

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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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Rules to be repealed: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.arts.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.arts.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 10

Return to Service and Teacher Deferred Retirement Option Plan

§ 10-101. Definitions.

As used in this rule:

- (1) "CBA" means Cash Balance Account;
- (2) "Fiscal year" means the operating year for the State of Arkansas that begins on July 1 of each calendar year and ends on June 30 of the next calendar year;
- (3) "Plan participant" means a member who elects to participate in the Teacher Deferred Retirement Option Plan;
- (4) "Plan deposit" means a deposit made to each plan participant's Teacher Deferred Retirement Plan account;
- (5) "Plan interest" means one (1) or more interest rates per annum that are adopted by the Board of Trustees of the Arkansas Teacher Retirement System by the end of the first quarter of the fiscal year in which the interest rate shall apply in order for the appropriate interest to be credited to each plan participant's Teacher Deferred Retirement Option Plan account in the years following the board's adoption of the interest rate;
- (6) "Post 10-year T-DROP interest" means a rate per annum that is compounded annually and adopted by the board by the end of the first quarter of the fiscal year in which the interest rate shall apply in order for the interest to be credited on June 30 to the T-DROP account of a plan participant who has not retired and whose participation in T-DROP has ended;
- (7) "Quarter" means one-fourth (1/4) of a fiscal year as follows:
 - (A) 1st Quarter: July 1 through September 30;
 - (B) 2nd Quarter: October 1 through December 31;
 - (C) 3rd Quarter January 1 through March 31; and
 - (D) 4th Quarter: April 1 through June 30;
- (8) "Retiree" means a member receiving a retirement annuity from the Arkansas Teacher Retirement System;
- (9) "Salary" means the same as defined in Arkansas Code § 24-7-202 and does not include nonmandatory compensation that is taxable by the IRS;
- (10) "T-DROP" means the same as defined in Arkansas Code § 24-7-202;
- (11) "T-DROP Cash Balance Account" means a financial account established for a plan participant who elects to defer distribution of his or her Teacher Deferred Retirement Option Plan account balance at the time that he or she is eligible to receive a lump-sum distribution of the Teacher Deferred Retirement Option Plan account balance;
- (12) "T-DROP Cash Balance Account interest" means the interest rate per annum applicable to a plan participant's T-DROP Cash Balance Account, and compounded monthly into a plan participant's T-DROP Cash Balance Account; and
- (13) "Uniformed Services of the United States" means service in the:
 - (A) United States Armed Forces;
 - (B) Army National Guard;
 - (C) Air National Guard when engaged in active duty for training, state active duty, inactive duty training, or full-time National Guard duty;
 - (D) United States Commissioned Corps of the Public Health Service; and

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(E) Any other category of persons designated by the President of the United States in time of war or emergency.

§ 10-102. Return to service.

(a) Unless otherwise provided by the Office of Personnel Management's Policy No. 65, effective July 1, 2009, a retiree who terminates employment under Arkansas Code § 24-7-502 or reaches the normal retirement age may:

(1) Accept employment with a covered employer; and

(2) Continue to receive a monthly retirement annuity without a limitation of his or her retirement annuity.

(b)(1) Both a retiree who returns to service with a covered employer and the covered employer who employs the retiree shall report the retiree's employment to the Arkansas Teacher Retirement System using forms and reports required by the system.

(2) A retiree who receives monthly retirement benefits and is employed by a covered employer shall not:

(A) Pay member contributions;

(B) Be responsible for employer contributions; or

(C) Accrue additional service credit.

(3) A covered employer that employs a retiree shall pay employer contributions on the salary paid to the retiree in an amount equal to the employer contribution rate applicable to an active member.

§ 10-103. Teacher Deferred Retirement Option Plan — Participation.

(a) In lieu of terminating employment and voluntarily retiring:

(1) An active member with at least thirty (30) years of service credit may elect to participate in TDROP and continue to work for a covered employer; and

(2) An active member with at least twenty-eight (28) years of service credit may elect to participate early in T-DROP and continue to work for a covered employer.

(b) The service credit of a plan participant shall be determined using the same rules that apply for determining the service credit of an active member.

(c) On call availability shall not be used for:

(1) T-DROP service credit requirements; or

(2) Monthly plan deposits to a plan participant's T-DROP account.

(d) An active member who elects to participate in T-DROP and continues his or her covered employment defers the receipt of retirement benefits.

(e)(1) Service credit in the Arkansas Teacher Retirement System, a reciprocal system, or a combination of service credit in the Arkansas Teacher Retirement System and the reciprocal system may be counted to meet the minimum service credit requirements for participation under T-DROP and the reciprocal system's deferred retirement option plan if the reciprocal system offers members of the reciprocal system a deferred retirement option plan.

(2) A retirement benefit payable by a reciprocal system shall be determined according to the law, rules, and regulations applicable to the reciprocal system.

(3)(A) The final average salary of a plan participant with reciprocal service credit shall be the highest final average salary calculated by the Arkansas Teacher Retirement System or a reciprocal system in which the plan participant has at least two (2) years of

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service credit.

(B) Each reciprocal system shall calculate final average salary in accordance with the law applicable to the reciprocal system.

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

(f)(1) A reciprocal system shall credit a deferred retirement option plan account with plan deposits and plan interest according to the deferred retirement option program applicable

(2) The Arkansas Teacher Retirement System shall not pay a monthly plan deposit into a plan participant's T-DROP account for more than ten (10) consecutive years from the date on which the plan participant enters T-DROP.

§ 10-104. Teacher Deferred Retirement Option Plan — Benefits.

(a)(1) A plan participant shall elect an annuity option provided in Arkansas Code § 24-7-706 at the time the plan participant separates from service and either:

(A) Applies for retirement upon reaching the normal retirement age; or

(B) Is granted a monthly retirement benefit.

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

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

(2) A T-DROP benefit and the cost-of-living increase may be modified as provide by this rule and the law applicable to the Arkansas Teacher Retirement System.

(c) A plan participant's T-DROP benefit shall:

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

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

§ 10-105. Teacher Deferred Retirement Option Plan — Plan deposits.

(a)(1) During participation in T-DROP, the Arkansas Teacher Retirement System shall credit a plan participant's T-DROP account with plan deposits and plan interest.

(2) A plan participant's T-DROP plan deposit may be reduced as provided by the law and rules applicable to the system.

(3)(A) The system shall provide each plan participant with an annual statement of the plan participant's T-DROP account.

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

(b) A plan participant's plan deposit shall be determined as follows:

(1) If a plan participant has at least thirty (30) years of credited service in the system, including combined service with a reciprocal system, the plan deposit shall be the plan participant's TDROP benefit, as calculated at the plan participant's entry into T-DROP, reduced by one percent (1%) for each year of credited service, including fractions of a year.

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(2) If a plan participant enters T-DROP early, the plan participant's plan deposit shall be the plan participant's T-DROP benefit, as calculated at the plan participant's entry into T-DROP, reduced by:

(A) One percent (1%) for each year of credited service, including fractions of a year; and

(B) At least an additional one-half percent (.5%), but no more than one percent (1%), of the initially reduced plan deposit, for each month of credited service under thirty (30) years.

(c)(1) A plan participant's T-DROP account shall be credited with twelve (12) monthly plan deposits per fiscal year if the:

(A) Plan participant earns at least one hundred sixty (160) days of service credit in a fiscal year and does not terminate employment, retire, or die during the fiscal year; or

(B) Plan participant's covered employer does not terminate the employer-employee relationship.

(2) If a plan participant earns less than one hundred sixty (160) days of service credit in a fiscal year, the plan deposit shall be made in accordance with the part-time employment schedule as follows:

(A) If a plan participant earns at least fifteen (15) days of service credit in the first or fourth quarter of the fiscal year, the plan participant's T-DROP account shall be credited with three (3) monthly plan deposits for the quarter;

(B) If a plan participant earns less than fifteen (15) days of service credit in the first or fourth quarter of the fiscal year, the plan participant's T-DROP shall not be credited with a plan deposit for the three (3) months of that quarter;

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

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

§ 10-106. Teacher Deferred Retirement Option Plan — Plan interest.

(a)(1) A plan participant who has not retired shall receive plan interest at the end of each fiscal year.

(2) The plan interest rate shall be based on a:

(A) Fixed interest rate that is adopted by the Board of Trustees of the Arkansas Teacher Retirement System by the end of the first quarter of the fiscal year in which the interest rate shall apply; or

(B) Variable interest rate formula that is based on investment returns and other factors adopted by the board by the end of the first quarter of the fiscal year in which the interest rate shall apply.

(3) The board shall adopt a plan interest rate by the end of the first quarter of the fiscal year in which the plan interest shall apply if a variable interest rate formula is used.

(b)(1) If a plan participant continues covered employment after ten (10) consecutive years from the date of his or her entry into T-DROP, the plan participant's T-DROP account shall be credited with a post-ten-year T-DROP interest rate.

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(2) The board shall set the post-10-year T-DROP interest rate:

(A) By the end of the first quarter of the fiscal year in which the interest rate shall apply; and

(B) At the same meeting in which the plan interest rate is set.

(3) The post-10-year T-DROP interest rate shall be credited to a plan participant's T-DROP account on June 30 of each year, or through the date of retirement, whichever occurs first.

(4) The post-10-year T-DROP interest rate for T-DROP shall be determined by the board and adopted by the by the end of the first quarter of the fiscal year in which the interest rate shall apply.

(c) In addition to the interest rate for the fiscal year, the board may adopt an incentive rate during the fiscal year if investment returns justify an incentive rate for the fiscal year.

§ 10-107. Teacher Deferred Retirement Option Plan — Suspension or cessation of plan deposits and plan interest.

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

(1) Separates from service with a covered employer and is granted a monthly retirement benefit from either the Arkansas Teacher Retirement System or a reciprocal plan;

(2) Reaches normal retirement age and retires without separating from covered employment;

(3) Separates from covered employment and does not apply for retirement benefits; or

(4) Dies.

(b)(1) If a plan participant separates from covered employment and does not apply for retirement benefits, monthly plan deposits into the plan participant's T-DROP account shall be suspended beginning on the month in which the plan participant separates from covered employment.

(2) The plan participant's T-DROP account shall not be credited with a plan deposit for the duration of the plan participant's separation from covered employment.

(3) Monthly plan deposits into a plan participant's T-DROP account shall resume if the plan participant returns to covered employment before the end of the plan period.

(c) If a plan participant applies for retirement, the retirement benefits shall be paid according to the plan participant's T-DROP account balance:

(1) At the time of the plan participant's separation from covered employment; or

(2) In the month before the effective date of the plan participant's retirement benefits after the plan participant reaches the normal retirement age.

(d) A plan participant shall remain eligible for annual plan interest to be credited to his or her T-DROP account if the member:

(1) Does not separate from covered employment; and

(2) Remains on the covered employer's payroll without earning sufficient service credit for monthly plan deposits.

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§ 10-108. Teacher Deferred Retirement Option Plan — Uniformed Services of the United States.

(a) A plan participant shall be treated as not having incurred a break in service with a covered employer if the plan participant leaves covered employment to voluntarily or involuntarily serve in the uniformed services of the United States and later returns to covered employment.

(b) A covered employer shall certify to the Arkansas Teacher Retirement System that reemployment of the plan participant complies with § 4312 of the Uniformed Services Employment and Reemployment Act of 1994 (USERA).

§ 10-109. Teacher Deferred Retirement Option Plan — Internal Revenue Code.

(a) The operation of T-DROP shall comply with § 415 and other applicable sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq.

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

§ 10-110. Teacher Deferred Retirement Option Plan — Distribution election.

A member's T-DROP distribution election shall be irrevocable if the member submits his or her T-DROP distribution election on a form approved by the Arkansas Teacher Retirement System and the system accepts the form submitted by the member.

§ 10-111. Teacher Deferred Retirement Option Plan — Rollover of account balance.

(a) A lump-sum distribution of a plan participant's T-DROP account balance may be rolled over into the plan participant's qualifying retirement plan.

(b) The Arkansas Teacher Retirement System shall rollover the T-DROP account lump-sum balance into only one (1) qualifying retirement plan.

§ 10-112. T-DROP Cash Balance Account Program — Internal Revenue Code.

(a)(1) In lieu of electing a lump-sum distribution of his or her T-DROP account balance, a plan participant may elect to transfer all or a part of his or her T-DROP account balance into a CBA.

(2) If a plan participant elects to have only a part of his or her T-DROP account balance transferred into a CBA, the remaining balance of the T-DROP account shall be annuitized under the Arkansas Teacher Retirement System or paid as a lump-sum distribution.

(3) A CBA shall be credited monthly with T-DROP Cash Balance Account interest and debited monthly for withdrawals and distributions beginning on the month immediately following the establishment of the CBA.

(b) A CBA established on or after July 1, 2021, shall be credited with T-DROP Cash Balance Account interest as follows:

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

(c) The Board of Trustees of the Arkansas Teacher Retirement System may:

(1) Increase the T-DROP Cash Account Balance interest rate for future fiscal years and on an ad hoc basis;

(2) Consider current market conditions, competing financial offerings to plan participants, bank rates for certificates of deposits, the status of the Arkansas Teacher Retirement System's return on investments, and the current state of participation in the T-DROP Cash Balance Account program when determining the T-DROP Cash Balance Account interest rate;

(3) By resolution periodically authorize a special ad hoc incentive payment for CBAs if the board determines that payment of the special ad hoc incentive is likely to encourage continued participation and increase future participation in the T-DROP Cash Balance Account program; and

(4) By resolution adopt a new T-DROP Cash Balance Account Interest Schedule (Schedule) for future CBAs.

(d) An ad hoc increase may be:

(1) Set as a single amount to be applied to each CBA; or

(2) Computed as a graduated amount based on the length of time the CBA has existed.

(e)(1) The T-DROP Cash Balance Account interest rate shall remain in effect until the board adopts a new Schedule with lower interest rates for future CBA accounts established by the end of the first quarter of the fiscal year in which the interest rate shall

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apply.

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

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

(g)(1) If a plan participant's CBA has a balance, a plan participant may withdraw funds from his or her CBA up to six (6) times per quarter by using forms approved by the system.

(2) A plan participant may make more than six (6) withdrawals in a quarter with the approval of the Executive Director of the Arkansas Teacher Retirement System.

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

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

(B) A retiree who attains the required minimum distribution age and does not cease to be active in the system shall not have required minimum distributions deducted from his or her CBA if the retiree:

(i) Either is a rehired retiree or has continued to work for a covered employer without a break in service; and

(ii) The retiree's covered employer reports the retiree to the system and pays employer contributions for the retiree.

Authority: Arkansas Code §§ 24-7-502, 24-7-708, and 24-7-1301 et seq.

History

<u>Approved:</u>	<u>June 13, 1995</u>	<u>10-3</u>
<u>Amended:</u>	<u>June 30, 1997</u>	<u>10-3</u>
<u>Amended:</u>	<u>June 17, 2003</u>	<u>10-3</u>
<u>Amended:</u>	<u>June 15, 2004</u>	<u>10-2</u>
<u>Amended:</u>	<u>February 15, 2005</u>	<u>10-3</u>
<u>Amended:</u>	<u>July 18, 2005</u>	<u>10-2, 10-3</u>
<u>Amended:</u>	<u>October 4, 2005</u>	<u>10-2</u>
<u>Amended:</u>	<u>December 6, 2005</u>	<u>10-2</u>
<u>Amended:</u>	<u>April 26, 2007</u>	<u>10-3</u>
<u>Amended:</u>	<u>June 19, 2007</u>	<u>10-2</u>
<u>Amended:</u>	<u>February 11, 2008</u>	<u>10-2</u>
<u>Amended:</u>	<u>June 16, 2009</u>	<u>10-2 (Emergency)</u>
<u>Amended:</u>	<u>October 5, 2009</u>	<u>10-2 (Permanent)</u>
<u>Amended:</u>	<u>February 1, 2010</u>	<u>10-3 under emergency rules</u>
<u>Amended:</u>	<u>June 7, 2010</u>	<u>10-3 Permanent</u>
<u>Amended:</u>	<u>July 1, 2011</u>	<u>10-3 (Emergency)</u>
<u>Adopted:</u>	<u>August 8, 2011</u>	<u>10-3</u>
<u>Effective:</u>	<u>November 11, 2011</u>	<u>10-3</u>

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<u>Approved by Board:</u>	<u>February 6, 2012</u>	<u>10-3</u>
<u>Amended:</u>	<u>April 2, 2012</u>	<u>10-3 (Emergency)</u>
<u>Effective:</u>	<u>May 29, 2012</u>	<u>10-3</u>
<u>Approved by Board:</u>	<u>July 26, 2013</u>	<u>10-2, 10-3</u>
<u>Amended:</u>	<u>October 9, 2013</u>	<u>10-2, 10-3</u>
<u>Effective:</u>	<u>November 8, 2013</u>	<u>10-2, 10-3</u>
<u>Approved by Board:</u>	<u>December 1, 2014</u>	<u>10-3</u>
<u>Amended:</u>	<u>May 18, 2015</u>	<u>10-3</u>
<u>Effective:</u>	<u>June 16, 2015</u>	<u>10-3</u>
<u>Approved by Board:</u>	<u>October 5, 2015</u>	<u>10-3</u>
<u>Amended:</u>	<u>February 1, 2016</u>	<u>10-3</u>
<u>Effective:</u>	<u>February 10, 2016</u>	<u>10-3</u>
<u>Approved by Board:</u>	<u>February 5, 2018</u>	<u>10-3</u>
<u>Effective:</u>	<u>February 16, 2018</u>	<u>10-3</u>
<u>Effective:</u>	<u>August 5, 2019</u>	<u>Rule 10</u>
<u>Effective:</u>	<u>May 28, 2020</u>	<u>Rule 10</u>
<u>Effective:</u>	<u>May 20, 2022</u>	<u>Rule 10</u>
<u>Effective:</u>	<u>TBD</u>	<u>Rule 10</u>

ATRS RULE 10
RETURN TO SERVICE AND TEACHER DEFERRED RETIREMENT OPTION
PLAN

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

I. Definitions

- a. "Fiscal year" means the operating year for the State of Arkansas that begins on July 1 of each calendar year and ends on June 30 of the next calendar year;
- b. "Plan participant" means a member who elects to participate in the Teacher Deferred Retirement Option Plan (T-DROP) under Arkansas Code § 24-7-1301 et seq.;
- c. "Plan deposit" means a deposit made to each plan participant's T-DROP account pursuant to Arkansas Code § 24-7-1306;
- d. "Plan interest" means one (1) or more interest rates per annum that are adopted by the Board of Trustees of the Arkansas Teacher Retirement System (Board) by the end of the first quarter of the fiscal year in which the interest rate shall apply in order for the appropriate interest to be credited to each plan participant's T-DROP account in subsequent years following the Board's adoption of the interest rate;
- e. "Post 10-year T-DROP interest" means a rate per annum that is compounded annually and adopted by the Board by the end of the first quarter of the fiscal year in which the interest rate shall apply in order for the interest to be credited on June 30 to the T-DROP account of a plan participant who has not retired and whose participation in T-DROP has ended;
- f. "Quarter" means one-fourth (1/4) of a fiscal year as follows:
 - 1. 1st Quarter: July 1 through September 30;
 - 2. 2nd Quarter: October 1 through December 31;
 - 3. 3rd Quarter: January 1 through March 31; and
 - 4. 4th Quarter: April 1 through June 30;
- g. "Retiree" means a member receiving a retirement annuity from the Arkansas Teacher Retirement System (ATRS);
- h. "Salary" means the same as defined in Arkansas Code § 24-7-202 and does not include nonmandatory compensation that is taxable by the IRS;
- i. "T-DROP Cash Balance Account" means a financial account established for a plan participant who elects to defer distribution of his or her T-DROP account balance at the time that he or she is eligible to receive a lump-sum distribution of the T-DROP account balance;
- j. "T-DROP Cash Balance Account interest" means the interest rate per annum applicable to a plan participant's T-DROP Cash Balance Account, and

~~compounded monthly into a plan participant's T-DROP Cash Balance Account;
and~~

- k. ~~“Uniformed Services of the United States” means service in the:~~
- ~~1. United States Armed Forces;~~
 - ~~2. Army National Guard;~~
 - ~~3. Air National Guard when engaged in active duty for training, state active duty, inactive duty training, or full-time National Guard duty;~~
 - ~~4. United States Commissioned Corps of the Public Health Service; and~~
 - ~~5. Any other category of persons designated by the President of the United States in time of war or emergency.~~

~~II. Return to Service¹~~

- a. ~~Unless otherwise provided by the Office of Personnel Management’s Policy No. 65, effective July 1, 2009, a retiree who terminates employment under Arkansas Code § 24-7-502 or reaches the normal retirement age may:~~
- ~~1. Accept employment with a covered employer; and~~
 - ~~2. Continue to receive a monthly retirement annuity without a limitation of his or her retirement annuity.~~
- b. ~~A retiree who returns to service with a covered employer and a covered employer who employs a retiree shall report the retiree’s employment to ATRS using forms and reports required by ATRS.~~
- c. ~~A retiree who receives monthly retirement benefits and is employed by a covered employer shall not:~~
- ~~1. Pay member contributions;~~
 - ~~2. Be responsible for employer contributions; or~~
 - ~~3. Accrue additional service credit.~~
- d. ~~A covered employer that employs a retiree shall pay employer contributions on the salary paid to the retiree in an amount equal to the employer contribution rate applicable to an active member.~~

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

- a. ~~Participation—Generally~~
- ~~1. In lieu of terminating employment and voluntarily retiring, an active member with at least thirty (30) years of service credit may elect to participate in TDROP and continue to work for a covered employer.~~

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

2. ~~An active member with at least twenty-eight (28) years of service credit may elect to participate early in T-DROP and continue to work for a covered employer.~~
 3. ~~The service credit of a plan participant shall be determined using the same rules that apply for determining the service credit of an active member.~~
 4. ~~On call availability shall not be used for: A. T-DROP service credit requirements; or~~
~~B. Monthly plan deposits to a plan participant's T-DROP account.~~
 5. ~~An active member who elects to participate in T-DROP and continues his or her covered employment defers the receipt of retirement benefits.~~
- b. ~~Participation — Reciprocal Systems~~
1. ~~Service credit in ATRS, a reciprocal system, or a combination of service credit in ATRS and the reciprocal system may be counted to meet the minimum service credit requirements for participation under T-DROP and the reciprocal system's deferred retirement option plan if the reciprocal system offers members of the reciprocal system a deferred retirement option plan.~~
 2. ~~A retirement benefit payable by a reciprocal system shall be determined according to the law, rules, and regulations applicable to the reciprocal system.~~
 3. ~~The final average salary of a plan participant with reciprocal service credit shall be the highest final average salary calculated by ATRS or a reciprocal system in which the plan participant has at least two (2) years of service credit. (Arkansas Code § 24-2-402)~~
 4. ~~Each reciprocal system shall calculate final average salary in accordance with the law applicable to the reciprocal system.~~
 5. ~~A salary earned as a member of the Arkansas Judicial Retirement System or an alternate retirement plan shall not be used to calculate final average salary.~~
 6. ~~A reciprocal system shall credit a deferred retirement option plan account with plan deposits and plan interest according to the deferred retirement option program applicable to the reciprocal system.~~
- c. ~~Limits on Participation~~
1. ~~ATRS shall not pay a monthly plan deposit into a plan participant's T-DROP account for more than ten (10) consecutive years from the date on which the plan participant enters T-DROP.~~
- d. ~~D. T-DROP Benefits~~
1. ~~A plan participant shall elect an annuity option provided in Arkansas Code § 24-7-706 at the time the plan participant:~~
 - A. ~~Separates from service; and~~

B. ~~Either:~~

- i. ~~Applies for retirement upon reaching the normal retirement age; or~~
- ii. ~~Is granted a monthly retirement benefit.~~

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

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

- A. ~~Be the monthly straight life annuity benefit that the plan participant would have received if he or she voluntarily retired; and~~
- B. ~~Not include a monthly benefit stipend otherwise provided under Arkansas Code § 24-7-713.~~

e. ~~Plan Interest and Plan Deposits~~

1. ~~Generally~~

A. ~~During participation in T-DROP, ATRS shall credit the T-DROP account of plan participant with plan deposits and plan interest.~~

2. ~~Plan Deposits~~

A. ~~Determination of Plan Deposit~~

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

a. ~~If a plan participant has at least thirty (30) years of credited service in ATRS, including combined service with a reciprocal system, the plan deposit shall be the plan participant's TDROP benefit, as calculated at the plan participant's entry into T-DROP, reduced by one percent (1%) for each year of credited service, including fractions of a year.~~

ii. ~~If a plan participant enters T-DROP early, the plan participant's plan deposit shall be the plan participant's T-DROP benefit, as calculated at the plan participant's entry into T-DROP, reduced by:~~

- a. ~~One percent (1%) for each year of credited service, including fractions of a year; and~~
- b. ~~At least an additional one-half percent (.5%), but no more than one percent (1%), of the initially reduced plan deposit, for each month of credited service under thirty (30) years.~~

B. ~~Crediting Plan Deposit~~

i. ~~A plan participant's T-DROP account shall be credited with twelve (12) monthly plan deposits per fiscal year if the:~~

- a. ~~Plan participant earns at least one hundred sixty (160) days of service credit in a fiscal year and does not terminate employment, retire, or die during the fiscal year; or~~

- b. ~~Plan participant's covered employer does not terminate the employer-employee relationship.~~
 - ii. ~~If a plan participant earns less than one hundred sixty (160) days of service credit in a fiscal year, the plan deposit shall be made in accordance with the part-time employment schedule as follows:~~
 - a. ~~If a plan participant earns at least fifteen (15) days of service credit in the first or fourth quarter of the fiscal year, the plan participant's T-DROP account shall be credited with three (3) monthly plan deposits for the quarter.~~
 - b. ~~If a plan participant earns less than fifteen (15) days of service credit in the first or fourth quarter of the fiscal year, the plan participant's T-DROP shall not be credited with a plan deposit for the three (3) months of that quarter.~~
 - c. ~~If a plan participant earns at least twenty five (25) days of service credit in the second or third quarter of the fiscal year, the plan participant's T-DROP account shall be credited with three (3) monthly plan deposits for the quarter.~~
 - d. ~~If a plan participant earns less than twenty five (25) days of service credit in the second or third quarter of the fiscal year, the plan participant's T-DROP shall not be credited with a plan deposit for the three (3) months of that quarter.~~

~~C. Cost-of-Living-Increase~~

- i. ~~A cost-of living increase under Arkansas Code §§ 24-7-713 or 247-727 shall be applied to the T-DROP benefit that is used to calculate the plan deposit.~~
- ii. ~~A T-DROP benefit and the cost-of living increase may be modified as provided by this ATRS Rule 10 and law applicable to ATRS.~~

~~D. Election to Cash-Out or Annuitize~~

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

~~E. Annual Statement~~

- i. ~~ATRS shall provide each plan participant with an annual statement of the plan participant's T-DROP account.~~
- ii. ~~The statement of plan deposits and plan interest shall not be final until the annual accounting has been reconciled for part-time plan participants.~~

3. Interest Rates

A. ~~Plan Interest~~

- i. ~~A plan participant who has not retired shall receive plan interest at the end of each fiscal year.~~ ii. ~~The plan interest rate shall be based on a:~~
 - a. ~~Fixed interest rate that is adopted by the Board by the end of the first quarter of the fiscal year in which the interest rate shall apply; or~~
 - b. ~~Variable interest rate formula that is based on investment returns and other factors adopted by the Board by the end of the first quarter of the fiscal year in which the interest rate shall apply.~~
- iii. ~~The Board shall adopt a plan interest rate by the end of the first quarter of the fiscal year in which the plan interest shall apply if a variable interest rate formula is used.~~

B. ~~Post-10-Year T-DROP Interest~~

- i. ~~If a plan participant continues covered employment after ten (10) consecutive years from the date of his or her entry into T-DROP, the plan participant's T-DROP account shall be credited with a post-tenyear T-DROP interest rate.~~ ii. ~~The Board shall set the post-10-year T-DROP interest rate:~~
 - a. ~~By the end of the first quarter of the fiscal year in which the interest rate shall apply; and~~
 - b. ~~At the same meeting in which the plan interest rate is set.~~
- iii. ~~The post-10-year T-DROP interest rate shall be credited to a plan participant's T-DROP account on June 30 of each year, or through the date of retirement, whichever occurs first.~~
- iv. ~~The post-10-year T-DROP interest rate for T-DROP shall be determined by the Board and adopted by the by the end of the first quarter of the fiscal year in which the interest rate shall apply.~~

C. ~~Incentive Rate~~

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

4. ~~Suspension or Cessation of Plan Deposits and Benefit Distributions~~

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

- i. ~~Separates from service and is granted a monthly retirement benefit from ATRS or a reciprocal plan;~~

- ii. ~~Reaches normal retirement age and retires without separating from covered employment;~~
- iii. ~~Separates from covered employment and does not apply for retirement benefits; or~~
- iv. ~~Dies.~~

B. ~~Separation from Covered Employment without Applying for Retirement Benefits~~

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

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

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

- f. ~~Compliance — Section 415 of the Internal Revenue Code~~
1. ~~The operation of T-DROP shall comply with U.S.C. § 415 and other applicable sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq.~~
 2. ~~Any provision concerning the operation of T-DROP that conflicts with § 415 and other applicable sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq. is invalid.~~
- g. ~~T-DROP Account Balance — Rollover~~
1. ~~A lump-sum distribution of a plan participant's T-DROP account balance may be rolled over into the plan participant's qualifying retirement plan.~~
 2. ~~ATRS shall rollover the T-DROP account lump-sum balance into only one (1) qualifying plan.~~
- h. ~~T-DROP Cash Balance Account Program~~
1. ~~Election Option~~
 - A. ~~In lieu of electing a lump-sum distribution of his or her T-DROP account balance, a plan participant may elect to transfer all or a part of his or her T-DROP account balance into a Cash Balance Account (CBA).~~
 - B. ~~If a plan participant elects to have only a part of his or her T-DROP account balance transferred into a CBA, the remaining balance of the TDROP account shall be annuitized under ATRS or paid as a lump-sum distribution.~~
 - C. ~~A CBA shall be credited monthly with T-DROP Cash Balance Account interest and debited monthly for withdrawals and distributions beginning on the month immediately following the establishment of the CBA.~~
 2. ~~T-DROP Cash Balance Account Interest Schedule~~
 - A. ~~A CBA established on or after July 1, 2012, shall be credited with TDROP Cash Balance Account interest as follows:~~

T-DROP Cash Balance Account Program Years of Participation	Interest Rate
First fiscal year of participation	Two and one-half percent (2.5%)
Two (2) fiscal years of participation	Two and seventy-five hundredths percent (2.75%)
Three (3) fiscal years of participation	Three percent (3.00%)

Four (4) fiscal years of participation	Three and twenty-five hundredths percent (3.25%)
Five (5) fiscal years of participation	Three and one-half percent (3.50%)
Six (6) or more fiscal years of participation	Four percent (4.00%)

B. ~~The Board may:~~

- i. ~~Increase the T-DROP Cash Account Balance interest rate for future fiscal years and on an ad hoc basis;~~

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

~~C. An ad hoc increase may be:~~

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

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

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

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

3. ~~Withdrawals~~

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

- B. ~~A plan participant may make more than six (6) withdrawals in a quarter with the approval of the Executive Director of ATRS.~~
- C. ~~A plan participant may request a recurring monthly distribution of a set amount from his or her CBA until the CBA balance is depleted or the plan participant withdraws his or her request.~~
- D. ~~Minimum distributions made to a plan participant shall comply with Arkansas Code § 24-7-730 and the Internal Revenue Code, 26 U.S.C. § 1 et seq.~~

HISTORY

Approved:	June 13, 1995	10-3
Amended:	July 30, 1997	10-3
Amended:	June 17, 2003	10-3
Amended:	June 15, 2004	10-2
Amended:	February 15, 2005	10-3
Amended:	July 18, 2005	10-2, 10-3
Amended:	October 4, 2005	10-2
Amended:	December 6, 2005	10-2
Amended:	April 26, 2007	10-3
Amended:	June 19, 2007	10-2
Amended:	February 11, 2008	10-2
Amended:	June 16, 2009	10-2 (Emergency)
Amended:	October 5, 2009	10-2 (Permanent)
Amended:	February 1, 2010	10-3 under emergency rules.
Amended:	June 7, 2010	10-3 Permanent
Amended:	July 1, 2011	10-3 (Emergency)
Adopted:	August 8, 2011	10-3
Effective:	November 11, 2011	10-3
Approved by Board:	February 6, 2012	10-3
Amended:	April 2, 2012	10-3 (Emergency)
Effective:	May 29, 2012	10-3
Approved by Board:	July 26, 2013	10-2, 10-3
Amended:	October 9, 2013	10-2, 10-3
Effective:	November 8, 2013	10-2, 10-3
Approved by Board:	December 1, 2014	10-3
Amended:	May 18, 2015	10-3
Effective:	June 16, 2015	10-3
Approved by Board:	October 5, 2015	10-3
Amended:	February 1, 2016	10-3
Effective:	February 10, 2016	10-3

Approved by Board:	February 5, 2018	10-3
Effective:	February 16, 2018	10-3
Effective:	August 5, 2019	Rule 10
Effective:	May 28, 2020	Rule 10
Effective:	May 20, 2022	Rule 10

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 10: Return to Service and Teacher Deferred Retirement Option Plan

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 10 – Return to Service and Teacher Deferred Retirement Option Plan

I. Purpose

The Arkansas Teacher Retirement System (“ATRS” or “System”) requests the review and approval of proposed amendments to ATRS Rule 10 – Return to Service and Teacher Deferred Retirement Option Plan (“Rule 10”).

On December 4, 2023, the Board of Trustees of the Arkansas Teacher Retirement System (“Board”) voted to proceed with the promulgation process for Rule 10.

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.

III. Amendments

Rule 10 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;
- Added definitions for “CBA” and “T-DROP”;
- Amended to clarify that monthly plan deposits to a plan participant’s T-DROP account will stop if the plan participant separates from service with a covered employer and is granted a monthly retirement benefit from either ATRS or a reciprocal plan;
- Added new section providing that a member’s T-DROP distribution election is irrevocable once the member’s T-DROP distribution election form is accepted by the System; and
- Amended to clarify when required minimum distributions will be deducted from the CBA account of a retiree who has attained the required minimum distribution age and does not cease to be active in the System.

IV. Recommendation

The System recommends that the proposed amendments to Rule 10 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.