

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

NOTICE OF INTENDED ATRS BOARD ACTION

At a meeting of the Board of Trustees of the Arkansas Teacher Retirement System (Board) to be held at **11:00 a.m. on Monday, February 5, 2024**, at 1400 West Third Street, Room 300, Little Rock, Arkansas 72201, the Board, pursuant to its authority under A.C.A. §§ 24-7-201– 24-7-1409, will consider the repeal and adoption of amendments to certain rules of the Arkansas Teacher Retirement System (ATRS).

Rules to be repealed:

- Rule 5-1: Investment Introduction
- Rule 5-2: Standard of Care
- Rule 5-3: Asset Allocation
- Rule 5-4: Investment Goals
- Rule 5-6: Investment Consultants
- Rule 5-7: Investment Managers
- Rule 5-8: Soft Dollars
- Rule 17-1: Manifest Injustice

Rules to be amended:

- Rule 0-1: ATRS Rules of Organization and Operation
- Rule 4: Election of Board of Trustees
- Rule 6: Membership and Employer Participation
- Rule 7: Service Credit, Contributions, Reporting, and Final Average Salary
- Rule 8: Free Service Credit, Purchasable Service Credit, and Purchase Accounts
- Rule 9: Retirement and Benefits
- Rule 10: Return to Service and Teacher Deferred Retirement Option Plan
- Rule 11: Survivors and Domestic Relations Orders
- Rule 12-1: Protection of “Qualified Trust” Status of ATRS Under IRS Code § 401(a)
- Rule 13-1: Administration Adjudications: Staff Determinations and Appeals
- Rule 14-1: Retirement Fund Asset Accounts
- Rule 15-1: Benefit Restoration Plan and Trust
- Rule 16: Cash and Savings Help (CASH) Program

Interested persons may submit their comments, orally or in writing, to the Executive Director of ATRS at the above address. Comments should be received no later than **Monday, January 22, 2024 at 4:30 p.m.** Requests for an oral hearing in accordance with A.C.A. § 25-15-204(a)(2)(B) should be submitted by **Wednesday, January 24, 2024**, in order for the oral hearing to be placed on the agenda.

The proposed amendments, along with the questionnaire, financial impact statement, and summaries of the changes, may be accessed on the ATRS website at <https://www.artsr.gov/board-rules>, or copies may be obtained by contacting the Executive Director’s office at (501) 588-4367. The current rules may also be viewed at <https://www.artsr.gov/board-rules> or at the ATRS office Monday through Friday from 8:00 a.m. to 4:30 p.m.

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ATRS Rule 1

Rules of Organization and Operation

§ 1-101. Information for Public Guidance.

(a)(1) This rule provides general rules for the organization and operation of the Arkansas Teacher Retirement System.

(2) Additional and more specific information on the policies, rules, and regulations of the system may be found under the Administration tab on the system's website at <https://www.artrs.gov/administration>, or obtained by contacting the office of the Executive Director of the Arkansas Teacher Retirement System at 501-682-1517.

(b) The system is located at 1400 West Third Street, Little Rock, AR 72201.

(c) A member of the public may obtain information about the system and make submissions or requests to the system by:

(1) Visiting the system's website (www.artrs.gov);

(2) E-mailing the system at info@artrs.gov;

(3) Phoning the system at 501-682-1517; or

(4) Sending a fax to the system at [501-682-2359](tel:501-682-2359).

(d)(1) Visits to the system may be made between the business hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except on holidays.

(2) Appointments are not required, but are encouraged.

(e)(1) The system maintains a list of persons holding certain responsibilities for handling FOIA requests and requests by the public, so that the public may obtain information about the system or make submissions or requests.

(2) This list is available to the public.

(3) The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the system office or the system's website.

(f) The system's policies, rules and regulations, and official forms may be obtained from the system's office or from the system's website, if operational.

§ 1-102. Description of the Arkansas Teacher Retirement System.

(a) The Arkansas Teacher Retirement System is a cost-sharing multiple-employer, defined benefit pension plan established on March 17, 1937, by authority of the Arkansas General Assembly under Arkansas Code § 24-7-101 et seq.

(b) The system is operated as a qualified trust under 26 U.S.C. § 401(a) of the Internal Revenue Code.

(c) The system is a component unit of the State of Arkansas.

(d) The General Assembly is responsible for setting benefits and contributions and amending plan provisions.

(e)(1) Ultimate authority, general administration and responsibility for the proper operation of the system, and for making effective the provisions of Arkansas Code § 24-7-201 et seq. are vested in the fifteen-member Board of Trustees of the Arkansas Teacher Retirement System.

(2) Eleven (11) members are elected and four (4) members serve as ex

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officio members by virtue of their **positions** in state government.

(3) The board appoints the Executive Director of the Arkansas Teacher Retirement System who serves as the chief executive officer of the system.

(f) The board promulgates rules as it deems necessary in the transaction of its business and in administering the system.

(g) For administrative purposes, the Executive Director may organize the system in a manner that he or she determines is most efficient for the operation of the system.

§ 1-103. Organization and Operation of the Board of Trustees of the Arkansas Teacher Retirement System.

(a) The officers of the Board of Trustees of the Arkansas Teacher Retirement System are the chair and vice chair.

(b) The election of officers is held in odd numbered years at the first regular meeting of the board after the beginning of the fiscal year.

(c) The officers perform the duties prescribed by Robert's Rules of Order and the law, rules, and policies applicable to the Arkansas Teacher Retirement System.

(d)(1) The business of the system is conducted in public meeting pursuant to Robert's Rules of Order.

(2) All meetings are conducted in conformity with the Arkansas Freedom of Information Act, § 25-19-101 et seq.

(3) Regular meetings are held at least quarterly.

(4) Special meetings may be held on the call of the chair or as scheduled by action of the board in a regular meeting.

(5) A quorum for the transaction of business is a majority of the number of voting members of the board.

(e)(1) The board may create standing and ad hoc committees the membership of which is determined by the chair.

(2) A quorum for the transaction of committee business is a majority of the number of voting members of the committee.

(f)(1) The Executive Director of the Arkansas Teacher Retirement System prepares the agenda for regular and special meetings of the board.

(2) The agenda is distributed to the board and made available to the public in advance of the meeting.

(3) The agenda may be amended by appropriate motion.

(h)(1) Trustees, members, and other individuals who wish to have a matter placed as additional item on an agenda for a regular meeting of the board should submit a request to the executive director to have the matter placed on the agenda.

(2) The request should be submitted to the executive director before the regular meeting of the board at which the matter will be included as an agenda item.

§ 1-104. Rulemaking.

(a) The Board of Trustees of the Arkansas Teacher Retirement System is authorized by the legislature to promulgate rules.

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(b) The Arkansas Teacher Retirement System follows the requirements of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., and in particular Arkansas Code §§ 25-15-203 and 25-15-204.

(c) The system is required to abide by Arkansas Code §10-3-309, which establishes a method for continuing legislative review and approval of agency rules.

(d)(1) The board or the system's staff may request the initiation of the rulemaking process, which includes adopting a new rule or amending or repealing an existing rule.

(2) Persons outside the system may petition for the issuance, amendment, or repeal of any rule.

(3) However, staff of the system shall not proceed with the rulemaking process for a rule unless the rule is approved by the board.

Authority: Arkansas Code § 25-15-201 et seq.

History

<u>Adopted:</u>	<u>December 6, 2005</u>	
<u>Amended:</u>	<u>April 26, 2007</u>	
<u>Adopted by Board:</u>	<u>February 6, 2012</u>	
<u>Amended:</u>	<u>April 18, 2012</u>	
<u>Effective:</u>	<u>May 29, 2012</u>	
<u>Effective:</u>	<u>TBD</u>	<u>Rule 1</u>

~~ATRS RULES OF ORGANIZATION AND OPERATION~~

~~A.C.A. §§ 25-15-203 and 25-15-703~~

~~I. INFORMATION FOR PUBLIC GUIDANCE~~

~~The Arkansas Teacher Retirement System ("ATRS") is located at 1400 West Third Street, Little Rock, AR 72201. Questions about ATRS may be addressed by visiting the ATRS website (www.artrs.gov), emailing ATRS at info@artrs.gov; phoning ATRS at 1-800-666-2877 or 501-682-1517; or sending a fax to ATRS at 1-800-682-2663. Visits may be made to the ATRS office between 8:00 a.m. and 4:30 p.m. Monday through Friday, except on holidays. Appointments are not required but are suggested.~~

~~ATRS makes available a list of persons holding certain responsibilities for handling FOIA requests and requests by the public so that the public may obtain information about ATRS or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the ATRS office or website.~~

~~The ATRS policies, rules and regulations, and official forms may be obtained from the ATRS office or from the ATRS website.~~

~~2. DESCRIPTION OF THE ARKANSAS TEACHER RETIREMENT SYSTEM~~

~~The Arkansas Teacher Retirement System ("ATRS") is a cost-sharing multiple employer, defined benefit pension plan established on March 17, 1937, by authority of the Arkansas General Assembly under Act 266 of 1937 (Ark. Code Ann. § 24-7-101 *et seq.*). ATRS is operated as a "qualified trust" under section 401(a) of the Internal Revenue Code. ATRS is a component unit of the State of Arkansas.~~

~~The General Assembly is responsible for setting benefits and contributions and amending plan provisions.~~

~~Ultimate authority, general administration and responsibility for the proper operation of ATRS, and for making effective the provisions of A.C.A. §§ 24-7-201 *et seq.* are vested in the fifteen-member Board of Trustees. Eleven members are elected, and four members serve as ex officio members by virtue of their elected~~

~~positions in state government. The Board appoints the executive director of ATRS who serves as its chief executive officer.~~

~~The Board of Trustees promulgates rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System~~

~~For administrative purposes, the agency is comprised of several divisions: Administration, Membership Services, Data Processing, Investments, and Fiscal Affairs.~~

~~3. ORGANIZATION AND OPERATION OF THE ATRS BOARD OF TRUSTEES~~

~~The officers of the ATRS Board of Trustees are a chair and vice chair. Election of officers is held in the odd numbered years at the first regular meeting after the beginning of the fiscal year. These officers perform the duties prescribed by applicable law, this rule, and *Robert's Rules of Order*.~~

~~The business of ATRS is conducted in public meeting pursuant to *Robert's Rules of Order*. All meetings are conducted in conformity with the Arkansas Freedom of Information Act. Regular meetings are held at least quarterly. Special meetings may be held on the call of the chair or as scheduled by action of the Board in a regular meeting.~~

~~A quorum for the transaction of business is a majority of the number of voting members of the Board.~~

~~The ATRS Board of Trustees may create standing and ad hoc committees whose membership is determined by the chair of the Board. A quorum for the transaction of committee business is a majority of the number of voting members of the committee.~~

~~The Executive Director prepares the agenda for regular and special meetings. The agenda is distributed to Board members and made available to the public in advance of the meeting. The agenda may be amended by appropriate motion.~~

~~Trustees, members, and other individuals wishing to have additional items considered for the agenda should submit a request to the Executive Director prior to a regularly scheduled meeting.~~

~~4. RULEMAKING~~

~~The ATRS Board has been authorized by the Legislature to promulgate rules. ATRS follows the procedural requirements of the Arkansas Administrative Procedure Act, in particular A.C.A. § 25-15-203 and A.C.A. § 25-15-204. Additionally, ATRS is required to abide by the provisions of A.C.A. §10-3-309.~~

~~The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to as "rulemaking") may be initiated by request of the Board or the ATRS staff. Additionally, persons outside the agency may petition for the issuance, amendment, or repeal of any rule.~~

~~ATRS will give public notice of proposed rulemaking to be published pursuant to A.C.A. § 25-15-204. The notice will set any written comment period and will specify the time, date, and place of a public hearing, if any.~~

~~Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, ATRS will receive public input through written comments and/or oral submissions. ATRS will designate in the public notice the format and timing of public comment.~~

~~A public hearing may be held; if so, it will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the agency to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings.~~

~~Thirty days before the public comment period ends, ATRS will file with the Bureau of Legislative Research the text of the proposed rule or amendment, as well as a financial impact statement and a Bureau of Legislative Research questionnaire as provided by A.C.A. § 10-3-309. In addition, a copy of the public notice, the text of the proposed rule or amendment, and a summary will be filed with the Secretary of State. Also, a copy of the public notice and the text of the proposed rule or amendment will be published on the ATRS website, if available.~~

~~Generally proposed rules or amendments will be reviewed by the appropriate committee of the ATRS Board of Trustees for recommendation prior to submission to the full Board for consideration and final action.~~

~~ATRS will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired.~~

~~After the ATRS Board formally adopts a new rule or amends a current rule or repeals an existing rule, and after the rule change has been reviewed by the Legislative Council, ATRS staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, or as otherwise provided by A.C.A. § 25-15-204(d).~~

~~Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research will be kept in a file maintained by the Executive Director's office.~~

~~Notice of the rule change will be posted on the agency website, if available, and rules will be made available to interested persons.~~

~~5. EMERGENCY RULEMAKING~~

~~Upon receipt of a written statement requesting emergency rulemaking or other evidence to support an assertion that an emergency exists, ATRS will make an independent judgment whether the circumstances and facts constitute an imminent peril to the public health, safety, or welfare requiring adoption of the rule with fewer than 30 days notice. If it is determined that the circumstances warrant emergency rulemaking, a written determination setting out the reasons for the finding that an emergency exists will be made. Upon making this finding, the ATRS Board may proceed to adopt the rule without any prior notice or hearing, or it may determine to provide an abbreviated notice and hearing.~~

~~The emergency rule will be effective immediately upon filing, or at a stated time less than thirty (30) days thereafter, if ATRS finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. ATRS will file with the rule its written findings justifying the determination that emergency rulemaking is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten days after the filing of the rule pursuant to A.C.A. § 25-15-204(e).~~

~~6. APPEALS~~

~~An ATRS member, beneficiary, survivor, retiree, or employer may request a staff determination letter from an ATRS staff member responsible for staff decisions relating to the member's, beneficiary's, survivor's retiree's or employer's issues. If the member disagrees with the staff determination letter, then the member may seek a review by the executive director using the procedures set forth in Section 13 of the ATRS rules. The executive director's decision upon review may be appealed to the ATRS Board of Trustees using the procedures set forth in Section 13 of the ATRS rules. A description of the appeals process may be obtained by contacting ATRS or from the ATRS website.~~

~~NOTE:~~ ~~These are general rules for the organization and operation of the system. Additional and more specific information is provided in the Policies, Rules and Regulations of ATRS, which may be found on the ATRS website (www.atrs.gov under "Publications") or which may be obtained by contacting the Executive Director's office at 501-682-1517 or 1-800-666-2877).~~

~~Adopted:~~ _____ ~~December 6, 2005~~

~~Amended:~~ _____ ~~April 26, 2007~~

~~Adopted by Board:~~ _____ ~~February 6, 2012~~

~~Amended:~~ _____ ~~April 18, 2012~~

~~Effective:~~ _____ ~~May 29, 2012~~

FINANCIAL IMPACT STATEMENT**PLEASE ANSWER ALL QUESTIONS COMPLETELY.****DEPARTMENT** Legal**BOARD/COMMISSION** Arkansas Teacher Retirement System**PERSON COMPLETING THIS STATEMENT** Jennifer Liwo**TELEPHONE NO.** (501) 682-1517 **EMAIL** jenniferl@artrs.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Rule 0-1: ATRS Rules of Organization and Operation

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 no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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? n/a

Current Fiscal Year

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

Total \$0.00 _____

Next Fiscal Year

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

Total \$0.00 _____

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

Current Fiscal Year

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

Total \$0.00 _____

Next Fiscal Year

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

Total \$0.00 _____

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

Current Fiscal Year

\$ 0.00 _____

n/a

Next Fiscal Year

\$ 0.00 _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ 0.00 _____

n/a

Next Fiscal Year

\$ 0.00 _____

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

Yes ☐ No ☒

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

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

December 20, 2023

Executive Summary
Proposed Rule Amendment
ATRS Rule 0-1 – ATRS Rules of Organization and Operation

I. Purpose

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed amendments to ATRS Rule 0-1 – ATRS Rules of Organization and Operation (“Rule 0-1”).

On December 4, 2023, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for Rule 0-1.

II. Authority

A.C.A. § 24-7-301 provides that the Board is responsible for the general administration and proper operation of the 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 the authority to promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

A.C.A. § 25-15-203(a) requires state agencies to adopt rules that describe the organization and set forth the nature and requirements of all available formal and informal procedures.

III. Amendments

Rule 0-1 has been amended as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- Information that is not required by A.C.A. § 25-15-203 or that is otherwise addressed in other ATRS rules has been repealed;
- Amended to use the same or similar terminology used in A.C.A. § 25-15-203(a)(1);
- The title of the rule has been changed to “Rules of Organization and Operation”;
- Changed rule number to 1;

- Amended to add additional information concerning the purpose of A.C.A. § 10-3-309;
- Amended to clarify that the Board or ATRS staff may request the initiation of the rulemaking process, but ATRS staff cannot proceed with the rulemaking process for a rule unless the rule is approved by the Board;
- Amended to correct the fax number and the location of the ATRS policies, rules, and regulations on the ATRS website;
- Repealed 1-800 numbers that the System no longer uses;
- Amended to clarify that ex officio members of the Board are not elected, but are members by virtue of their positions in state government; and
- Amended to provided that the Executive Director may organize the System in a manner that he or she determines is most efficient for the operation of the System.

IV. Recommendation

The System recommends that the proposed amendments to Rule 0-1 be approved as proposed.

Color Code

- Blue – Non-substantive changes by ATRS staff.
- Green – Substantive changes by ATRS staff.
- Red – Required legislative changes.
- Brown – Non-substantive changes where the rule was transferred from one rule to another.