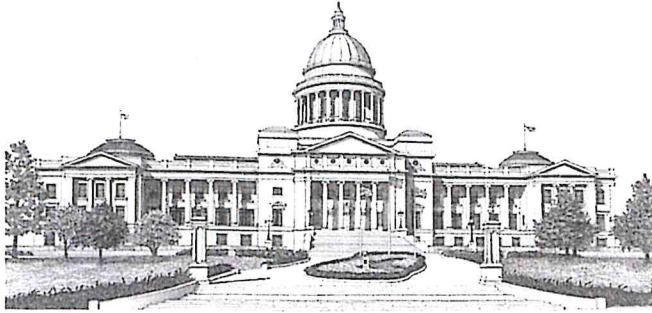


ARKANSAS REGISTER



Transmittal Sheet

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

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Teacher Retirement System

Department Administration

Contact Clint Rhoden E-mail clintr@artsr.gov Phone 501-588-4367

Statutory Authority for Promulgating Rules A.C.A. §§ 24-7-301, 24-7-305, and 25-15-216

Rule Title: Rule 4 - Election of Board of Trustees

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.)

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Legal Notice Published	<u>12/15/2021</u>
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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Jennifer Liwo

jenniferl@artsr.gov

5/10/2022

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.)

Signature

501-588-4367

Phone Number

clintr@artsr.gov

E-mail Address

Executive Director

Title

05/05/2022

Date

ATRS RULE 4
ELECTION OF BOARD OF TRUSTEES
Arkansas Code §§ 24-7-301, 24-7-302, and 24-7-305

I. Definitions¹

- a. "Active member" for the purposes of eligibility for an active member trustee position and voting for an active member trustee position means:
 - 1. An active member as defined in Arkansas Code § 24-7-202; or
 - 2. A member who:
 - A. Participates in the Teacher Deferred Retirement Option Plan (T-DROP);
 - B. Is employed by a covered employer; and
 - C. Receives T-DROP plan deposits;
- b. "Administrator" for the purposes of eligibility for an administrator trustee position and voting for an administrator trustee position means a person who:
 - 1. Has a current administrator's license; and
 - 2. Is either:
 - A. An employee of a covered employer who is employed in one (1) of the following positions:
 - i. Public school superintendent, assistant superintendent, principal, or vice-principal;
 - ii. Higher education president, chancellor, or director; or
 - iii. Director, president, or vice president of a community college, vocational or technical school, or educational cooperative; or
 - B. A classified or unclassified employee who is:
 - i. An employee of an education-related agency that participates in ATRS; and
 - ii. Employed in a GS13 grade position, its equivalent, or above.
- c. "Licensure" for the purposes of eligibility for a licensed trustee position or voting for a licensed trustee position means a person who is:
 - 1. Not an administrator; and
 - 2. Either employed in:
 - A. A position requiring state teaching licensure; or

¹ A term that is not defined in these ATRS Rules shall have the same meaning as provided in Arkansas Code § 24-7-202.

- B. An education institution GS09-GS12 grade position or its equivalent; and
- d. “Nonlicensed” for the purposes of eligibility for a nonlicensed trustee position and voting for a nonlicensed trustee position means a person who is:
 - 1. Employed in a position with a covered employer that does not require state teaching licensure;
 - 2. Employed in a position with an education-related agency in a position that:
 - A. Does not require state teaching licensure; and
 - B. Is no higher than a GS08 grade position or its equivalent; and
 - 3. Not an administrator as that term is defined in Arkansas Code § 24-7-202 and this ATRS Rule 4.

II. Board of Trustees of the Arkansas Teacher Retirement System

- a. The general administration and proper operation of the Arkansas Teacher Retirement System (ATRS) is vested in the Board of Trustees of the Arkansas Teacher Retirement System (Board).
- b. The Board shall consist of eleven (11) elected members and four (4) ex officio members.
- c. Pursuant to Arkansas Code § 24-7-301, the Board shall adopt rules and regulations regarding the election of a trustee and a vacancy on the Board.

III. Candidacy and Voting in Trustee Elections — Generally

- a. Candidates
 - 1. If a candidate for a trustee position on the Board is employed in more than one (1) position with a covered employer, the candidate’s eligibility shall be determined based on the candidate’s primary position for which the candidate receives the greater percentage of covered salary.
- b. Eligibility to Vote
 - 1. Only members of ATRS shall vote in a trustee election.
 - 2. Guardians, attorneys-in-fact, or others shall not vote on behalf of a member.
- 3. An employee working for ATRS is ineligible to be:
 - A. Elected to the Board;
 - B. Appointed to the Board; or
 - C. A candidate for election or appointment to the Board.

IV. Qualifications and Voter Eligibility for Elected Trustee Positions

- a. Active Member Trustee Positions 1-4 — Congressional Districts
 - 1. Generally
 - A. The Arkansas congressional district boundaries as defined on the first

day of the fiscal year in which an election for an active member trustee position occurs shall be used to determine:

- i. Whether a person is qualified to become a candidate for an active member trustee position; and
- ii. The eligibility of a member to vote in an election for active member trustee position.

B. There shall be four (4) active member trustees.

C. Each active member trustee shall represent one (1) of the four (4) congressional districts in Arkansas.

2. Qualifications for Candidacy

A. A person is qualified to become a candidate for active member trustee positions 1-4 if he or she is:

- i. An active member with a minimum of five (5) years of actual service;
- ii. Employed by a covered employer located in the congressional district for which he or she is seeking election; and
- iii. Employed in a position requiring state teaching licensure or the equivalent under this ATRS Rule 4.

3. Eligibility to Vote

A. A member is eligible to vote in an election for active member trustee positions 1-4 if he or she is:

- i. An active member, regardless of credited service;
- ii. Employed by a covered employer located in the respective congressional districts; and
- iii. Otherwise eligible to be a candidate under this ATRS Rule 4.

b. Active Administrator Trustee Positions 5-6

1. Generally

A. There shall be two (2) active member trustee each of whom shall be employed as an administrator as defined in this ATRS Rule 4.

2. Qualifications for Candidacy

A. A person is qualified to become a candidate for active administrator trustee positions 5-6 if he or she is:

- i. An active member with a minimum of five (5) years of actual service; and
- ii. Employed in a position requiring an administrator's license.
 - a. Pursuant to Arkansas § 24-7-301, at least one (1) of the administrators serving as an active administrator trustee shall

be employed by a covered employer as a school superintendent or an educational cooperative director.

- b. If there is an open administrator active member trustee position and the other administrator active member trustee position is held by a person who is not a superintendent or an educational cooperative director, a candidate for the open administrator active member trustee position shall be a superintendent or an educational cooperative director and the notice of election shall state that a candidate for the open administrator active member trustee position is required to be a superintendent or an educational cooperative director.

3. Eligibility to Vote

- A. A member is eligible to vote in an election for administrator active member trustee positions 5-6 if he or she is:
 - i. An active member, regardless of credited service; and
 - ii. Employed as a licensed administrator in a position requiring an administrator's license

c. Nonlicensed Trustee Position 7

1. Qualifications for Candidacy

- A. A person is qualified to become a candidate for nonlicensed trustee position 7 if he or she is:
 - i. An active member with a minimum of five (5) years of actual service; and
 - ii. Employed in a position not requiring state licensure.

2. Eligibility to Vote

- A. A member is eligible to vote in an election for nonlicensed trustee position 7 if he or she is:
 - i. An active member, regardless of credited service; and
 - ii. Employed by a covered employer in a nonlicensed position.

d. Minority Trustee Position 8

1. Generally

- A. There shall be one (1) member trustee of a minority racial ethnic group.

2. Qualifications for Candidacy

- A. A person is qualified to become a candidate for minority trustee position 8 if he or she is:
 - i. An active or retiree member with a minimum of five (5) years of actual service; and

- ii. A member of a minority racial or ethnic group.

3. Eligibility to Vote

- A. A member is eligible to vote in an election for minority trustee position 8 if he or she is:

- i. An active member, regardless of credited service; or
- ii. Retiree.

e. Retired Member Trustee (At-Large) Positions 9-11

1. Generally

- A. There shall be three (3) retired member trustees who shall be retirees as defined under Arkansas Code § 24-7-202.

2. Qualifications for Candidacy

- A. A person is qualified to become a candidate for retired member trustee positions 9-11 if he or she is a:

- i. Retiree; and
- ii. Resident of the State of Arkansas.

3. Eligibility to Vote

- A. A retiree, regardless of present employment status or residency is eligible to vote in an election for retired member trustee positions 9-11.

V. Rules on Elected Trustee Nominations

a. Scheduling and Notice of Regular Election

- 1. ATRS may publish electronically a public notice required by this ATRS Rule 4.
- 2. During December in a year in which an elected trustee position is subject to election or a special election is required to fill a vacancy, ATRS shall publish public notice of an upcoming trustee position election in a statewide newspaper for at least five (5) consecutive days.
- 3. The notice shall be sent to each person of group that requests notice of a trustee vacancy.
- 4. The notice shall be posted on ATRS' website from December until the closing of the nomination period.

b. Candidate Petitions and Verification of Member Signatures

- 1. For all elected positions, a candidate shall submit a petition signed legibly by at least twenty-five (25) ATRS members who are eligible to vote for the trustee position for which the candidate is seeking nomination.
- 2. The petition shall include the last four (4) digits of each signatory's Social Security number for verification of the member's eligibility to vote for the

position.

3. The original petitions for nomination shall be submitted to the ATRS Executive Director no later than January 10.
4. Actual delivery of the original petitions for nomination shall be made by January 10, regardless of postmark date or other methods to attempt delivery.
5. Upon receipt of a petition, ATRS shall confirm receipt of the petition and shall verify the eligibility of the candidate for the trustee position under Arkansas Code § 24-7-301.
6. ATRS shall verify each signature of each member who signs the petition as an eligible voter.
7. ATRS shall:
 - a. Notify each candidate who submits a petition for nomination if his or her petition is accepted; and
 - b. Provide the candidate with a list of other members who were certified to participate in the election for the trustee position for which the nomination is sought.

c. Ballots

1. ATRS or its designee shall conduct a random drawing for a ballot position before ballots are mailed.
2. At least two (2) independent witnesses shall be present to certify the drawing of the ballot position.
3. ATRS shall notify each candidate of the order in which the candidate will be listed on the ballot.

d. Campaign Materials

1. A candidate's message shall not include information that:
 - A. Would constitute defamation of another candidate; or
 - B. Claims or appears to claim the endorsement of ATRS or the Board.
2. At the request of a candidate, ATRS shall provide a list of the mailing addresses of each eligible voter to the election vendor for the distribution of the candidate's campaign materials.
3. Campaign materials shall be mailed by the election vendor from the election vendor's place of business.
4. All postage for campaign materials shall be paid for by the candidate distributing the campaign materials.

VI Rules on Trustee Elections

a. Election Vendor

1. ATRS shall employ an independent election vendor to conduct the trustee elections.

b. Ballots

1. ATRS shall publish ballots and submit the published ballots to the election vendor by March 15 for mailing to the address of record for each member who is eligible to vote in the election.
2. A completed ballot shall be counted if it is received by the election vendor on or before April 15.
3. The election vendor shall count only ballots that are correctly completed.

c. Uncontested Elections

1. If any position receives only one (1) nomination and the position is uncontested, the Board at its next regular or special meeting may certify the nomination and declare the candidate duly elected as a trustee before the trustee's term begins.

d. Run-off Elections

1. The election vendor shall certify to ATRS, by April 20, the election results for a position that is not subject to a run-off election.
2. A run-off election shall be held between the two (2) candidates who receive the highest number of votes for a trustee position if:
 - A. The election vendor certifies the outcome of the trustee election; and
 - B. A single candidate does not receive at least fifty percent (50%) of the votes cast by eligible voters.
3. The election vendor shall mail run-off ballots to each member who is eligible to vote in the election on or before May 1.
4. Completed ballots for a run-off election that are received by the election vendor after June 1 shall not be counted.
5. The election vendor shall certify the results of a run-off election to ATRS by June 5

e. Election Result Challenge

1. A candidate who is included on the ballot may challenge the election vendor's certified results for an elected trustee position by submitting a written challenge to the ATRS Executive Director within five (5) calendar days of the date on which the election results are certified by the election vendor.
2. A written challenge to the election vendor's certified results for an election shall not be considered if it is submitted more than (5) calendar days after

the date on which the election results are certified by the election vendor.

3. If a candidate challenges the election results, the election process shall be suspended for the same number of days that the resolution of the challenge requires, and the remaining election schedule shall be adjusted accordingly.
4. After a written challenge to a certified election result is received by ATRS, the Board shall hold a special meeting to consider the challenge.
5. The ATRS Executive Director shall issue an ATRS recommendation to the Board along with the administrative record relating to the certified election results of the position being challenged.

f. Election Schedule — Official Dates

1. For any fixed date in the election schedule that falls on a holiday or a weekend, the official date shall become the next business day.

g. Beginning of Elected Trustee Terms

1. Upon completion of an election, all elected trustee terms, except for special elections, shall begin on July 1 following the election.

VII. Board Procedures to Fill Unexpired Terms for Elected Trustees

a. Notice

ATRS staff shall notify the Board of a resignation or vacancy by other cause in a trustee position as soon as possible after ATRS staff has knowledge of the resignation or vacancy by other cause.

b. Board Action Upon Receiving Vacancy Notice

1. The Board shall take appropriate action authorized by law to fill the vacancy.
2. The Board, by majority vote, may appoint a trustee until the next ATRS election.

c. Scheduling and Notice of Special Election

1. A special election to fill a trustee position caused by resignation or vacancy by other cause shall be scheduled and held if the Board, by majority vote, determines that the vacancy should be filled by a special election.
2. If an elected trustee position is declared vacant by the Board and the Board determines that the vacancy should be filled by a special election, ATRS shall:
 - A. Publish notice that a special election shall be held; and
 - B. Announce the schedule for the special election.
3. The schedule for the special election shall include the following:
 - A. The date the vacancy occurred and position being vacated;
 - B. The time period for circulating petitions for nominating signatures;

- C. The deadline for filing petitions with ATRS;
 - D. The date ATRS will verify the validity of petitions;
 - E. The date ballots will be sent to eligible voters;
 - F. The election date; and
 - G. The date the term shall begin.
4. ATRS may follow or use as a guideline the rules concerning the publishing of public notice in this ATRS Rule 4 VII for publishing notice during a special election.

VIII. Term of Elected Trustee Office and Vacancies

a. Duration of Term

1. The term of office of each elected trustee shall be six (6) years unless the trustee is elected in a special election.
2. A trustee who is elected in a special election shall serve for the remainder of the six-year term of the vacating trustee.
3. A trustee who is appointed to the Board shall serve until the next system election that is held to fill the trustee position to which the trustee was appointed.
4. Each trustee shall continue to serve as trustee until his or her term expires unless he or she resigns or is otherwise ineligible under this ATRS Rule 4.
5. In a year in which a six-year term of a trustee expires, the position shall be filled under the regular election schedule in this rule.

IX. Rules on Elected Trustee Vacancies

a. Ineligibility of Active Member Trustee

1. An active member trustee shall be ineligible to serve if he or she:
 - A. Becomes inactive;
 - B. Retires; or
 - C. Changes his or her employment category during his or her term of office and the employment category is a requirement of the trustee position.

b. Ineligibility of Retiree Member Trustee

1. A retiree member trustee shall be ineligible to serve after becoming an active member.

d. Trustee Absence from Board Meetings

1. A trustee vacancy may occur if a trustee is absent from meetings.
2. The Board or its designee shall notify the trustee after the trustee's second consecutive absence.

3. The Board shall vote to declare, by resolution, a position vacant if:
 - A. A trustee has three (3) consecutive unexcused absences from regular meetings of the Board.
 - i. An absence that is excused by a majority of the members of the Board shall not be counted towards a vacancy.
 - ii. Attendance on either day of a two-day meeting of the Board is sufficient to meet the attendance requirement for the two-day meeting of the Board;
 - B. A trustee becomes ineligible to serve on the Board due to a change in status under Arkansas Code § 24-7-302 that results in the trustee being absent from three (3) consecutive regular meetings of the Board before the expiration of the trustee's term; or
 - C. A trustee resigns or dies.
4. If the Board declares a vacancy by resolution as provided under this ATRS Rule 4 IX, the Board may vote to hold a special election to fill an unexpired term using the Board's procedures to fill unexpired terms for elected trustees.
5. If the Board does not certify a vacancy by resolution under this ATRS Rule 4 IX, the vacancy shall be filled, using approved election procedures for the position, during the next annual ATRS election held after the expiration of the elected trustee's term.

HISTORY

Approved:	May 10, 2000	4-2
Amended:	April 26, 2007	4-1
	February 11, 2008	4-1, 4-2
	December 18, 2009	4-1, 4-2
	July 1, 2011	4-2 (Emergency)
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