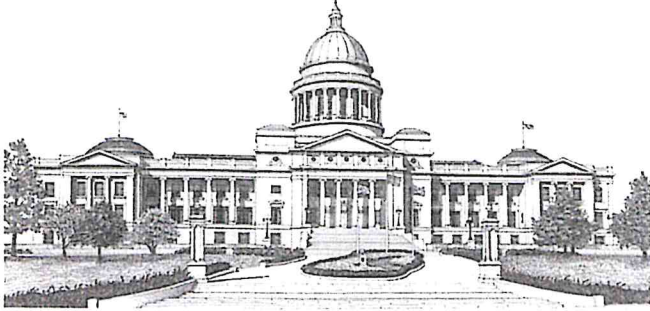


ARKANSAS REGISTER

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@artrs.gov Phone 501-588-4367

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

Rule Title: Rule 9 - Retirement and Benefits

Intended Effective Date (Check One)		Date
<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>12/15/2021</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>01/14/2022</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>04/20/2022</u>
	Adopted by State Agency	<u>02/07/2022</u>

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

Jennifer Liwo

jenniferl@artrs.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@artrs.gov

E-mail Address

Executive Director

Title

05/05/2022

Date

ATRS RULE 9
RETIREMENT AND BENEFITS

Arkansas Code §§ 24-7-202, 24-7-205, 24-7-502, 24-7-701 — 24-7-707, 24-7-709, 24-7-710, 24-7-727, 24-4-732, 24-7-734, and Acts 1987, No. 808

I. Definitions

- a. "Act 808 Employee" means an employee of a state agency who:
 - 1. On April 8, 1987, was an active member of the Arkansas Teacher Retirement System (ATRS);
 - 2. Qualified to retire before January 1, 1988, under the Early Retirement Incentive Law of 1987 (Acts 1987, No. 187); and
 - 3. Could elect to become a member of the Arkansas Public Employees Retirement System (APERS) and have his or her credited service in ATRS transferred to APERS;
- b. "Annuity options" means one (1) or more options that:
 - 1. Concern how an annuity benefit shall be paid, in accordance with Arkansas Code § 24-7-706, to a member for his or her lifetime after the member's retirement; and
 - 2. Are available for a member's election at the time of the member's retirement;
- c. "Application" for the purposes of retirement eligibility means an application form and any other documents required by ATRS to establish a member's eligibility to retire;
- d. "Covered employer" or "employer" means an employer who participates in ATRS and whose employees are eligible for membership under Arkansas Code §§ 24-7-202, 24-7-501, or other applicable law;
- e. "Dependent child" means a child of a member or retiree who:
 - 1. Is a minor;
 - 2. Is between eighteen (18) and twenty-three (23) years of age and continuously enrolled as a full-time student at an accredited secondary school, college, or university; or
 - 3. Has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;
- f. "Effective retirement date" means, for purposes of ATRS' retirement benefits, the first day of the month in which a member requests to receive retirement benefits and for which the member submits a timely retirement application;
- g. "Incapacitated child" means a child who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;
- h. "Marriage dissolution" means a final decree of divorce, separate maintenance, or

annulment executed by a court of competent jurisdiction and filed of record in the Office of the Ex Officio Recorder;

- i. "Medical committee" means the committee of three (3) physicians appointed by the Board of Trustees of the Arkansas Teacher Retirement System (Board) under Arkansas Code § 24-7-303 for the purpose of evaluating disability retirement applications;
- j. "Option beneficiary" means a person who:
 - 1. A member nominates by written designation, before or after the member's retirement, to receive annuity payments after the member's death in accordance with the annuity option selected by the member; and
 - 2. If eligible, shall receive annuity payments after the member's death in accordance with the annuity option selected by the member;
- k. "Person" means an individual, trust, estate, corporation, partnership, or other legal entity;
- l. "Residue" means a member's accumulated contributions, including regular interest standing in the member's credit at the time of his or her retirement;
- m. "Residue beneficiary" means a person who a member nominates by written designation to receive the member's residue, if any, under Arkansas Code § 24-7-709;
- n. "Receivable" means monies due to ATRS from a member, former member, covered employer, contributor, retiree, beneficiary, or alternate payee under a qualified domestic relations order (QDRO) as a result of an overpayment of any payment or benefit by ATRS; and
- o. "Retiree" means a retired member who receives an annuity from ATRS.

II. Age and Service Retirement Eligibility

- a. If eligible, an active or inactive member who attains age sixty (60) and has five (5) or more years of actual and reciprocal service credit may voluntarily retire by filing a written application with ATRS.
- b. If eligible, an active or inactive member who has not reached age sixty (60) and has twenty-five (25) or more years of actual and reciprocal service credit, including purchased or free credited service, may voluntarily retire by filing a written application with ATRS.
- c. To be eligible for retirement, a member shall:
 - 1. Satisfy the credited service requirements under one of ATRS' retirement statutes, Arkansas Code §§ 24-7-701—707;
 - 2. Be credited with all required covered employer and member contributions in the member's deposit account, with no amounts owed to ATRS;
 - 3. Pay all amounts owed to ATRS for underpayments or purchase service accounts; and

4. Terminate employment with each of his or her covered employers or reach the normal retirement age.

III. Benefits

a. Benefits Formula

1. The retirement benefits payable to a retiree shall be the total number of contributory years of credited service, multiplied by a factor between one and seventy-five hundredths percent (1.75%) and two and fifteen hundredths percent (2.15%) of the final average salary as set by the Board, plus the total number of noncontributory years of credited service multiplied by a factor between five-tenths percent (0.5%) and one and thirty-ninth hundredths percent (1.39%) of the final average salary, as set by the Board.
2. The Board shall modify the standard multipliers for credited service of ten (10) years as necessary to maintain actuarial soundness. (Arkansas Code § 24-7-705).

b. B. Effective Date of Retirement (Arkansas Code § 24-7-701)

1. If a member meets all eligibility requirements for retirement and is approved for retirement, annuity benefits shall be effective on the month proposed in the member's application.
2. If the member does not file an application at least one (1) calendar month before the proposed effective retirement date, then the proposed retirement effective date in the member's application shall not be used, and the member's effective retirement date shall be the following month.
3. If a member has signed an employment contract for the fiscal year and has been paid in full without providing service for the full period of the employment contract, the member's effective retirement date shall not be before July 1 of the subsequent fiscal year.
4. If a member has accrued a full year of service credit equal or greater to one hundred sixty (160) days in a fiscal year, the member's retirement date shall not begin earlier than July 1 of the subsequent fiscal year unless the member:
 - A. Has attained the normal retirement age and is not separating from employment; or
 - B. Is not licensed or otherwise certified as a classroom teacher and vacating a classroom.

c. Normal Retirement Age

1. A member who attains the normal retirement age may:
 - A. Apply for retirement benefits without terminating employment; and
 - B. Begin drawing retirement benefits.
2. The retirement benefits of a member who attains the normal retirement age shall not be affected if the member applies for and draws retirement benefits.

- d. Compound Cost of Living Adjustment (Arkansas Code § 24-7-727)
 - 1. The Board may, by resolution, reverse a compound cost of living adjustment as needed to maintain the actuarial soundness of ATRS.
 - 2. A reversal may be phased in as the Board determines appropriate.
- e. Change of Marital Status (Arkansas Code § 24-7-706)
 - 1. If the marital status of a retiree changes due to the death of the retiree's spouse or a marriage dissolution, the retiree may choose to:
 - A. Cancel his or her designation of the former spouse as a beneficiary; or
 - B. Designate a dependent child as a replacement beneficiary if the:
 - i. Retiree previously designated the former spouse as his or her Option A or Option B beneficiary; and
 - ii. Former spouse predeceases the retiree.
 - 2. If the retiree chooses to cancel the designation of his or her former spouse as his or her Option A or Option B beneficiary or chooses to designate a dependent child as a replacement Option A or Option B beneficiary, the retiree shall file with ATRS a change of option beneficiary on an ATRS approved form, and any change in the benefit amount shall become effective the month after ATRS receives the approved form.
- f. Alternative Residue Beneficiary Designation
 - 1. If a member designates one (1) or more alternative residual beneficiaries in lieu of his or her spouse, the member shall submit the names of each alternative residue beneficiary on ATRS approved form to ATRS.
 - 2. If a member designates one (1) or more alternative residue beneficiaries in lieu of his or her spouse, each alternative residue beneficiary shall receive an appropriate lump-sum payment of the greater of either:
 - A. The member's residue from the Teacher Deferred Retirement Option Plan (T-DROP); or
 - B. The member's contributions.
- g. Final Benefit Payments and Lost Payees (Arkansas Code § 24-7-734)
 - 1. Benefits are payable through the month in which the retiree's death occurs.
 - 2. If a final benefit payment is not delivered in the normal course of business, the benefit payment shall be sent in the following order until delivered:
 - A. To the member's residue beneficiary, if any;
 - B. To the member's lump-sum death beneficiary, if any;
 - C. To the member's estate' if any; or

- D. To the trust assets of ATRS.
- 3. The Board shall direct a benefit payment amount forfeited to the trust assets of ATRS if the:
 - A. Benefit payment cannot be made five (5) years after the benefit payment is due because the location of the member or the identity and location of the member's beneficiary or personal representative cannot be ascertained by mailing the benefit payment to the last known address of the member, beneficiary, or personal representative in ATRS' records; and
 - B. Neither the member, beneficiary, or personal representative submitted paperwork or forms approved by ATRS updating his or her location or last known address to ATRS before the expiration of five (5) years from when the benefit payment is due.

IV Retirement Application and Other Documents

- a. Generally
 - 1. A copy of the ATRS retirement application may be downloaded from the ATRS website or requested from ATRS.
 - 2. For a member who is inactive, vested, and immediately eligible to retire, retirement benefits shall be payable the month after ATRS receives the member's retirement application.
- b. Time Period for Filing Retirement Application
 - 1. In order for a retirement application to be timely filed, there is a three-month "window" to apply for retirement benefits.
 - 2. An active member who is currently employed by a covered employer shall file his or her retirement application:
 - A. No sooner than four (4) months before the active member's effective retirement date; and
 - B. No later than one (1) month before the active member's effective retirement date.
 - 3. Procedure for Handling Received Retirement Applications
 - A. ATRS' procedure for handling a retirement application received by ATRS shall be as follows:
 - i. If a retirement application is received by ATRS before the three-month window begins for the member's anticipated effective retirement date, ATRS shall:
 - a. Consider the retirement application untimely;
 - b. Reject the retirement application;
 - c. Notify the member of one (1) or more dates on which the

member may timely file a retirement application; and

- d. Notify the member of the procedure to use in order to timely file a retirement application.
- ii. If a retirement application is received after the three-month window ends for the member's anticipated effective retirement date, ATRS shall:
 - a. Consider the retirement application untimely; and
 - b. Provide the member with a new effective retirement date that begins on the first day of the month following the member's previously anticipated effective retirement date.
- 4. This ATRS Rule 9 IV.b. does not apply to a disability retirement application or an application for survivor benefits.
- 5. The following table shows examples of the windows for filing a retirement application:

EXAMPLE OF RETIREMENT FILING DATES			
Effective Date of Retirement	Retirement Application Must be Filed In:	Last Date of Employment	First Retirement Check
January 1	September, October or November	December 31	End of January
February 1	October, November or December	January 31	End of February
March 1	November, December or January	Feb 28/29 (Leap year)	End of March
April 1	December, January or February	March 31	End of April
May 1	January, February or March	April 30	End of May
June 1	February, March or April	May 31	End of June
July 1	March, April or May	June 30	End of July
August 1	April, May or June	July 31	End of August
September 1	May, June or July	August 31	End of September
October 1	June, July or August	September 30	End of October

November 1	July, August or September	October 31	End of November
December 1	August, September or October	November 30	End of December

6. The following table is the only "window" for filing a T-DROP application:

Effective Date of Retirement	Retirement Application Must be Filed In:
July 1	March, April, or May

c. Retirement Application and Other Documents Required by ATRS

1. In addition to a complete retirement application, the following documents required by ATRS in order to begin making benefit payments shall be submitted to ATRS within six (6) months of the effective date of retirement unless an extension is granted by ATRS:

A. Member elects a straight life annuity:

- i. Proof of member's birthdate from a birth certificate or other authenticating documents-; and
- ii. Proof of member's taxpayer identification number from a Social Security card or other authenticating documents.

B. Member elects Option A or Option B benefit with Spouse as the beneficiary:

- i. Proof of the member's birthdate from a birth certificate or other authenticating documents-;
- ii. Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents-;
- iii. Proof of the spouse's birthdate from a birth certificate or other authenticating documents-;
- iv. Proof of the spouse's taxpayer identification number from a Social Security card or other authenticating documents-; and
- v. Proof of the marriage between the member and spouse from a marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage.

C. Member elects Option A or Option B benefit with a dependent child as the beneficiary:

- i. Proof of the member's birthdate from a birth certificate or other authenticating documents;

- ii. Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents;
 - iii. Proof of Guardianship
 - A. Adequate proof of the existence of a guardianship due to the incapacity of the member's dependent child that preexists the member's official retirement date.
 - B. Authenticating documents may include the order appointing guardianship of the person, letters of guardianship, or other adequate proof of the existence of the guardianship;
 - iv. Proof of the dependent child's birthdate from a birth certificate or other authenticating documents; and
 - v. Proof of the dependent child's taxpayer identification number from a Social Security card or other authenticating documents.
- D. Member elects Option C annuity:
- i. Proof of the member's birthdate from a birth certificate or other authenticating documents; and
 - ii. Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents.
- d. Submission Deadlines — Age and Service Retirement and Early Retirement Applications — Additional Documents
1. If a member files an age and service retirement application or early retirement application, all additional documents required by ATRS in order to begin making benefit payments shall be submitted within six (6) calendar months after the member's effective retirement date unless an extension is granted by ATRS.
 2. If all additional documents required by ATRS are not submitted by the six-month deadline or any extension granted by ATRS, the retirement application shall be void and without effect.

V. State Employee Transfers to APERS (Act 808) Rules

- a. An Act 808 employee shall make the election to transfer to APERS on a form approved by ATRS.
- b. The transfer from ATRS to APERS shall be effective on the employee's effective date of retirement.
- c. ATRS shall certify to APERS a record of the Act 808 employee's service credit in ATRS.
- d. If an Act 808 employee is a non-contributory member of ATRS at the time of his or her retirement, the Act 808 employee shall retire under the non-contributory provisions of Acts 1987, No. 187 and shall be entitled to a refund of his or her Act 808 employee contributions made since January 1, 1978, to ATRS.

- e. If an Act 808 employee was a contributory member of ATRS at the time of his or her retirement, the Act 808 employee shall retire under the contributory provisions of Acts 1987, No. 187.
- f. APERS shall pay the monthly benefits of an Act 808 employee who elects to transfer to APERS.
- g. APERS shall certify monthly to ATRS the amount of monthly benefits paid and ATRS shall transfer its pro-rata portion to APERS.
- h. Upon receipt of a death certificate from APERS for a retiree who chose straight life annuity and has a balance remaining in his or her account, ATRS shall transfer the remaining balance in the retiree's account to APERS for refunding to the retiree's designated beneficiary.

VI. Disability Retirement Rules

- a. Submission Deadlines and Commencement of Disability Retirement Benefit Payments
 - 1. A member has six (6) calendar months from the date of the member's disability retirement application to submit a completed application and all accompanying documentation required by ATRS.
 - 2. If a member does not submit all accompanying documentation required by ATRS within the six-month deadline, ATRS shall:
 - i. Submit the disability retirement application to the medical committee for review as complete; or
 - ii. Withdraw the application at the request of the member unless an extension is granted by ATRS.
 - 3. Disability retirement benefits shall begin on the first of the month in which a member files a disability retirement application with ATRS if the:
 - A. Member is eligible for disability retirement under Arkansas Code § 24-7-704 and the ATRS Rules;
 - B. Member is no longer employed by a covered employer at the time he or she files the disability retirement application; and
 - C. Medical committee determines that the member has a disability.
 - 4. If the member is still employed a covered employer at the time the member files the disability retirement application, then, once approved by the medical committee and then the Board, the disability retirement shall begin on the first of the month following the last day of the member's covered employment.
- b. Effective Retirement Date and Employment After Disability Retirement
 - 1. Effective Retirement Date
 - a. A member's disability retirement is effective from the date the member files a disability retirement application with ATRS and terminates employment with each of his or her covered employers.

2. Leave
 - A. A member is considered active if the member is using earned sick leave, Family Medical Leave Act (FMLA) leave, annual leave, and catastrophic leave.
 - B. Worker's compensation, which may or may not include the use of leave granted by an employer, shall not:
 - i. Be considered leave by which a member is considered active; and
 - ii. Extend the date of active membership.
3. Direct or Indirect Employment
 - A. A member shall not receive disability retirement benefit payments if the member indirectly performs work for an ATRS covered employer as described in Arkansas Code § 24-7-704(a)(4)(B).
 - B. If a member is approved for disability retirement and continues to work either directly or indirectly for a covered employer, the member shall:
 - i. Terminate direct or indirect employment with the covered employer by the proposed disability effective retirement date; or
 - ii. If the member is finalizing work for the covered employer, terminate employment no later than two (2) full calendar months after the medical committee's final decision.
 - C. If the member does not terminate employment under the ATRS Rules and the termination requirement under Arkansas Code § 24-7-502, the member's disability retirement application shall be considered rescinded and the member may reapply if eligible.
4. Continued Employment Under Age Sixty (60)
 - A. A retiree under the age of sixty (60) may be employed by an ATRS covered employer and also receive ATRS disability retirement benefit payments if the retiree performs less than eighty (80) days of actual service during a fiscal year.
5. Return to Employment
 - A. After receiving ATRS approval for disability retirement a retiree may choose to return to covered employment with an ATRS covered employer and relinquish his or her disability retirement.
 - B. If a retiree chooses to return to covered employment, the member shall:
 - i. Not receive disability retirement benefit payments;
 - ii. Be considered an active member; and
 - iii. Comply with Arkansas Code § 24-7-738 (Acts 2017, No. 549).
 - C. A retiree shall become an active member and his or her disability retirement shall be immediately terminated if:

determination letter finding the retiree disabled.

4. Inability to Obtain SSA Determination Letter — Medical Committee Review

- A. A retiree who attempts and is unable to receive a SSA determination letter finding the retiree disabled may apply for a review by the medical committee.
- B. A retiree may apply for a review by the medical committee:
 - i. No earlier than three (3) months before the date on which the retiree's disability retirement benefit payment would otherwise be suspended; and
 - ii. No later than three (3) months after disability retirement benefit payments to the retiree is suspended.
- C. A review performed by the medical committee shall follow the standards and procedures in Arkansas Code § 24-7-704(a)(1)(E).
- D. A member's option to request a second review as provided by Arkansas Code § 24-7-704(a)(1)(H) shall not apply to a retiree who seeks disability review under Arkansas Code § 24-7-704(b)(3)(D).

5. Denial of Disability Review

- 1. After a disability review is held due to the SSA finding that a member is not disabled, the medical committee's recommendations shall be submitted to the Board for a final order.
- 2. If a member is denied further disability benefits after a disability review by the medical committee, the member may:
 - i. Offer additional medical information within thirty (30) days of the date of the disability review; and
 - ii. Request that the Board return the matter to the medical committee for reconsideration.

6. SSA Determination Letter No Longer Required

- A. A retiree shall begin receiving regular retirement benefits as if the retiree voluntarily retired and a SSA determination letter shall not be required if the retiree
 - i. Attains fifty-seven (57) years of age in the month the retiree's disability retirement benefits become effective; or
 - ii. Attains sixty (60) years of age.

d. Denial of Disability Retirement

- 1. If a member's initial application for disability retirement is denied and the member elects and qualifies for voluntary retirement, the member's effective retirement date shall be determined by the date the member's initial disability retirement application is filed.

2. A member may request a second review if the member's initial disability retirement application is denied and the member submits additional medical documentation for the medical committee's consideration.
 3. A member may only request a second review one (1) time.
 4. If a member requests a second review, unless an extension is granted by ATRS, the member has six (6) calendar months from the date of the letter notifying the member of the denial of his or her initial disability retirement application to submit additional medical documentation.
 5. If a member's initial disability retirement application is denied after the second review, the member may file another subsequent disability retirement application and submit additional information for consideration if the member is active and eligible for disability retirement under Arkansas Code § 24-7-704.
 6. If a member's initial disability retirement application is denied and the member is ineligible to apply for disability retirement benefits under Arkansas Code § 24-7-704 or is inactive, the member may apply for age and service retirement or early voluntary retirement if the member meets the requirements for age and service retirement or early voluntary retirement.
- e. Member Death Before Determination on Disability Retirement Application
1. If the member dies after the disability application is received by ATRS, but before his or her disability retirement application is approved, then the:
 - A. Member shall be considered as having died in active service; and
 - B. Survivor benefits under Arkansas Code § 24-7-710 shall be paid, unless the member designated one (1) or more alternative residual beneficiaries.
- f. Disability Retirement Benefit Formula
1. The annuity formula for computing disability retirement benefits is shall be the same annuity formula used to compute voluntary age and service retirement benefits.
- g. Beneficiary Designation After Approval of Disability Retirement
1. If a disability retirement application is approved by the medical committee after May 31, 2011, the Board shall allow the member to designate an Option A or Option B beneficiary at the time of retirement.
 2. An Option C beneficiary shall not be designated by a member who applies for disability retirement or a disability retiree. (Arkansas Code § 24-7-706(a)(3))
 3. The same rules that apply to an active member's surviving spouse under Arkansas Code § 24-7-710(b) shall apply to a disability retiree's surviving spouse if the disability retiree:
 - A. Designates his or her spouse as Option A or Option B beneficiary at the time of retirement; and
 - B. Dies before reaching sixty (60) years of age.

4. The same rules that apply to a surviving spouse of an active member under Arkansas Code § 24-7-710(b) shall apply to the surviving spouse of a disability retiree if the disability retiree:
 - A. Dies after disability retirement benefit payments to the disability retiree begin;
 - B. Does not designate his or her spouse as an Option A or Option B beneficiary; and
 - C. Does not designate a residue beneficiary.
5. The same rules that apply to a surviving spouse of an active member under Arkansas Code § 24-7-710(b)(1)(B) shall apply to the surviving spouse of a disability retiree if the disability retiree:
 - A. Dies after disability retirement benefit payments to the disability retiree began;
 - B. Does not designate his or her spouse as an Option A or Option B beneficiary; and
 - C. Designates his or her spouse as a residue beneficiary.
6. If a disability retiree designates his or her dependent child as an Option A or Option B beneficiary, and the disability retiree dies before reaching age sixty (60), then:
 - A. The same rules that apply under Arkansas Code § 24-7-710(c) to an active member's surviving child shall apply to the disability retiree's Option A or Option B dependent child beneficiary until the date on which the disability retiree would have turned sixty (60) years of age; and
 - B. On the date on which the disability retiree would have turned sixty (60) years of age, the Option A or Option B dependent child beneficiary shall receive the greater of the surviving child annuity under Arkansas Code § 24-7-710(c) or the Option A spouse annuity under Arkansas Code § 24-7-710(b).

VII. Annuity Options and Disposition of Residue After Retirement Rules

- a. Option Annuity Election
 1. Before the date the first benefit payment of an annuity becomes due, a member retiring with age or service may elect one (1) of the following annuity options:
 - A. **Option 1** — Straight Life Annuity
 - B. A straight life annuity payable monthly for the life of the retiree. Option 2 — Reduced Straight Life Annuity with Option Beneficiaries
 - i. A retiree shall receive the actuarial equivalent of the retiree's straight life annuity in a reduced annuity payable throughout the retiree's life.
 - ii. A member may designate a beneficiary to receive one (1) of the following annuity options:

- a. Option A — One hundred percent (100%) Survivor Annuity
 - 1. Upon the death of the retiree, the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.
 - 2. A member may designate one (1) beneficiary under Option A.
 - b. Option B — 50% Survivor Annuity
 - 1. Upon the death of the retiree, one-half (1/2) of the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.
 - 2. A member may designate one (1) beneficiary under Option B.
 - c. Option C — Annuity for Ten (10) Years Certain and Life Thereafter
 - 1. The retiree shall receive a reduced annuity payable throughout the retiree's life.
 - 2. If the retiree dies before receiving one hundred twenty (120) monthly annuity payments, the payments shall be continued for the remainder of the period of one hundred twenty (120) months and paid to one (1) or more of the retiree's designated beneficiaries in equal shares.
 - 3. A member may designate one (1) or more beneficiaries under Option C.
- b. Effect of Option 1 Retiree's Death within the First Year of Retirement**
- 1. If an Option 1 retiree dies within one (1) year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to cancel the Option 1 annuity in effect and elect Option A, one hundred percent (100%) survivor annuity, at that time.
 - 2. The election shall be effective the first day of the month following receipt of the election form by ATRS.
 - 3. If the spouse elects Option A, the residue, if any, shall not be paid until the Option A beneficiary's death.
- c. Persons Eligible as Option A or Option B Beneficiaries at the Time of Retirement**
- 1. The following persons are eligible to be nominated by written designation as an Option A or Option B beneficiary:
 - A. The retiree's spouse if the retiree and his or her spouse have been married to each other for at least one (1) year before the first annuity benefit payment to the retiree;

- B. A retiree's dependent child who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction, regardless of the age of the dependent child.

d. Eligibility of a Spouse to Become an Option A or Option B Beneficiary after a Member's Retirement

1. After his or her retirement, a retiree may designate his or her spouse as an Option A or Option B beneficiary if the retiree:
 - A. Has been married to his or her spouse for one (1) year; and
 - B. Either:
 - i. Was married to his or her spouse for less than one (1) year upon his or her effective retirement date; or
 - ii. Marries his or her spouse after his or her effective retirement date.
2. Upon meeting the one-year marriage requirement, the retiree shall have six (6) months to file a written nomination designating his or her spouse as either an Option A or Option B beneficiary.
3. The designation shall be filed on a form approved by ATRS.

e. Eligibility of a Dependent Child to Become an Option A or Option B Beneficiary after a Member's Retirement

1. After a retiree's effective retirement date, the retiree may designate an Option A or Option B dependent child beneficiary if the:
 - A. Retiree previously designated his or her spouse as the Option A or Option B beneficiary;
 - B. Spouse designated as the retiree's Option A or Option B beneficiary predeceases the retiree; and
 - C. Dependent child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction.

f. Emancipation of Incapacitated Child Option Beneficiary

1. A member may request that ATRS remove an incapacitated child as his or her Option A or Option B beneficiary if:
 - A. The member designated the incapacitated child as his or her Option A or Option B dependent child beneficiary; and
 - B. One (1) of the following applies:
 - i. A court finds that the incapacitated child is no longer incapacitated;
 - ii. The incapacitated child is emancipated through marriage; or
 - iii. The incapacitated child dies.
2. The following forms of proof shall be submitted, as appropriate, with the member's request to remove an incapacitated child as his or her Option A or

Option B:

- A. A file-marked copy of the court's order finding that the incapacitated child is no longer incapacitated;
 - B. A copy of the incapacitated child's marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage; or
 - C. A copy of the incapacitated child's death certificate.
3. Once the proof required to remove an incapacitated child as the member's Option A or Option B beneficiary is submitted to ATRS, the member may:
- A. Elect to return to an Option 1; or
 - B. If the member is married, designate his or her spouse as the Option A or Option B beneficiary within six (6) months of the date on which ATRS receives the proof required under this ATRS Rule 9 VII.f.2.
 - C. The member's election shall be effective on the first day of the month following the date on which ATRS receives the election form.

g. Residue Paid Upon Death of Option Annuitant

- 1. A member may designate any person as a residue beneficiary.
- 2. A retiree's residue, if any, shall be paid to the retiree's residue beneficiary if the:
 - A. Retiree dies before receiving annuity benefit payments equal to the residue amount; and
 - B. Option beneficiary dies before receiving annuity benefit payments equal to the residue amount.
- 3. If a residue beneficiary is not nominated or does not survive the death of the option beneficiary, the residue remaining, if any, shall be paid to the retiree's estate.

h. Final Benefit Check

- 1. Benefits are payable through the month in which the last option beneficiary's death occurs.
- 2. If the option beneficiary dies before receiving the last check, ATRS shall pay the final check in the normal manner paid before death.
- 3. If payment of the final check in the normal course becomes impossible, the final option beneficiary's annuity check shall be returned to ATRS.

VIII. Error Corrections and Collection of Overpayments Rules

a. Payment Errors

- 1. If a change or error in ATRS' records discovered during the look-back period results in either an overpayment or underpayment to ATRS, the Board shall

authorize ATRS to:

- A. Correct the error in the records;
 - B. Adjust a benefit or any other amount payable to the corrected amount as far as practicable; and
 - C. Take all necessary and appropriate action, including the options allowed under Arkansas Code § 24-7-205(b).
2. The Board or its designee may adjust the records of ATRS, a covered employer, and a member beyond the look-back period if the Board determines that the time limitation imposed by the look-back period will result in a manifest injustice in a specific case.¹
- b. Benefit Participant Under QDRO
 1. If a benefit participant under a QDRO pursuant to Arkansas Code §§ 9-18-101—103, is paid any benefit or payment by ATRS to which the benefit participant is not entitled, and it is discovered during the look-back period, then a receivable is created and the Board or its designee, may collect the amount due to ATRS as provided by Arkansas Code § 24-7-205.
- c. Notice of Benefit Adjustment
 1. Before making an adjustment of benefits that causes a reduction of the benefits or pursuing any other collection action, ATRS shall provide notice to the person who is the subject of the adjustment.
 2. The notice shall:
 - A. State the amount determined to be a receivable;
 - B. State the reasons underlying the determination;
 - C. Describe the process for disputing an adjustment of benefits; and
 - D. Suggest alternate methods for payment of the receivable.
- d. Dispute and Appeal of Collections
 1. Appeals to dispute collections shall be made according to the procedures and requirements of ATRS Rule 13.
 2. During the appeal process, retirement benefits may continue to be paid.
- e. Correction and Adjustment Limitations
 1. Actions that affect benefit rights shall not be corrected or adjusted further than a five-year look-back period unless a manifest injustice has occurred or an exception exists under Arkansas Code § 24-7-205(c).
 2. A determination by ATRS of a manifest injustice in a particular instance due to a technical error or error in judgment is discretionary and governed by Arkansas Code § 24-7-205.

¹ See ATRS Rule 17 – Manifest Injustice.

f. Waiver of Interest on Contributions

1. The Board authorizes the Executive Director of ATRS (executive director) to waive interest on required contributions in an amount not to exceed \$5,000.
2. A request to excuse an interest amount exceeding \$5,000 shall be submitted to the Board for review.
3. The executive director shall report any amounts excused under this section to the Board.

g. Uncollectible or Waived Receivables

1. If required, a receivable under this this ATRS Rule 9 VIII that is found by the Board or its designee to be uncollectible or for which adjustment or payment has been waived shall be submitted to the Chief Fiscal Officer of the State for abatement pursuant to Arkansas Code §§ 19-2-301 — 19-2-307.

HISTORY

Effective:	July 2, 2002	9-3
Amended:	June 15, 2004	9-2, 9-4, 9-7
Amended:	July 18, 2005	9-4, 9-8
Amended:	February 7, 2006	9-2, 9-7
Amended:	April 26, 2007	9-2, 9-7
Amended:	June 19, 2007	9-4
Amended:	June 16, 2009	(Emergency) 9-2
Amended:	October 5, 2009	(Permanent) 9-2
Adopted:	December 18, 2009	9-1, 9-4, 9-8
Amended:	July 1, 2011	(Emergency) 9-1, (Emergency) 9-2, 9-4, (Emergency) 9-7, (Emergency) 9-8
Adopted:	August 8, 2011	9-1, 9-2, 9-4, 9-7, 9-8
Effective:	November 11, 2011	9-1, 9-2, 9-4, 9-7, 9-8
Approved by Board:	February 6, 2012	9-4, 9-7
Amended:	April 18, 2012	9-4, 9-7
Effective:	May 29, 2012	9-4, 9-7
Approved by Board:	July 26, 2013	9-2, 9-4, 9-8
Amended:	October 9, 2013	9-2, 9-4, 9-8
Effective:	November 8, 2013	9-2, 9-4, 9-8
Approved by Board:	October 5, 2015	9-2, 9-4
Amended:	February 1, 2016	9-2, 9-4
Effective:	February 10, 2016	9-2, 9-4
Approved by Board:	February 5, 2018	9-2, 9-4, 9-8, 9-9
Effective:	February 16, 2018	9-2, 9-4, 9-8, 9-9
Effective:	May 28, 2020	Rule 9