayment must be made in inverse order. The most recent refund account must be paid in full before a previous refund account can be purchased.

### **IV. Refunds of Member Contributions**

- A. Should an overpayment of contributions of less than \$25.00 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.
- B. On refunded contributions, the rate of interest compounded annually after the first year of contributions is credited as follows:

Service	Interest Rate
Before July 1, 1984	3%
For July 1, 1984 through June 30, 2009	6%
For July 1, 2010, through June 30, 2011	2%

For July 1, 2012, through June 30, 2017	1%
For July 1, 2017 and after	0.08%

- C. Payable interest shall be computed on each member's individual account on 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) of the contributions for the year ending on June 30 by the annual applicable interest percentage rate.
- D. The Board may change the interest rate on refunded contributions for future years by Resolution stating the new interest rate, the date that the new interest rate will become effective, and any other features of the interest rate's implementation.
- E. Regular interest is not paid on contributions made in the year in which a refund is paid.
- F. As of July 1, 2012, ATRS no longer requires a hardship in order to pay a refund in no more than two payments on a direct payment to the member. Upon receipt of a properly completed refund application, ATRS will issue a refund for all member contributions that have been closed on the books of ATRS. Any amount due in a second payment will be made when all quarters of service the member worked are closed on the books of ATRS. Rollovers will be made in one payment when all quarters of service worked have been closed on the books of ATRS.
- G. The effective date of a refund is the date that ATRS first issues payment of a refund.

## **V. Rollover Acceptance and Distribution**

### **A. Accepting Rollovers for Payment on ATRS Purchase Accounts**

ATRS will accept participant rollover contributions and/or direct rollovers for the purchase of service credit from: qualified retirement plans as set forth in the Arkansas Code.

### **B. Rollover Eligibility of ATRS Distributions**

The depository trustee shall certify to the System that the rollover deposit account is "qualified" and eligible to receive rollover distributions prior to a distribution being rolled over. If the depository trustee cannot certify the eligibility status, ATRS will accept a certification from a currently licensed certified public accountant who has an active certified public accountant's license. The certification may not be made by a certified public accountant if the certified public accountant has an interest in the account as a member, spouse, or designated beneficiary.

## **VI. Purchase Payment Rules**

- A. Prior to July 1, 2011, any service purchase commitment statement provided by a member to ATRS constitutes an agreement between ATRS and the member for ATRS to allow the member to complete the service purchase stated on the commitment form unless withdrawn or cancelled by the member. Failure of a member to complete the terms of the service purchase agreement authorizes ATRS to cancel the agreement. However, a service purchase commitment may be modified in terms of types of payment, duration, and the service being purchased, except the service being purchased cannot be increased and any decrease must otherwise be in compliance with ATRS law and policy.
- B. An agreement to complete payment of purchase account shall exist upon acceptance of the initial payment.

## **VII. Cancellation of Purchase Service Accounts**

- A. An established purchase account may be cancelled if the request is submitted in writing by the member and approved by ATRS. The amount of payments to date will be returned to the member without interest unless the payment of interest is statutorily mandated. Purchase account payments through employer pick-up cannot be cancelled until (a) the number of payments on IPA is completed, (b) the member terminates employment, or (c) the member retires.
- B. The cancelled purchase account may be refunded under certain conditions:
  - 1. Accounts paid only with after-tax contributions can be returned to the member.
  - 2. Accounts paid only with employer pick-up contributions cannot be returned to the member unless the member terminates employment or retires.
  - 3. Accounts paid only with rollover/transfer contributions may be rolled to another qualified plan or refunded to the member minus federal taxes.
  - 4. Accounts paid with a combination of after-tax and rollover/transfer may be refunded.

## **VIII. Free Military Service**

A member of ATRS who entered the Armed Forces of the United States between July 1, 1937, and June 30, 1973 or during a period that a federal military draft is in effect, may establish that active duty service in ATRS without cost, provided the following conditions are met:

- A. Service must be the initial enlistment. Reenlistment or voluntary extension

of the initial enlistment is not considered compulsory and shall not be allowed as service credit.

- B. Military service shall not exceed five (5) years, and the years to be credited shall be those closest to the teaching service.
- C. Crediting of military service will require the completion of Form M-1, provided by ATRS, and official military documents listing the entry and discharge dates of the first enlistment or induction.
- D. The member must have received an honorable discharge.
- E. All military service credited prior to July 1, 1986, is contributory service.
- F. Military service may be established at any time after becoming a member of ATRS but official crediting shall be effective upon completion of five (5) years of actual service ATRS, excluding military service credit.

#### **IX. Purchase of Federal Retirement Service**

- A. An active member shall be eligible to purchase federal retirement service under the following conditions:
  - 1. 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.
  - 2. Federal retirement service purchased shall be limited to ten (10) years.
- B. The cost to purchase federal retirement service is actuarial cost determined by ATRS.
- C. The federal retirement service will become credited service in ATRS when:
  - 1. The member payments have been paid in full; and
  - 2. The member has established five (5) or more years of actual service exclusive of federal retirement service.
- D. Should a member cease to be an active member before the federal retirement service has been established as ATRS 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 this rule.
- E. To be eligible to establish one (1) year of federal retirement service, a minimum of one hundred sixty (160) days must have been worked. Fractional years of federal service may be purchased in accordance with A.C.A. §§ 24-7-601 and 24-1-107. A month of federal service shall be considered as twenty (20) days.

- F. Certification of federal retirement service must be submitted to ATRS on a form provided by ATRS.
- G. All federal retirement service shall be counted as contributory service.
- H. Purchased federal credited service shall be credited to the fiscal year in which it was rendered.
- I. ATRS will accept participant rollover contributions and/or direct rollovers of distributions for the purchase of service credit under certain circumstances under this rule.

#### **X. Service Credit Accrual**

- A. For contract buyouts and settlements or court ordered payments to a member, service credit is only allowed to accrue for actual on-site work for the covered employer by the member. However, if the member is not subject to either a contract buyout or court ordered payment, salary paid to the member as a regular employee, as if the member were providing services, shall be credited for salary and service purposes if the member is on call to the employer; however, such on call credit may not be stacked with salary at another ATRS employer.
- B. In order to accrue service credit during a period of time that is redressed in a contract buyout or other court-ordered payment of salary, or salary and benefits, the member shall perform on-site work for the covered employer.

#### **XI. Adjustment of Benefit**

ATRS shall not adjust a benefit or benefit calculation for a member until the covered employer or benefit participant provides a certified copy of the court-order payment or settlement to ATRS, or if a contract buyout, a certified copy of the contract buyout.

## FINANCIAL IMPACT STATEMENT

### PLEASE ANSWER ALL QUESTIONS COMPLETELY

**DEPARTMENT** Arkansas Teacher Retirement System  
**DIVISION** Administration  
**PERSON COMPLETING THIS STATEMENT** Laura Gilson, General Counsel  
**TELEPHONE NO.** (501) 682-1266 **FAX NO.** (501) 682-2663 **EMAIL:** laurag@artrs.gov

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

**SHORT TITLE OF THIS RULE** ATRS Rule 8 - Purchases and Refunds

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

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

- (a) How the additional benefits of the more costly rule justify its additional cost;  
N/A
- (b) The reason for adoption of the more costly rule;  
N/A
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

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

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

#### Current Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>

#### Next Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>



Total N/A

Total N/A

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

**Current Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>N/A</u>

**Next Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>N/A</u>

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

**Current Fiscal Year**

\$ N/A

**Next Fiscal Year**

\$ N/A

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

**Current Fiscal Year**

\$ N/A

**Next Fiscal Year**

\$ N/A

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☐

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

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and

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

## **Summary of Proposed Rule Change**

### **Arkansas Teacher Retirement System Rule 8 Purchases and Refunds**

#### **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 8-1, 8-2, 8-4, 8-5, 8-6, 8-7, 8-19 and 8-20.<sup>1</sup>
- ATRS reformatted and reorganized the existing eight (8) rules into one rule for consistency and professionalism.
- The existing rules 8-1, 8-2, 8-4, 8-5, 8-6, 8-7, 8-19 and 8-20 are, therefore, proposed to be stricken and repealed, and replaced with new ATRS Rule 8 - Purchases and Refunds
- Table on page 8-2, IV. B., list the interest rate for refunded contributions.

#### **NON-SUBSTANTIVE CHANGES:**

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

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<sup>1</sup> 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.