

# 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 \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

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## ~~ATRS Rule 9~~ ATRS RULE 9 **RETIREMENT AND BENEFITS**

A.C.A. 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, Act 808 of 1987 and Acts 1987, No. 808

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### **I. Definitions**

a. A. "Act 808 Employee" means an employee of a state agency who:

1. on On April 8, 1987, was an active member of the Arkansas Teacher Retirement System (ATRS);
2. and qualified Qulaified to retire before January 1, 1988, under the Early Retirement Incentive Law of 1987 (~~Act 187 of 1987~~) (Acts 1987, No. 187); and
3. could Could elect to become a member of the Arkansas Public Employees Retirement System (APERS) and have their his or her credited service in ATRS transferred to APERS;

b. B. "Annuity options" means the member's election at retirement of an annuity that shall be paid throughout the retiree's lifetime in accordance with A.C.A. § 24-7-706 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

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school, college, or university; or

3. Has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

f. G. "Effective Retirement Date Effective retirement date" means, for purposes of ATRS ATRS' retirement benefits, the 4<sup>th</sup> first day of the month in which the a member requests to receive retirement benefits and for which the member ~~has submitted~~ submits a timely retirement application~~;~~<sub>i</sub>

g. D. "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 duly executed by a court of competent jurisdiction and filed of record in the Office of the Ex Officio Recorder;<sub>i</sub>

i. E. "Medical committee" means the committee of three (3) physicians appointed by the Board of Trustees of the Arkansas Teacher Retirement System (Board) under A.C.A. Arkansas Code § 24-7-303 for the purpose of evaluating disability retirement applications;<sub>i</sub>

j. F. "Option beneficiary" means a person(s) nominated by the member, in writing at retirement, who, if eligible, will receive annuity payments under the annuity option selected by the member after the member's death 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;<sub>i</sub>

k. G. "Person" for purposes of Rule 9 means an individual, corporation, partnership or other legal entity means an individual, trust, estate, corporation, partnership, or other legal entity;<sub>i</sub>

H. "Participating employer" means an employer who participates in ATRS whose employees are eligible for membership under A.C.A. § 24-7-501, A.C.A. § 24-7-202, or other applicable law.

l. I. "Residue" means the a member's accumulated contributions, including regular interest standing in the member's credit at the time of his/her his or her retirement;<sub>i</sub>

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m. ~~J.~~ "Residue beneficiary" means a ~~person(s) nominated by the member~~ person who a member nominates by written designation to receive the member's residue, if any, under A.C.A. Arkansas Code § 24-7-709-;

n. ~~K.~~ "Receivable" means monies due to ATRS from a member, former member, ~~participating~~ 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. ~~L.~~ "Retiree" means a retired member who is ~~receiving~~ receives an annuity from ATRS.

## II. Age ~~And~~ and Service Retirement Eligibility

a. ~~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 ~~upon written application filed with ATRS~~ by filing a written application with ATRS.

b. ~~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 ~~upon written application filed with ATRS~~ by filing a written application with ATRS.

c. ~~C.~~ ~~In order to be eligible~~ To be eligible for retirement, a member must shall ~~comply with the following requirements:~~

1. Satisfy the credited service requirements under one of ATRS' retirement statutes, A.C.A. 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 ~~all participating employers~~, each of his or her covered employers ~~or have reached age sixty-five or older~~ reach the normal retirement age.

## III. Benefits

a. ~~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

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~~1.75% and 2.15%~~ 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~~ Board, plus the total number of noncontributory years of credited service multiplied by a factor between ~~0.5% 0.5% and 1.39%~~ five-tenths percent (0.5%) and one and thirty-ninth hundredths percent (1.39%) of the final average salary, as set by the ~~board~~ Board.

2. The ~~board~~ Board shall modify the factor for credited service as necessary to maintain actuarial soundness. (~~A.C.A.~~ Arkansas Code § 24-7-705).

b. B. Effective Date of Retirement Benefits (~~A.C.A.~~ 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 ~~by the member in their application~~ in the member's application.

2. If the member does not file an application at least one (1) calendar month ~~prior to~~ before the proposed effective retirement date, then ~~that the proposed retirement effective date cannot~~ 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 ~~retirement~~ effective retirement date shall not be ~~prior to~~ before July 1 of the subsequent fiscal year.

~~2.4.~~ If a member has accrued a full year of service credit equal or greater to one hundred and sixty (160) days in a fiscal year, the member's retirement date shall not begin earlier than July 1 of the subsequent fiscal year. 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. C.—Normal Retirement Age

1. A member who attains the normal retirement age may:

A. Apply for retirement benefits without terminating employment; and

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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 (A.C.A. Arkansas Code § 24-7-727)

1. The Board ~~by resolution~~ 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.

D. ~~Last Benefit Payment Upon Death~~

~~Benefits are payable through the month in which the retiree's death occurs.~~

e. Change of Marital Status (Arkansas Code § 24-7-706)

1. If the marriage marital status of the a retiree member legally ends for any reason changes due to the death of the retiree's spouse or a marriage dissolution, the member retiree may choose to cancel the designation of the former spouse as the designated beneficiary.:

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 ~~member so~~ 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 ~~member must~~ 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 receipt by ATRS of 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

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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 either:

A. The member's residue from the Teacher Deferred Retirement Option Plan (T-DROP);

B. The member's contributions; or

C. Both the member's contributions and residue from the T-DROP.

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.~~

~~A member age 65 or older may apply for retirement benefits without~~

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~~terminating employment and may begin drawing benefits with no effect on the member's retirement benefit.~~

## V.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:

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- 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:

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

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<u>December 1</u>	<u>August, September or October</u>	<u>November 30</u>	<u>End of December</u>
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6. The following table is the only "window" for filing a T-DROP application:

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

## c. Retirement Application and Other Documents Required by ATRS

1. In addition to a complete retirement application, the following documents are mandatory documents and 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. 1. Proof of member's birthdate from a birth certificate or other authenticating documents; and

ii. 2. 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. 1. Proof of the member's birthdate from a birth certificate or other authenticating documents;

ii. 2. Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents;

iii. 3 Proof of the spouse's birthdate from a birth certificate or other authenticating documents;

iv. 4. Proof of the spouse's taxpayer identification number from a Social Security card or other authenticating documents; and

v. 5. 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.

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

i. 1.—Proof of the member's birthdate from a birth certificate or other authenticating documents;

ii. 2.—Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents;

iii. 3.—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. 4.—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. 1.—Proof of the member's birthdate from a birth certificate or other authenticating documents; and

ii. 2.—Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents.

d. E. Submission Deadlines

1. All retirement applications, including without limitation early retirement applications, disability retirement applications, and age and service retirement applications shall be submitted within a six-month period from the member's effective retirement date unless an extension is granted by ATRS.

2. In addition to the retirement application, all additional documents required by ATRS in order to begin making benefit payments shall be submitted within a six-month period from the member's effective retirement date unless an extension is granted by ATRS.

3. If a member fails to submit, within a six-month period from the member's effective retirement date plus any extension granted by

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ATRS, a complete retirement application and any additional documents required by ATRS in order to begin making benefit payments, the member's retirement application shall be void and without effect.

~~If the member elects an alternative residual beneficiary or beneficiaries in lieu of their spouse, the member shall submit the names of the alternative residual beneficiary or beneficiaries along with the alternative residual beneficiary's or beneficiaries' birthdate from a birth certificate or other authenticating document approved by ATRS, on a form provided and approved by ATRS. The selection of an alternative residual beneficiary or beneficiaries allows the member's residue from T-DROP and/or the member's contributions to be paid in a lump sum to the alternative residual beneficiary or beneficiaries and a monthly retirement annuity shall not be paid.~~

~~F. The failure to submit a complete retirement application and any mandatory documents within a six-month period from the member's effective retirement date plus any extension granted by ATRS shall result in the retirement application being voided and the application shall have no effect. This rule on required documents applies to all retirement applications including retirement based upon age retirement, service retirement, early retirement, and disability retirement.~~

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

- ~~a. A.~~ The An Act 808 employee will shall make the election to transfer to APERS on a form furnished by ATRS approved by ATRS.
- ~~b. B.~~ The transfer from ATRS to APERS will become shall be effective on the employee's effective date of retirement.
- ~~c. C.~~ ATRS will shall certify to APERS a record of the Act 808 employee's service credit in ATRS.
- ~~d. D.~~ At the time of retirement, if the Act 808 employee is a non-contributory member of ATRS, he will 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 Act 187 of 1987 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. E.~~ At the time of retirement, if the Act 808 employee was a contributory member of ATRS, he will 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 Act 187 of 1987

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Acts 1987, No. 187.

- f. ~~F.~~ For any Act 808 employee who elects to transfer to APERS, APERS will pay the monthly benefits. APERS shall pay the monthly benefits of an Act 808 employee who elects to transfer to APERS.
- g. ~~G.~~ APERS will shall certify monthly to ATRS the amount of monthly benefits paid and ATRS will shall transfer its its pro-rata portion to APERS.
- h. ~~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 will shall transfer the remaining balance in the retiree's account to APERS for refunding to the designated beneficiary or beneficiaries the retiree's designated beneficiary.

## VII.VI. Disability Retirement Rules

### a. A.—Commencement of Disability Retirement Benefit Payments

1. If the member is eligible under A.C.A. § 24-7-704 and these Rules, and the Medical Committee medical committee determines a disability exists for the member, then disability retirement benefits shall commence the month the member files a written application with ATRS if at the time the member files the application the member is no longer employed by an ATRS covered employer. Disability retirement benefits shall begin on 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.
2. If the member is still employed by an ATRS a covered employer at the time the member files the disability retirement application for disability retirement, then, once approved by ATRS, the disability retirement will shall commence begin on the month following the last day of the member's covered employment.

### b. B.—Effective Retirement Date and Employment After Disability Retirement

#### 1. Effective Retirement Date

- a. ~~Termination of active membership for disability retirement benefits~~

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~~shall be the last date of any employer payment to the member due to the end of the employee/employer relationship.~~ 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. ~~The A~~ member is considered active if ~~they are~~ 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 the an employer, is shall not:

i. ~~Be~~ considered leave by which a member is considered active, ~~nor does it;~~ and

ii. ~~extend~~ 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 employment with the covered employer or indirect 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 meets.

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.

## 4. Continued Employment Under Age Sixty (60)

A. A member under the age of sixty (60) may be employed by an ATRS covered employer and also receive ATRS disability retirement benefit payments if the member performs less than

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eighty (80) days of actual service during a fiscal year.

## 5. Return to Employment

A. After receiving an ATRS approval for disability retirement a member may choose to return to covered employment with an ATRS covered employer and relinquish his or her disability retirement.

B. If a member 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. ~~C.~~ Social Security Determination Letter

### 1. Deadlines — Generally

A. ~~The following criteria and deadlines, applied to the individual member circumstances, affect eligibility for continued disability payments for a member who has been approved by ATRS for disability retirement, based upon the date of the first ATRS disability retirement check. The deadlines may be extended under the provisions of this Rule and A.C.A. A deadline imposed by this ATRS Rule 9 VI may be extended as provided by this ATRS Rule 9 and Arkansas Code § 24-7-704.~~

### 2. Thirty-Six-Month Deadline

A. ~~a.~~ If the first disability retirement check to the member is dated before July 1, 2015, and the member is under fifty seven (57) years before July 1, 2015, the member shall submit to ATRS a Social Security Administration (SSA) determination letter dated before July 1, 2018, that finds that the member is disabled. In the absence of a SSA determination letter, the member's disability retirement payments will cease on June 30, 2018. A member or retiree shall submit to ATRS a Social Security Administration (SSA) determination letter that finds the member or retiree disabled within thirty-six (36) months from:

i. July 1, 2015, if the member's or retiree's effective retirement date is on or after July 1, 2015; or

ii. The member's or retiree's effective retirement date if the effective date of retirement is on or after July 1, 2015.

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B. A member or a retiree may apply for an extension of the thirty-six-month deadline to submit the SSA determination letter to ATRS if:

- i. The member or retiree demonstrates through an administrative or judicial confirmation of an active SSA claim that the claim is:
  - a. Still under review; and
  - b. Part of a continuous claim without voluntary dismissal or withdrawal; and
- ii. The SSA disability claim was filed and remained active for at least twenty-four (24) months before the thirty-six-month deadline.

## 3. Suspension of Disability Retirement Benefit Payments

A. ATRS shall suspend disability retirement benefit payments to a member or retiree if the member or retiree does not:

- i. Provide ATRS with a SSA determination letter finding the member or retiree disabled within the thirty-six-month deadline;
- ii. Receive an extension of the thirty-six-month deadline to provide ATRS with a SSA determination letter finding the member or retiree disabled; or
- iii. Apply to the medical committee for a review within three (3) months of ATRS suspending disability retirement benefit payments to the member or retiree due to the member or retiree's failure to provide ATRS with a SSA determination letter finding the member or retiree disabled.

~~b. If the first disability retirement check to the member is dated July 1, 2015, or after, and the member is under fifty-seven (57) years on the date of the first disability retirement check, member shall submit to ATRS a Social Security Administration (SSA) determination letter dated within thirty-six (36) months from the date of the first disability retirement check that finds that the member is disabled. In the absence of a SSA determination letter, the member's disability retirement payments will cease thirty-six (36) months from the date of the first disability retirement check. For example:~~

~~—Date of 1st ATRS disability retirement check: January 2017,  
then~~

~~—Social Security Administration determination letter finding dated~~

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~~by: December 2019; or~~

~~—Date of last disability retirement check if no SSA determination letter: December 2019~~

~~2. ATRS will grant an extension to the above deadlines if the member can provide documentation to ATRS that:~~

- ~~a. The SSA disability claim was properly filed and remained active for at least twenty-four (24) months prior to the deadline above; and~~
- ~~b. An active SSA disability claim is still under review by the SSA with no voluntary dismissal or withdrawal.~~

## 3.4. Inability to Obtain SSA Determination Letter — Medical Committee Review

A. A member or retiree who attempts and is unable to receive a SSA determination letter finding the member or retiree disabled may apply for a review by the medical committee.

B. A member or retiree may apply for a review by the medical committee:

- i. No earlier than three (3) months before the date on which the member's or 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 member or retiree is suspended.

C. A review performed by the medical committee shall follow the standards and procedures in Arkansas Code § 244-7-704(a)(1)(D).

## 5. SSA Determination Letter No Longer Required

A. Once the member who is receiving disability retirement **benefit payments** reaches sixty (60) years of age, the member thereafter will receive **shall begin receiving** regular retirement benefits as if **the member** voluntarily retired under A.C.A. **Arkansas Code** § 24-7-701 and no Social Security Administration **a SSA** determination letter is **shall not be** required.

~~4. A member may apply for an additional review of a disability claim within three (3) months of disability benefits ceasing due to a denial letter and finding by the Social Security Administration that the member is not disabled. The member's disability claim review will follow the procedure set forth in A.C.A. § 24-7-704.~~

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## d. Denial of Disability Retirement

1. If a member's 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 disability retirement application is filed.
2. If a member's disability retirement application is denied, the member may request a second review if the member submits additional medical documentation within six (6) months from the date on which the medical committee finds that the member is not qualified to receive disability benefits.
3. A member may only request a second review one (1) time.
4. If a member's disability retirement application is denied after the second review, the member may file a new disability retirement application and submit additional information for consideration as long as the member remains active.
5. 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.
6. If a member is denied further disability benefits after a disability review by the medical committee, the member may:
  - A. Offer additional medical information within thirty (30) days of the date of the disability review; and
  - B. Request that the Board send return the matter to the medical committee for reconsideration.

## D.

- ~~1. A member under the age of sixty (60) may be employed by an ATRS covered employer and also receive ATRS disability retirement if the member performs less than eighty (80) days of actual service during a fiscal year.~~
- ~~2. A member shall not receive disability retirement if the member indirectly performs work for an ATRS covered employer as described in A.C.A. § 24-7-704(a)(4)(B).~~
- ~~3. If a member is approved for disability retirement but continues to work either directly or indirectly for the covered employer, the member shall terminate employment with the covered employer or indirect employer by the proposed disability retirement effective date, or, if the member~~

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is finalizing work for the employer, then the employee may terminate employment up to two (2) full calendar months after the Medical Committee meets.

4. If the member does not terminate employment under these Rules and the termination requirement under A.C.A. § 24-7-502, the application is rescinded and the member can reapply.

5. After receiving an ATRS disability retirement a member may choose to return to regular employment with an ATRS covered employer and relinquish their disability retirement. In this instance, the member would no longer receive disability retirement and would be an active member and shall comply with A.C.A. § 24-7-738 (Act 549 of 2017).

E. If the application for disability retirement benefits is denied and the member elects and otherwise qualifies for voluntary retirement, the effective date for retirement shall be determined by the date the disability retirement application is filed.

## e. F. 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. ATRS shall consider the member to have Member shall be considered as having died in "active"active service; and

B. survivor Survivor benefits under A.C.A. Arkansas Code § 24-7-710 shall be paid; unless the member has designated an one (1) or more alternative residual beneficiary or beneficiaries.

## f. G. Disability Retirement Benefit Formula

1. The annuity formula for computing disability retirement benefits is shall be the same as for annuity formula used to compute voluntary age and service retirement benefits.

## g. H. Beneficiary Designation After Approval of Disability Retirement

1. For all disability retirement applications If a disability retirement application is approved by the Medical Committee medical committee after May 31, 2011, the Board shall allow a disability retiree at the time of retirement the member to designate an Option A or Option B beneficiary at the time of retirement.

2. Option C beneficiaries shall not be available to disability retirees An

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Option C beneficiary shall not be designated by a member who applies for disability retirement or a disability retiree. A.C.A. § 24-7-706(a)(3), (Arkansas Code § 24-7-706(a)(3))

~~2.3.~~ If a disability retiree designates an Option A or Option B spouse beneficiary, and the disability retiree dies before reaching age sixty (60), then the same rules that apply to active member option beneficiaries shall apply to the disability Option A and Option B beneficiaries under A.C.A. § 24-7-710(b). 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.

~~3.6.~~ If a disability retiree designates his or her dependent child as an Option A or Option B incapacitated child beneficiary, and the disability retiree dies before reaching age sixty (60), then:

A. the The same rules that apply under Arkansas Code § 24-7-710(c) to an active member active member's surviving child shall apply to

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the disability retiree's Option A or Option B dependent child beneficiary under A.C.A. § 24-7-710(e) until the date on which the disability retiree would have turned age sixty (60) years of age; and

B. On the date on which the disability retiree would have turned sixty (60) years of age, then the Option A or Option B incapacitated dependent child beneficiary shall receive the greater of the surviving child annuity under A.C.A. Arkansas Code § 24-7-710(c) or the Option A spouse annuity under A.C.A. § 24-7-710(a) Arkansas Code § 24-7-710(b).

~~I. Disability retirees who are disapproved for further disability annuities due to a medical examination reviewed by the Medical Committee shall be removed from ATRS' retiree payroll the earlier of six months following the review date or the first of the month following the return to covered employment.~~

~~J. If a member applies for disability retirement and is disapproved, he/she has the right to file a new disability application submitting additional information for review as long as the member remains active.~~

## **VIII.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 an option to receive an annuity payable as provided in one of the following. (Disability retirement option rights are set forth in Rule 9.VII.H. above) one (1) of the following annuity options:

#### A. Option 1: — Straight Life Annuity

i. A straight life annuity payable monthly for the life of the retiree. Upon the retiree's death, if the retiree has not received payments equal to the residue amount, the residue remaining, if any, shall be paid to the residue beneficiary. If no residue beneficiaries survive the retiree, the residue will be paid to the retiree's estate.

#### B. 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.

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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. 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, (100% survivor annuity) one hundred percent (100%) survivor annuity, at that time.

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~~2.~~ The election shall become 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, will shall not be paid until the Option A beneficiary's death.

## ~~c. C.~~ **Persons Eligible as Option A or Option B Beneficiaries at the Time of Retirement**

~~1.~~ In order to be nominated as an Option A or B beneficiary, the person must be one of the following: The following persons are eligible to be nominated by written designation as an Option A or Option B beneficiary:

~~A. 1.~~ The retiree's spouse (if the retiree has been married to the spouse for at least one (1) year prior to the first annuity payment being paid to the retiree) 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. 2.~~ A retiree's dependent child (regardless of age) who has been ruled adjudged physically or mentally incapacitated by a court of competent jurisdiction, regardless of the age of the dependent child.

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

~~1.~~ If a member was married to his or her spouse for less than one (1) year upon his or her effective retirement date or the member marries after his or her effective retirement date, then the member may elect to cover the spouse after being married for one (1) year. 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 (1)-year one-year marriage requirement, the member retiree shall have six (6) months to file an election to cover his or her file a written nomination designating his or her spouse under as

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either an Option A or Option B beneficiary.

3. ~~The written election must~~ designation shall be filed on a form approved by ATRS.

e. **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**

~~If an incapacitated child, who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction, is nominated as an Option A or Option B beneficiary, and a court has determined that the incapacity issue no longer indicates incapacitation, or the incapacitated person is emancipated through marriage or dies, then the member may request ATRS to remove the incapacitated child from the member's account. Proof of the court's decision shall be by a copy of the court order, proof of emancipation shall be by a copy of the child's marriage license, or proof of death shall be by the death certificate.~~

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

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## 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 proof is provided, the member may elect to return to Option 1 at that time, or if the member is married, the member shall have six months to designate the member's spouse as the member's option beneficiary. The election shall become effective the first day of the month following receipt of the election form by ATRS. 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. F. Residue Paid Upon Death of Option Annuitant

1. A member may designate any person as a residue beneficiary.

2. If after a retiree dies, an option annuity becomes payable, but the option beneficiary dies prior to the retiree and the option beneficiary receiving annuity payments equal to the residue amount, the residue, if any, shall be paid to member's residue beneficiary. 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 no residue a residue beneficiary is not nominated or survives upon does not survive the death of the option beneficiary, the residue remaining, if any, shall be paid to the last surviving option beneficiary's retiree's estate.

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## h. G. **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 prior to before receiving the last check, ATRS will shall pay the final check in the normal manner paid prior to before death.
3. If payment of the final check in the normal course becomes impossible, the final option beneficiary's annuity check will shall be returned to ATRS.

## ~~H.~~ **Eligible Residue Beneficiaries**

~~Any "person" as defined in this policy is eligible to be designated by the member to receive the residue, if any, payable upon the member's death including individuals, trusts, estates, corporations, and other legally recognized entities.~~

## ~~IX.VIII.~~ **Error Corrections and Collection of Overpayments Rules**

### a. **Payment Errors**

1. If a change or error in ATRS' records discovered during the ATRS look back look-back period results in either an overpayment or underpayment to ATRS, the Board authorizes may authorize ATRS to:
  - A. ~~correct~~ Correct the error in the records;
  - B. ~~and to adjust any~~ Adjust a benefit or adjust any other amount payable to the corrected amount; and
  - C. ~~take~~ Take all necessary and appropriate action as the circumstances may require, including the options allowed under A.C.A. 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.<sup>1</sup>

### b. ~~B.~~ **Benefit Participant Under QDRO**

1. If a benefit participant under a ~~qualified domestic relations order~~ QDRO pursuant to A.C.A. Arkansas Code §§ 9-18-101—103, is paid any benefit or payment by ATRS to which the benefit participant is not

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<sup>1</sup> See ATRS Rule 17 – Manifest Injustice.

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entitled, and it is discovered during the ATRS ~~look back~~ look-back period, then a receivable is created and the Board or its designee(s) designee, may collect the amount due to ATRS as ~~set forth in A.C.A. provided by Arkansas Code~~ § 24-7-205.

## c. ~~C.~~ Notice of Benefit Adjustment

1. Before making an adjustment of benefits or pursuing any other collection action, ~~a notice shall be provided~~ ATRS shall provide notice to the person who is the subject of the adjustment.
2. The notice will shall:
  - A. ~~state~~ State the amount determined to be a receivable;
  - B. ~~and~~ State the reasons underlying the determination; and
  - C. ~~The notice shall also suggest~~ Suggest alternate methods for payment of the receivable.

## d. ~~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. ~~E.~~ Correction and Adjustment Limitations

1. Actions that affect ~~rights on benefits cannot~~ benefit rights shall not be corrected or adjusted further than a ~~5-year "look back"~~ five-year look-back period unless a manifest injustice has occurred or an exception exists under ~~A.C.A. § 24-7-205~~ 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.

~~F. The board or its designee may also make adjustments to the employer, member, and ATRS records beyond the look-back period if the board determines that the time limitation imposed by the lookback period will result in a manifest injustice in a specific case. See Rule 17—Manifest Injustice.~~

## f. ~~G.~~ 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

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exceed \$5,000.

2. Any A request to excuse an interest amount exceeding \$5,000 shall be submitted to the ATRS Board for review.

3. The ~~Executive Director~~ executive director shall report ~~to the Board~~ any amounts excused under this section to the Board.

## g. H. Uncollectible or Waived Receivables

1. If required, a receivable under this section 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 will shall be submitted to the Chief Fiscal Officer of the state State for abatement pursuant to A.C.A. §§ ~~19-2-301-307~~ Arkansas Code §§ 19-2-301 — 19-2-307.

~~I. A determination by ATRS of a manifest injustice in a particular instance due to a technical error or error in judgment is always discretionary and governed by the provisions in A.C.A. § 24-7-205.~~

## **~~X. Retirement Application Rules~~**

~~A. A copy of the ATRS retirement application can be downloaded from the ATRS website or requested from ATRS.~~

~~B. In order for a retirement application to be timely filed, there is a three (3) month "window" to apply for retirement benefits.~~

~~For active members currently employed, the window for filing your retirement application is:~~

~~1. No sooner than four (4) months prior to your Effective Retirement Date; and,~~

~~2. No later than one (1) month before your Effective Retirement Date.~~

~~C. For an inactive, vested, immediately eligible to retire member, retirement benefits are payable the month after the retirement application is received.~~

~~D. The procedure for handling received retirement applications is as follows:~~

~~1. If a retirement application is received by ATRS before the three (3) month window begins for the member's anticipated Effective Retirement Date, the application is not timely filed, and ATRS will reject the application and notify the member of the dates that their retirement application can be filed timely and the procedure to do so.~~

~~2. If a retirement application is received after the three (3) month window ends for the member's anticipated Effective Retirement Date, the retirement application is not timely filed and the member will receive a~~

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~~new Effective Retirement Date beginning on the 1st day of the next month.~~

~~E. This Rule does not apply to an application for disability retirement or survivor benefits.~~

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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

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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

## 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- (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

## 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 9 - Retirement and Benefits

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.



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**DECEMBER 15, 2021**

**SUMMARY OF PROPOSED RULE AMENDMENT**

**ATRS RULE 9 – RETIREMENT AND BENEFITS**

**I. PURPOSE**

To amend ATRS Rule 9 – Retirement and Benefits (Rule 9) 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 9 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. 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.

Acts 2021, No. 190 amended the law to add an obvious or documented error resulting in an understatement of a member's salary by an employer or the Arkansas Teacher Retirement System as an exception to the five-year look-back period rule. Rule 9 is being amended to provide that actions affecting benefit rights shall not be corrected or adjusted further than the five-year look-back period unless a manifest injustice has occurred or an exception exists under A.C.A. § 24-7-205(c).

Acts 2021, No. 223 amended the law to clarify procedures and deadlines concerning the disability retirement application process under the Arkansas Teacher Retirement System. Additionally, Acts 2021, No. 223 amended the law to provide that a member whose initial disability retirement application is denied may request a second review if the medical committee finds that the member is ineligible to receive disability retirement benefits. Rule 9 is being amended to reflect the amendment to the law in Acts 2021, No. 223.

Acts 2021, No. 279 amended the law to provide that an annuity may begin earlier than July 1 if the Board of Trustees of the Arkansas Teacher Retirement System adopts by rule or resolution an earlier beginning date for members whose retirement will not result in a reduction of classroom teachers. Rule 9 is being amended to reflect the amendment to the law in Acts 2021, No. 279.

Rule 9 refers to "participating employer" when "employer" or "covered employer" as defined in A.C.A. § 24-7-202(17) is intended. Rule 9 is being amended to use the term "employer" or "covered employer" instead of "participating employer" as appropriate. Corresponding amendments were made in Acts 2021, No. 279 and Acts 2021, No. 279.



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Rule 9 is being amended to clarify that a member may designate a dependent child as a replacement Option A beneficiary if the member initially designated his or her spouse as the Option A or Option B beneficiary and the member's spouse predeceases the member after the member retires.

Additionally, Rule 9 is being amended to clarify that a disability retiree's surviving spouse shall be subject to the provisions of A.C.A. § 24-7-710(b) generally and A.C.A. § 24-7-710(b)(1)(B) specifically under certain circumstances.

Finally, Rule 9 is being amended to correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.

### **III. KEY POINTS**

Rule 9 is being amended to:

- Provide that actions affecting benefit rights shall not be corrected or adjusted further than the five-year look-back period unless a manifest injustice has occurred or an exception exists under A.C.A. § 24-7-205(c), which includes an obvious or documented error resulting in an understatement of a member's salary by an employer or the Arkansas Teacher Retirement System as an exception to the five-year look-back period rule;
- Clarify procedures and deadlines concerning the disability retirement application process under the Arkansas Teacher Retirement System;
- Provide that a member whose initial disability retirement application is denied may request a second review if the medical committee finds that the member is ineligible to receive disability retirement benefits;
- Provide that an annuity may begin earlier than July 1 if the Board of Trustees of the Arkansas Teacher Retirement System adopts by rule or resolution an earlier beginning date for members whose retirement will not result in a reduction of classroom teachers;
- Amend "participating employer" to "employer" or "covered employer" as appropriate;
- Clarify that a member may designate a dependent child as a replacement Option A beneficiary if the member initially designated his or her spouse as the Option A or Option B beneficiary and the member's spouse predeceases the member after the member retires;
- Clarify that a disability retiree's surviving spouse shall be subject to the provisions of A.C.A. § 24-7-710(b) generally and A.C.A. § 24-7-710(b)(1)(B) specifically under certain circumstances; and
- Redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.