

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency \_\_\_\_\_

Department \_\_\_\_\_

Contact \_\_\_\_\_ E-mail \_\_\_\_\_ Phone \_\_\_\_\_

Statutory Authority for Promulgating Rules \_\_\_\_\_

Rule Title: \_\_\_\_\_

### Intended Effective Date

(Check One)

Date

☐

Emergency (ACA 25-15-204)

Legal Notice Published ..... \_\_\_\_\_

☐

10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment ..... \_\_\_\_\_

☐

Other \_\_\_\_\_

(Must be more than 10 days after filing date.)

Reviewed by Legislative Council ..... \_\_\_\_\_

Adopted by State Agency ..... \_\_\_\_\_

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

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)



Signature

Phone Number

E-mail Address

Title

Date

**24 CAR § 10-616. Correction of errors and collection of overpayments.**

(a)(1) If a change or error in the records of the Arkansas Teacher Retirement System is discovered during the look-back period and results in either an overpayment or underpayment to the system, the Board of Trustees of the Arkansas Teacher Retirement System shall authorize the system's staff to:

(A) Correct the error in the records;

(B) Adjust a benefit or any other amount payable to the corrected amount as far as practicable; and

(C) Take all necessary and appropriate action, including without limitation the options allowed under Arkansas Code § 24-7-205(b).

(2)(A) The board or its designee may adjust the records of the system, 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.

(B) Before making an adjustment of benefits that causes a reduction of the benefits or pursuing any other collection action, the system shall provide notice to the person who is the subject of the adjustment and the notice shall:

(i) State the amount determined to be a receivable;

(ii) State the reasons underlying the determination;

(iii) Describe the process for disputing an adjustment of benefits; and

(iv) Suggest alternate methods for payment of the receivable.

(b)(1) The manifest injustice process shall not be used to address a change, omission, or error in the records of the system that may be corrected within the look-back period.

(2) The manifest injustice process may be used to correct a change, omission, or error in the records of the system discovered after the look-back period if the board determines that the time limitation imposed by the look-back period would cause a manifest injustice.

(c) If a member is subject to a qualified domestic relations order and is paid a benefit or payment by the system to which the member is not entitled, and it is discovered during the look-back period, then a receivable is created and the board or its designee, may collect the amount due to the system.

(d)(1) Appeals to dispute collections shall be made according to the procedures in 24 CAR § 10-1001 et seq.

(2)(A) During the appeal process, retirement benefits may continue to be paid.

(B) Correction and Adjustment Limitations.

(3) Actions that affect benefit rights shall not be corrected or adjusted further than a five-year look-back period unless a manifest injustice has occurred or an exception exists under Arkansas Code § 24-7-205(c).

(4) A determination by the system 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.

(e)(1) The Executive Director of the Arkansas Teacher Retirement System may waive interest on required contributions in an amount not to exceed five thousand dollars (\$5,000).

(2) A request to excuse an interest amount exceeding five thousand dollars (\$5,000) shall be submitted to the board for review.

(3) The executive director shall report any amounts excused under this section to the board.

(f)(1) The executive director may approve the correction of a change, omission, or error in the records of the system and implement a resolution that has a direct financial impact to the system of up to five thousand dollars (\$5,000) without obtaining board approval.

(2) Board approval shall be required to implement a resolution that has a direct financial impact to the system in excess of five thousand dollars (\$5,000).

(g) If required, a receivable under this section that is found by the board or its designee to be uncollectible or for which adjustment or payment has been waived shall

be submitted to the Chief Fiscal Officer of the State for abatement pursuant to Arkansas Code §§ 19-2-301 — 19-2-307.

**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** 24 CAR § 10-616 - Correction of Errors and Collection of Overpayments

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?

**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.