

ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department _____

Agency or Division Name Arkansas Teacher Retirement System

Other Subdivision or Department, If Applicable _____

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~~ATRS Rule 10~~

~~T-DROP AND RETURN TO SERVICE~~ ATRS RULE 10 RETURN TO SERVICE AND TEACHER DEFERRED RETIREMENT OPTION PLAN

~~A.C.A.~~ Arkansas Code §§ 24-7-502, 24-7-708, and 24-7-1301 et seq.

~~I. Definitions~~

I. Definitions

- ~~A. "DROP" means a deferred retirement option plan enacted by the General Assembly and administered under ATRS or a reciprocal system.~~
- ~~B. "Early participant" means a member who has at least twenty-eight (28) years but less than thirty (30) years of credited service in ATRS including combined service with a reciprocal system, and is authorized by the Board for early participation in the plan.~~
- a. ~~C.~~ "Fiscal year" means the operating year for the State of Arkansas that begins on July 1 of each calendar year and ends on June 30 of the next calendar year.
- b. ~~D.~~ "Participant" "Plan participant" means a member who elects to participate in T-DROP the Teacher Deferred Retirement Option Plan (T-DROP) under A.C.A. Arkansas Code § 24-7-1301 et seq.
- ~~E. "ATRS 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.~~
- c. ~~F.~~ "Plan deposits" "Plan deposit" means the deposits a deposit made to each plan participant's T-DROP account pursuant to A.C.A. Arkansas Code § 24-7-1306.
- d. ~~G.~~ "Plan interest" means the rate per annum, as the Board shall set prior to the beginning of the fiscal year and applies to subsequent years unless modified by the Board, that is credited in each participant's T-DROP account. The Board shall determine the plan interest rate based upon A.C.A. § 24-7-1307(c). All T-DROP participants that have not retired shall receive plan interest at the end of each fiscal year. one (1) or more interest rates per annum that are adopted by the Board of Trustees of the Arkansas Teacher Retirement System (Board) by the end of the first quarter of the fiscal year in which the interest rate shall apply in order for the appropriate interest to be credited to each plan participant's T-DROP account in subsequent years following the Board's adoption of the interest rate;
- e. ~~H.~~ "Post 10-year T-DROP interest" means the rate per annum, compounded annually, as the Board shall set and adopt at the end of each

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fiscal year, credited on June 30 to the balance of the T-DROP participant's account that meets the following criteria:

1. The member participated in T-DROP for ten (10) years by receiving deposits, interest, or both; and
 2. The member has not retired; a rate per annum that is compounded annually and adopted by the Board by the end of the first quarter of the fiscal year in which the interest rate shall apply in order for the interest to be credited on June 30 to the T-DROP account of a plan participant who has not retired and whose participation in T-DROP has ended;
- f. ~~L.~~ "Quarter" means one-fourth (1/4) of a fiscal year. The four (4) quarters applicable in this rule are: as follows:
1. 1st Quarter: July 1 through September 30;
 2. 2nd Quarter: October 1 through December 31;
 3. 3rd Quarter January 1 through March 31; and
 4. 4th Quarter: April 1 through June 30;
- g. ~~J.~~ "Retiree" means a member receiving an ATRS a retirement annuity from the Arkansas Teacher Retirement System (ATRS);
- h. ~~K.~~ "Salary" is defined by means the same as defined in A.C.A. Arkansas Code § 24-7-202, provided that and does not include nonmandatory compensation that is taxable by the IRS is not salary for ATRS purposes;
- i. ~~L.~~ "T-DROP Cash Balance Account" means the a financial account set up established for a plan participant who elects to defer distribution of his or her T-DROP account balance at a the time that he or she is eligible to receive a lump-sum distribution of the T-DROP account balance;
- j. ~~M.~~ "T-DROP Cash Balance Account interest" means the interest rate per annum applicable to a plan participant's T-DROP Cash Balance Account, and compounded monthly into a plan participant's T-DROP Cash Balance Account. ~~The interest rates payable on the T-DROP Cash Balance Accounts are set forth in this Rule;~~ and
- N. ~~"T-DROP Service Credit" shall be determined using the same rules that apply for service credit for an active member with the exception that "on call" availability shall not be used for T-DROP service credit requirements.~~
- k. "Uniformed Services of the United States" means service in the:
1. United States Armed Forces;
 2. Army National Guard;
 3. Air National Guard when engaged in active duty for training, state active duty, inactive duty training, or full-time National Guard duty;

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4. United States Commissioned Corps of the Public Health Service; and
5. Any other category of persons designated by the President of the United States in time of war or emergency.

II. ~~Employment of an ATRS Retiree by an ATRS Employer~~

II. Return to Service¹

- a. ~~A.~~ Upon acceptance of employment with an ATRS employer, the retiree and the ATRS employer must report to ATRS the retiree's employment on the forms and reports as required by ATRS. Unless otherwise provided by the Office of Personnel Management's Policy No. 65, effective July 1, 2009, a retiree who terminates employment under Arkansas Code § 24-7-502 or reaches the normal retirement age may:
 1. Accept employment with a covered employer; and
 2. Continue to receive a monthly retirement annuity without a limitation of his or her retirement annuity.
- b. ~~B.~~ ATRS employers will regularly report all employed retirees on retirement reports as required by ATRS. A retiree who returns to service with a covered employer and a covered employer who employs a retiree shall report the retiree's employment to ATRS using forms and reports required by ATRS.
- c. ~~C.~~ Effective July 1, 2009, no earnings limitation shall apply to retirees employed with ATRS employers. A retiree who receives monthly retirement benefits and is employed by a covered employer shall not:
 1. Pay member contributions;
 2. Be responsible for employer contributions; or
 3. Accrue additional service credit.
- d. ~~D.~~ A retiree employed by an ATRS employer shall not accrue additional service credit, and no member contributions shall be withheld or paid to ATRS. Employer contributions, however, shall be paid to ATRS on the salary earned by a retiree who returns to work for an ATRS employer. A covered employer that employs a retiree shall pay employer contributions on the salary paid to the retiree in an amount equal to the employer contribution rate applicable to an active member.

~~E For the return to work rules applicable to disability retirees receiving benefits under A.C.A. § 24-7-704, see Rule 9.VII (Disability Retirement).~~

III. ~~The ATRS Board of Trustees has the authority under A.C.A. § 24-7-1301 to promulgate rules, including the adoption of an interest rate, by resolution of the Board, for the administration of a deferred retirement option plan (T-DROP) for~~

¹ Rules concerning a disability retiree's return to service are included in ATRS Rule 9.

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eligible members.

III. Teacher Deferred Retirement Option Plan (T-DROP)

IV. T-DROP Participation and Account Credit

a. Participation — Generally

1. ~~A.~~ In lieu of terminating employment and voluntarily retiring under A.C.A. § 24-7-701, an active member of ATRS with at least thirty (30) years of service credit may elect to participate in T-DROP and continue to work for an ATRS a covered employer.
2. An active member with at least twenty-eight (28) years of service credit may elect to participate early in T-DROP and continue to work for a covered employer.
3. The service credit of a plan participant shall be determined using the same rules that apply for determining the service credit of an active member.
4. On call availability shall not be used for T-DROP service credit requirements.
5. ~~By continuing covered employment, the participant defers receipt of retirement benefits until a later date. An active member who elects to participate in T-DROP and continues his or her covered employment defers the receipt of retirement benefits.~~

~~B. A member shall have at least thirty (30) years of credit in ATRS to participate in T-DROP, or, to become an early participant in T-DROP, at least twenty-eight (28) years but less than thirty (30).~~

b. Participation — Reciprocal Systems

1. Service credit in ATRS, a reciprocal system, or a combination of service credit in ATRS and the reciprocal system may be counted to meet the minimum service credit requirements for participation under T-DROP and the reciprocal system's deferred retirement option plan if the reciprocal system offers members of the reciprocal system a deferred retirement option plan.
2. A retirement benefit payable by a reciprocal system shall be determined according to the law, rules, and regulations applicable to the reciprocal system.
3. The final average salary of a plan participant with reciprocal service credit shall be the highest final average salary calculated by ATRS or a reciprocal system in which the plan participant has at least two (2) years of service credit. (Arkansas Code § 24-2-402)
4. Each reciprocal system shall calculate final average salary in

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accordance with the law applicable to the reciprocal system.

5. A salary earned as a member of the Arkansas Judicial Retirement System or an alternate retirement plan shall not be used to calculate final average salary.

6. A reciprocal system shall credit a deferred retirement option plan account with plan deposits and plan interest according to the deferred retirement option program applicable to the reciprocal system.

c. Limits on Participation

1. ATRS shall not pay a monthly plan deposit into a plan participant's T-DROP account for more than ten (10) consecutive years from the date on which the plan participant enters T-DROP.

d. D. T-DROP Benefits

1. A plan participant shall elect an annuity option provided in Arkansas Code § 24-7-706 at the time the plan participant:

A. Separates from service; and

B. Either:

i. Applies for retirement upon reaching the normal retirement age; or

ii. Is granted a monthly retirement benefit.

2. A plan participant's T-DROP plan deposit may be reduced as provided by the ATRS Rules and Arkansas Code § 24-7-1301 et seq.

3. A plan participant's T-DROP benefit shall:

A. Be the monthly straight life annuity benefit that the plan participant would have received if he or she voluntarily retired; and

B. Not include a monthly benefit stipend otherwise provided under Arkansas Code § 24-7-713.

e. Plan Interest and Plan Deposits

1. ~~G.~~ Generally

A. During participation in T-DROP, ATRS shall credit the T-DROP account of each participant's T-DROP account plan participant with plan deposits and plan interest.

2. Plan Deposits

A. Determination of Plan Deposit

i. A plan participant's plan deposit shall be determined as

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follows:

- a. If a plan participant has at least thirty (30) years of credited service in ATRS, including combined service with a reciprocal system, the plan deposit shall be the plan participant's T-DROP benefit, as calculated at the plan participant's entry into T-DROP, reduced by one percent (1%) for each year of credited service, including fractions of a year.
- ii. If a plan participant enters T-DROP early, the plan participant's plan deposit shall be the plan participant's T-DROP benefit, as calculated at the plan participant's entry into T-DROP, reduced by:
 - a. One percent (1%) for each year of credited service, including fractions of a year; and
 - b. At least an additional one-half percent (.5%), but no more than one percent (1%), of the initially reduced plan deposit, for each month of credited service under thirty (30) years.

B. Crediting Plan Deposit

- i. A plan participant's T-DROP account shall be credited with twelve (12) monthly plan deposits per fiscal year if the:
 - a. Plan participant earns at least one hundred sixty (160) days of service credit in a fiscal year and does not terminate employment, retire, or die during the fiscal year; or
 - b. Plan participant's covered employer does not terminate the employer-employee relationship.
- ii. If a plan participant earns less than one hundred sixty (160) days of service credit in a fiscal year, the plan deposit shall be made in accordance with the part-time employment schedule as follows:
 - a. If a plan participant earns at least fifteen (15) days of service credit in the first or fourth quarter of the fiscal year, the plan participant's T-DROP account shall be credited with three (3) monthly plan deposits for the quarter.
 - b. If a plan participant earns less than fifteen (15) days of service credit in the first or fourth quarter of the fiscal year, the plan participant's T-DROP shall not be credited with a plan deposit for the three (3) months of that

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quarter.

c. If a plan participant earns at least twenty-five (25) days of service credit in the second or third quarter of the fiscal year, the plan participant's T-DROP account shall be credited with three (3) monthly plan deposits for the quarter.

d. If a plan participant earns less than twenty-five (25) days of service credit in the second or third quarter of the fiscal year, the plan participant's T-DROP shall not be credited with a plan deposit for the three (3) months of that quarter.

C. Cost-of-Living Increase

i. A cost-of-living increase under Arkansas Code §§ 24-7-713 or 24-7-727 shall be applied to the T-DROP benefit that is used to calculate the plan deposit.

ii. A T-DROP benefit and the cost-of-living increase may be modified as provided by this ATRS Rule 10 and law applicable to ATRS.

D. Election to Cash-Out or Annuitize

i. Upon electing to retire, if a plan participant elects to cash out or annuitize his or her T-DROP account balance, the plan participant shall not be permitted to reenroll in T-DROP after his or her T-DROP account is distributed unless the plan participant cancels his or her election under Arkansas Code § 24-7-1302.

E. Annual Statement

i. ATRS shall provide each plan participant with an annual statement of the plan participant's T-DROP account.

ii. The statement of plan deposits and plan interest shall not be final until the annual accounting has been reconciled for part-time plan participants.

3. Interest Rates

A. Plan Interest

i. A plan participant who has not retired shall receive plan interest at the end of each fiscal year.

ii. ~~D. The plan interest rate determined by majority vote of the Board is final and binding upon ATRS and shall not be adjusted based on any revised rate of return reported after that~~

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~~date.~~ The plan interest rate shall be based on a:

- a. Fixed interest rate that is adopted by the Board by the end of the first quarter of the fiscal year in which the interest rate shall apply; or
- b. Variable interest rate formula that is based on investment returns and other factors adopted by the Board by the end of the first quarter of the fiscal year in which the interest rate shall apply.
- iii. The Board shall adopt a plan interest rate by the end of the first quarter of the fiscal year in which the plan interest shall apply if a variable interest rate formula is used.

B. Post-10-Year T-DROP Interest

- i. If a plan participant continues covered employment after ten (10) consecutive years from the date of his or her entry into T-DROP, the plan participant's T-DROP account shall be credited with a post-ten-year T-DROP interest rate.
- ii. ~~E.~~ The Post 10-year T-DROP interest rate shall be set by the Board prior to the beginning of each fiscal year at the same meeting that the plan interest rate is set. The Board shall set the post-10-year T-DROP interest rate:
 - a. By the end of the first quarter of the fiscal year in which the interest rate shall apply; and
 - b. At the same meeting in which the plan interest rate is set.
- iii. ~~The Post 10-year T-DROP interest rate will be credited to the participant's T-DROP account~~ post-10-year T-DROP interest rate shall be credited to a plan participant's T-DROP account on June 30th 30 of each year, or through the date of retirement, whichever occurs first.
- iv. ~~F.~~ The Post 10-year T-DROP interest rate for each year determined by majority vote of the Board is final and binding upon ATRS and shall not be adjusted based on any revised rate of return reported after that date. The post-10-year T-DROP interest rate for T-DROP shall be determined by the Board and adopted by the by the end of the first quarter of the fiscal year in which the interest rate shall apply.

C. Incentive Rate

- i. In addition to the interest rate for the fiscal year, the Board may adopt an incentive rate during the fiscal year if investment returns justify an incentive rate for the fiscal year.

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4. Suspension or Cessation of Plan Deposits and Benefit Distributions

A. Monthly plan deposits to a plan participant's T-DROP account shall stop if the plan participant:

- i. Separates from service and is granted a monthly retirement benefit from ATRS or a reciprocal plan;
- ii. Reaches normal retirement age and retires without separating from covered employment;
- iii. Separates from covered employment and does not apply for retirement benefits; or
- iv. Dies.

B. Separation from Covered Employment without Applying for Retirement Benefits

- i. If a plan participant separates from covered employment and does not apply for retirement benefits, monthly plan deposits into the plan participant's T-DROP account shall be suspended beginning on the month in which the plan participant separates from covered employment.
- ii. The plan participant's T-DROP account shall not be credited with a plan deposit for the duration of the plan participant's separation from covered employment.
- iii. Monthly plan deposits into a plan participant's T-DROP account shall resume if the plan participant returns to covered employment before the end of the plan period.
- iv. If a plan participant applies for retirement, the retirement benefits shall be paid according to the plan participant's T-DROP account balance:
 - a. At the time of the plan participant's separation from covered employment; or
 - b. In the month before the effective date of the plan participant's retirement benefits after the plan participant reaches the normal retirement age.
- v. A plan participant shall remain eligible for annual plan interest to be credited to his or her T-DROP account if the member:
 - a. Does not separate from covered employment; and
 - b. Remains on the covered employer's payroll without earning sufficient service credit for monthly plan deposits.

C. Plan Participant's in Uniformed Services of United States

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- i. A plan participant shall be treated as not having incurred a break in service with a covered employer if the plan participant leaves covered employment to voluntarily or involuntarily serve in the uniformed services of the United States and later returns to covered employment.
- ii. A covered employer shall certify to ATRS that reemployment of the plan participant complies with § 4312 of the Uniformed Services Employment and Reemployment Act of 1994 (USERA).

f. Compliance — Section 415 of the Internal Revenue Code

- 1. The operation of T-DROP shall comply with U.S.C. § 415 and other applicable sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq.
- 2. Any provision concerning the operation of T-DROP that conflicts with § 415 and other applicable sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq. is invalid.

g. T-DROP Account Balance — Rollover

- 1. A lump-sum distribution of a plan participant's T-DROP account balance may be rolled over into the plan participant's qualifying retirement plan.
- 2. ATRS shall rollover the T-DROP account lump-sum balance into only one (1) qualifying plan.

h. T-DROP Cash Balance Account Program

1. Election Option

- A. In lieu of electing a lump-sum distribution of his or her T-DROP account balance, a plan participant may elect to transfer all or a part of his or her T-DROP account balance into a Cash Balance Account (CBA).
- B. If a plan participant elects to have only a part of his or her T-DROP account balance transferred into a CBA, the remaining balance of the T-DROP account shall be annuitized under ATRS or paid as a lump-sum distribution.
- C. A CBA shall be credited monthly with T-DROP Cash Balance Account interest and debited monthly for withdrawals and distributions beginning on the month immediately following the establishment of the CBA.

2. T-DROP Cash Balance Account Interest Schedule

- A. A CBA established on or after July 1, 2012, shall be credited with T-

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DROP Cash Balance Account interest as follows:

<u>T-DROP Cash Balance Account Program Years of Participation</u>	<u>Interest Rate</u>
<u>First fiscal year of participation</u>	<u>Two and one-half percent (2.5%)</u>
<u>Two (2) fiscal years of participation</u>	<u>Two and seventy-five hundredths percent (2.75%)</u>
<u>Three (3) fiscal years of participation</u>	<u>Three percent (3.00%)</u>
<u>Four (4) fiscal years of participation</u>	<u>Three and twenty-five hundredths percent (3.25%)</u>
<u>Five (5) fiscal years of participation</u>	<u>Three and one-half percent (3.50%)</u>
<u>Six (6) or more fiscal years of participation</u>	<u>Four percent (4.00%)</u>

B. The Board may:

- i. Increase the T-DROP Cash Account Balance interest rate for future fiscal years and on an ad hoc basis;
- ii. Consider current market conditions, competing financial offerings to plan participants, bank rates for certificates of deposits, the status of ATRS' return on investments, and the current state of participation in the T-DROP Cash Balance Account program when determining the T-DROP Cash Balance Account interest rate;
- iii. Periodically authorize, by board resolution, a special ad hoc incentive payment for CBAs if the Board determines that payment of the special ad hoc incentive is likely to encourage continued participation and increase future participation in the T-DROP Cash Balance Account program; and
- iv. Adopt, by board resolution, a new T-DROP Cash Balance Account Interest Schedule (Schedule) for future CBAs.

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C. An ad hoc increase may be:

- i. Set as a single amount to be applied to each CBA; or
- ii. Computed as a graduated amount based on the length of time the CBA has existed.

D. The T-DROP Cash Balance Account interest rate shall remain in effect until the Board adopts a new Schedule with lower interest rates for future CBA accounts established by the end of the first quarter of the fiscal year in which the interest rate shall apply.

E. A CBA established before the effective date of a board resolution adopting a new Schedule for future CBAs shall not be subject to the provisions of the new Schedule.

F. If a plan participant dies with a CBA balance, the CBA balance shall be paid as provided under Arkansas Code § 24-7-1310.

3. Withdrawals

A. If a plan participant's CBA has a balance, a plan participant may withdraw funds from his or her CBA up to six (6) times per quarter by using forms approved by ATRS.

B. A plan participant may make more than six (6) withdrawals in a quarter with the approval of the Executive Director of ATRS.

C. A plan participant may request a recurring monthly distribution of a set amount from his or her CBA until the CBA balance is depleted or the plan participant withdraws his or her request.

D. Minimum distributions made to a plan participant shall comply with Arkansas Code § 24-7-730 and the Internal Revenue Code, 26 U.S.C. § 1 et seq.

V. Rules

A. T-DROP Benefit Generally

~~1. The participant's T-DROP benefit will be the monthly straight life annuity benefit to which the member would have been entitled had the member retired under A.C.A. § 24-7-701.~~

~~2. The participant's T-DROP benefit may be reduced as set forth in these Rules and under A.C.A. § 24-7-1301 et seq.~~

~~3. The T-DROP deposit shall not include the additional benefit, also known as the "monthly benefit stipend" provided in A.C.A. § 24-7-713.~~

~~B. Plan deposits shall be a percentage of the T-DROP benefit, as follows:~~

~~If a plan participant has at least thirty (30) years of credited service in ATRS, including combined service with a reciprocal system, the plan deposit is the~~

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~~participant's plan benefit as calculated at the entry into T-DROP, and then reduced by one percent (1%) for each year of credited service, including fractions of a year.~~

~~For early participants, the plan deposit is the early participant's plan benefit as calculated at the entry into T-DROP, and then reduced by one percent (1%) for each year of credited service, including fractions of a year, and further reduced by at least an additional one-half percent (.5%), but no more than one percent (1%), of the initially reduced plan deposit, for each month of credited service under thirty (30) years.~~

~~C. A participant shall elect an annuity option provided in A.C.A. § 24-7-706 at the time the participant separates from service and is granted a monthly retirement benefit or files for retirement upon reaching normal retirement age.~~

~~D. T-DROP Participation Limits~~

~~1. A member's participation in T-DROP shall not exceed ten (10) consecutive calendar years for accruing plan deposits; however, the Board is authorized under A.C.A. § 24-7-1307 to provide for a separate deposit, called the Post 10-year T-DROP interest.~~

~~2. If a participant continues covered employment after completing ten (10) years in T-DROP, the T-DROP account will be credited with Post 10-year T-DROP interest as set by the Board. Benefits payable at retirement will be based on the account balance the month before the participant begins drawing retirement benefits.~~

~~E. The annuity upon which plan deposits are calculated shall receive the cost-of-living increase provided for in A.C.A. § 24-7-713 or § 24-7-727. The annuity plus the cost-of-living increase is reduced or adjusted under this Rule.~~

~~F. If a participant elects to cash out or annuitize their T-DROP account balance upon election to retire, once the T-DROP account is distributed to the member, the participant shall not be allowed to reenroll in T-DROP, unless the member cancels their election under A.C.A. § 24-7-1302.~~

~~G. As soon as possible after the end of each fiscal year, ATRS shall furnish the participant an annual statement of the participant's T-DROP account. The statement of T-DROP deposits and interest will not be final until the annual accounting has been reconciled for part-time T-DROP participants.~~

~~H. If a participant earns service credit of one hundred sixty (160) days or greater within a fiscal year and the participant does not terminate employment, retire, or die during the fiscal year, or the ATRS employer does not terminate the employer/employee relationship, then ATRS will allow crediting of twelve (12) monthly T-DROP deposits per fiscal year.~~

~~I. Part-time employment while participating in the T-DROP plan:~~

~~1. In the first or fourth quarter of the fiscal year, five (5) or more days of service~~

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~~credit shall be required to credit the participant's account with three (3) monthly deposits for that particular quarter. If a participant receives less than five (5) days of service credit in either the first or fourth quarter of the fiscal year, then no T-DROP deposits shall be made in the three months for that particular quarter.~~

~~2. In the second or third quarters of the fiscal year, fifteen (15) or more days of service credit shall be required to credit the participant's account with three (3) monthly deposits for that particular quarter. If a participant receives less than fifteen (15) days of service credit in either the second or third quarter of the fiscal year, then no T-DROP deposits shall be made in the three months for that particular quarter.~~

VI. Ceasing T-DROP and Distribution Options

~~A. T-DROP monthly deposits automatically cease when:~~

- ~~1. The participant separates from service and is granted a monthly retirement benefit from ATRS or a reciprocal plan; or~~
- ~~2. The participant reaches normal retirement age and retires without separation from service; or~~
- ~~3. The participant separates from covered employment but does not apply for monthly retirement benefits; or~~
- ~~4. The participant dies.~~

~~B. Any lump sum distribution of a participant's T-DROP account balance is eligible to be rolled over into the member's qualifying retirement plan. The ATRS shall only roll over the T-DROP lump sum balance into one qualifying plan.~~

~~C. A participant may direct that all or a part of their lump sum distribution as set forth in Ark. Code Ann. § 24-7-1308 continue to be held by ATRS in a T-DROP Cash Balance Account described in this rule.~~

~~D. T-DROP is intended to operate in accordance with Section 415 and other applicable sections of the IRS Code. Any provision of the T-DROP that conflicts with an applicable provision of the IRS Code is invalid.~~

~~E. If a participant separates from covered employment but does not apply for monthly retirement benefits, the T-DROP monthly deposit shall cease the month of separation from service. No deposits will be credited to the participant's account for the duration of the separation. Upon returning to covered employment, the monthly deposits will resume. Upon application for retirement, benefits will be paid according to the account balance at the time of separation from service or the month prior to the effective date of benefits after reaching normal retirement age. Provided however, if a member has not separated from covered employment and remains on an ATRS employer payroll without obtaining sufficient service credit for monthly deposits, the member shall remain eligible for annual interest.~~

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~~F. Effect of Uniformed Service on T-DROP~~

~~1. If a participant leaves ATRS covered employment to serve, on a voluntary or involuntary basis, in the uniformed services of the United States and returns to ATRS covered employment, the member shall be treated as not having incurred a break in service with the ATRS employer. The ATRS employer shall certify to ATRS that reemployment was in accordance with the requirements set forth in Section 4312 of P.L. 103-353, the Uniformed Services Employment and Reemployment Act (USERA) of 1994.~~

~~2. Under this subsection, uniformed services of the United States are limited to the armed forces, the Army, and the Air National Guard when engaged in active duty for training, inactive duty training, full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.~~

~~VII. Death of a T-DROP Participant Prior to Retirement~~

~~A. In the event a participant dies while still in T-DROP, the benefits payable from the T-DROP account shall be determined according to A.C.A. § 24-7-710.~~

~~B. Unless otherwise directed to an alternative residual beneficiary or beneficiaries by the member, a T-DROP participant's surviving spouse may choose to receive the T-DROP benefit in a lump sum. If the spouse elects a lump sum payment of the T-DROP balance, then the survivor annuities payable under A.C.A. § 24-7-710 shall be calculated on the service credit and salary earned by the member prior to participating in T-DROP. If an alternative residual beneficiary or beneficiaries are chosen, then the residue is paid as a lump sum, and no monthly annuity is paid.~~

~~C. For the purposes of A.C.A. § 24-7-709 related to disposition of residue, any amount received from the T-DROP account, either in the form of a lump sum or annuity payments, shall be considered to be annuity payments received by the member or his or her designated beneficiary and shall act to reduce or eliminate the disposition of residue payable under A.C.A. § 24-7-1310.~~

~~VIII. DROP Participation Under Reciprocal Systems~~

~~A. If a reciprocal system offers a DROP for its members, then service credit in ATRS, a reciprocal system, or the combination of service credit in the systems may be counted to meet the minimum service credit requirements for participation under each system's DROP.~~

~~B. The benefit payable by the reciprocal system shall be based on the DROP provisions of each system. The final average salary used to determine plan deposits shall be that of the reciprocal system which furnishes the highest final average salary at the time of retirement. Each reciprocal system shall use the method of computing final average salary stipulated by its law. Salaries earned in the Arkansas Judicial Retirement System and alternate retirement plans shall not be used in computing final average salary.~~

MARK UP

~~G. Plan deposits and plan interest credited to the DROP account will be paid under the deferred retirement option program in effect for that reciprocal system.~~

~~IX. T-DROP Cash Balance Account (CBA)~~

~~A. At the time that a participant may elect to receive a lump-sum distribution of all of their T-DROP account balance, the participant may instead elect to defer all or a part of their T-DROP account and direct that such amount be held in a T-DROP Cash Balance Account (CBA) for the participant. If a participant chooses to defer only part of the T-DROP distribution into a T-DROP Cash Balance Account, the remainder of the T-DROP distribution shall be annuitized with ATRS according to the distribution options set out under A.C.A. § 24-7-1308.~~

~~B. After the T-DROP Cash Balance Account has been established on the ATRS' accounting system, a participant with a T-DROP Cash Balance Account balance may withdraw funds from the account six (6) times per quarter on such forms as ATRS may issue. ATRS may allow the participant to obtain additional withdrawals in a quarter with Executive Director approval. A participant may also request a recurring monthly distribution of a set amount until the CBA balance is depleted or the request is terminated by the participant. Minimum distributions will be made sufficient to satisfy legal requirements under Ark. Code Ann. § 24-7-730 and the Internal Revenue Code.~~

~~C. A T-DROP Cash Balance Account shall be credited monthly with T-DROP Cash Balance Account interest, beginning the month after the account is established, and debited for all withdrawals and distributions.~~

~~D. T-DROP Cash Balance Account Interest Schedule~~

~~1. The initial interest rates for participants electing to enter the T-DROP Cash Balance Account program are set forth in this subsection. Members establishing a T-DROP Cash Balance Account on or after July 1, 2012, shall receive interest on their T-DROP Cash Balance Account according to the following schedule:~~

~~After establishing a T-DROP Cash Balance Account and:~~

~~For the first fiscal year of participation: 2.50% interest.~~

~~For two (2) fiscal years: 2.75% interest.~~

~~For three (3) fiscal years: 3.00% interest.~~

~~For four (4) fiscal years: 3.25% interest.~~

~~For five (5) fiscal years: 3.50% interest.~~

~~For six (6) or more fiscal years: 4.00% interest.~~

~~2. These interest rates are minimum interest rates that apply to T-DROP Cash Balance Accounts that are established while these rates are in effect. The T-DROP Cash Balance Account interest may be increased by the ATRS Board of Trustees on a forward-looking and Ad Hoc basis.~~

MARK UP

~~E. The T-DROP Cash Balance Account interest rates payable on T-DROP Cash Balance Accounts established on or after July 1, 2012, shall remain in effect unless the ATRS Board of Trustees adopts a different schedule with lower interest rates to be used for future entrants to the T-DROP Cash Balance Account at least one (1) year prior to the beginning of a fiscal year in which the lower interest rates shall apply. The ATRS Board of Trustees may adopt an interest rate schedule for new entrants by Resolution, setting forth the new interest rate schedule for the T-DROP Cash Balance Account. T-DROP Cash Balance Accounts existing prior to the effective date of the Resolution shall be unaffected by the new interest rate schedule.~~

~~F. When adjusting and setting rates for interest on a T-DROP Cash Balance Account, the Board may consider the current market conditions, competing financial offerings to members, the bank rate for certificates of deposits, the status of ATRS' returns on investments, and the current state of T-DROP Cash Balance Account participation. The Board may periodically authorize by resolution a special ad hoc incentive payment for the Cash Balance Accounts if the Board determines that payment is likely to retain existing T-DROP Cash Balance Account holders and increase future participation in T-DROP Cash Balance Accounts. The ad hoc increase may be set as a single amount to be applied to all Cash Balance Accounts or may be computed as a graduated amount based upon the length of time the Cash Balance Account has been in existence.~~

~~G. If a participant dies with a T-DROP Cash Balance Account, the account balance shall be paid as provided under Ark. Code Ann. § 24-7-1310.~~

HISTORY

Approved:	June 13, 1995	10-3
Amended:	July 30, 1997	10-3
Amended:	June 17, 2003	10-3
Amended:	June 15, 2004	10-2
Amended:	February 15, 2005	10-3
Amended:	July 18, 2005	10-2, 10-3
Amended:	October 4, 2005	10-2
Amended:	December 6, 2005	10-2
Amended:	April 26, 2007	10-3
Amended:	June 19, 2007	10-2
Amended:	February 11, 2008	10-2
Amended:	June 16, 2009	10-2 (Emergency)
Amended:	October 5, 2009	10-2 (Permanent)
Amended:	February 1, 2010	10-3 under emergency rules.
Amended:	June 7, 2010	10-3 Permanent

MARK UP

Amended:	July 1, 2011	10-3 (Emergency)
Adopted:	August 8, 2011	10-3
Effective:	November 11, 2011	10-3
Approved by Board:	February 6, 2012	10-3
Amended:	April 2, 2012	10-3 (Emergency)
Effective:	May 29, 2012	10-3
Approved by Board:	July 26, 2013	10-2, 10-3
Amended:	October 9, 2013	10-2, 10-3
Effective:	November 8, 2013	10-2, 10-3
Approved by Board:	December 1, 2014	10-3
Amended:	May 18, 2015	10-3
Effective:	June 16, 2015	10-3
Approved by Board:	October 5, 2015	10-3
Amended:	February 1, 2016	10-3
Effective:	February 10, 2016	10-3
Approved by Board:	February 5, 2018	10-3
Effective:	February 16, 2018	10-3
Effective:	August 5, 2019	Rule 10
Effective:	May 28, 2020	

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Teacher Retirement System

DIVISION _____

PERSON COMPLETING THIS STATEMENT Jennifer Liwo

TELEPHONE NO. (501) 682-1517

FAX NO. (501) 682-2359

EMAIL: jenniferl@artrs.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE ATRS Rule 10 - T-DROP and Return to Service

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

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

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

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

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.



DECEMBER 15, 2021

SUMMARY OF PROPOSED RULE AMENDMENT

ATRS RULE 10 – T-DROP AND RETURN TO SERVICE

I. PURPOSE

To amend ATRS Rule 10 – T-DROP and Return to Service (Rule 10) in accordance with legislation enacted during the Regular Session, 2021, and to redraft current provisions for clarity and to correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate. The amendments to Rule 10 are necessary for the proper operation and administration of the Arkansas Teacher Retirement System.

II. BACKGROUND AND DISCUSSION

A.C.A. § 24-7-301 provides that the Board of Trustees of the Arkansas Teacher Retirement System is responsible for the general administration and proper operation of the Arkansas Teacher Retirement System and for implementing the Arkansas Teacher Retirement System Act, A.C.A. § 24-7-201 et seq.

A.C.A. § 24-7-305(b) gives the Board of Trustees of the Arkansas Teacher Retirement System the authority to promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System. A.C.A. § 24-7-1301(c) gives the Board of Trustees of the Arkansas Teacher Retirement System the authority to promulgate rules necessary for the orderly administration of the Teacher Deferred Retirement Option Plan, including without limitation the rules for eligibility for continuance of deposits for part-time employment. Acts 2021, No. 595 requires the Arkansas Teacher Retirement System to promulgate rules pursuant to the provisions of each act identified by the Bureau of Legislative Research as requiring the promulgation of one (1) or more rules.

Rule 10 currently provides that the final average salary that is used to determine the retirement benefit of a participant in the Teacher Deferred Retirement Option Plan shall be the final average salary of the reciprocal system furnishing the highest final average salary at the time of plan participant's retirement. Acts 2021, No. 221 amended the law to provide that the final average salary for a member with reciprocal service shall be the final average salary of the Arkansas Teacher Retirement System or a reciprocal system in which the member has at least two (2) years of service credit, whichever furnishes the highest final average salary at the time of the member's retirement. Rule 10 is being amended to reflect the amendment to the law in Acts 2021, No. 221.

Rule 10 currently provides that the plan interest rate and the ten (10) year plus plan interest applied to a member's Teacher Deferred Retirement Option Plan account shall be adopted by resolution of the Board of Trustees of the Arkansas Teacher Retirement System prior to the beginning of the fiscal year. Acts 2021, No. 279 amended the law to provide that the plan interest rate and the ten (10) year plus plan interest shall be adopted by resolution of the Board of Trustees of the Arkansas Teacher Retirement System by the end of the first quarter of the fiscal year in which the respective interest rate shall apply. Additionally, Acts 2021, No. 279 provides that the plan interest rate and the ten (10) year plus plan interest rate adopted by resolution of the Board of Trustees of the Arkansas Teacher Retirement System shall apply to subsequent fiscal years following the first quarter of the fiscal year in which the respective interest rates were adopted.



unless modified by the Board of Trustees of the Arkansas Teacher Retirement System. Rule 10 is being amended to reflect the amendment to the law in Acts 2021, No. 279.

Rule 10 currently provides that the remainder of a Teacher Deferred Retirement Plan account plan distribution shall be annuitized with Arkansas Teacher Retirement System according to the distribution options in A.C.A. § 24-7-1308. Acts 2021, No. 279 repealed the distribution option provisions in A.C.A. § 24-7-1308. Rule 10 is being amended to provide that the remainder of a Teacher Deferred Retirement account plan distribution shall be annuitized with the Arkansas Teacher Retirement System or received as a lump-sum distribution.

Rule 10 is being amended to redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.

III. KEY POINTS

Rule 10 is being amended to:

- Provide that the final average salary for a member with reciprocal service shall be the final average salary of the Arkansas Teacher Retirement System or a reciprocal system in which the member has at least two (2) years of service credit, whichever furnishes the highest final average salary at the time of the member's retirement;
- Provide that the plan interest rate and the ten (10) year plus plan interest applied to a plan participant's Teacher Deferred Retirement Option Plan account shall be adopted by resolution of the Board of Trustees of the Arkansas Teacher Retirement System by the end of the first quarter of the fiscal year in which the respective interest rate shall apply;
- Provide that the plan interest rate and the ten (10) year plus plan interest rate adopted by resolution of the Board of Trustees of the Arkansas Teacher Retirement System shall apply to subsequent fiscal years following the first quarter of the fiscal year in which the respective interest rates were adopted unless modified by the Board of Trustees of the Arkansas Teacher Retirement System;
- Provide that the remainder of a Teacher Deferred Retirement account plan distribution shall be annuitized with the Arkansas Teacher Retirement System or received as a lump-sum distribution; and
- Redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.