

RETIRANTS RETURN TO SERVICE
BY RESCINDING RETIREMENT (Act 39 of 1989)
(Amended by Acts 435 & 478/93; Act 481 of 2001)
(A.C.A. §24-7-717)

A retirant under Arkansas Code §§ 24-7-201; 24-7-713, and any amendments thereto, may rescind his/her decision to terminate active membership and may become an active member upon reemployment.

POLICIES

1. A retirant rescinding his/her decision to terminate active membership shall file a written rescission on a form furnished by the ATRS Board.
2. a) For any school year in which a retirant takes a position in a public school, the rescission form shall be filed with the Teacher Retirement System office on or before June 30 of the previous year.

b) Should a retirant fail to meet the deadline set out in 2(a), the school district may file an appeal for a waiver of the required filing date.
3. The rescission shall become effective the first day of the calendar month next following the date the written rescission is received by the Board.
4. Any annuity benefit formerly due from the System shall be terminated upon the effective date of the rescission.
5. Upon rescission, the former retirant shall be considered an active member ~~who~~ and shall accrue additional credited service subject to the following conditions:
 - a) If reemployment terminates before the end of the fiscal year in which the former retirant has accumulated at least three (3) years of credited service, the former retirant shall become a retired member and the payment of annuity shall resume upon such termination. The former retirant shall be entitled to receive any member contributions which may have been made during the reemployment period.
 - b) If reemployment terminates after the end of the fiscal year in which the former retirant has accumulated at least three (3) years of credited service, upon termination of reemployment, the former retirant shall become a retired member and receive an annuity which has been recalculated according to the benefit formula in effect at the time of such termination of reemployment.
6. Effective July 1, 1993, if a retirant has previously rescinded his/her decision to terminate active membership and has become an active member by reemployment,

but after becoming a retirant and before rescinding had been employed in a position covered by the System, as an active member he/she shall be eligible to purchase such previous service by:

- a) Fulfilling the requirements set out in Sec. 24-7-717(e)(2) (which is §5(b) of this policy);
 - b) Returning to the System all retirement benefits received during such employment, together with regular interest from the date of receipt of such payments to the date of repayment in full; and
 - c) Paying to the System both member and employer contributions for the previous service rendered after becoming a retirant but before rescinding, plus interest from the date of reemployment to the date of payment in full.
7. Upon rescission, a former retirant shall be eligible to participate in the T-DROP subject to the following conditions:
- a) The employee shall file a Retirement Rescission form;
 - b) The employee shall file a T-DROP application; and
 - c) The effective date will be the first day of the calendar month next following the completion of at least thirty (30) working days.
 - d) The years of service used in the calculation of T-Drop reductions do not include service rendered while rescinded.
 - e) The former retirant's T-Drop deposit will be based on the monthly straight life annuity benefit to which he/she was entitled on the effective date of retirement plus retirant raises received during time of retirement. The T-Drop deposit will not include the benefit provided in Arkansas Code Section 24-7-713(b).
8. A T-DROP retirant who wishes to rescind must file a Retirement Rescission form and receive a lump sum distribution of the remainder of the T-DROP account. Then, following receipt of the T-DROP Application form and the completion of at least thirty (30) working days, participation in the T-DROP will begin.
- a) The years of service used in the calculation of T-Drop reductions do not include service rendered while rescinded.
 - b) The former retirant's T-Drop deposit will be based on the monthly straight life annuity benefit to which he/she was entitled on the effective date of retirement plus retirant raises received during time of retirement. The T-Drop deposit will not include the benefit provided in Arkansas Code Section 24-7-713(b).

- c) Upon completion of a maximum of 10 years of combined participation, the monthly deposits and accrued interest shall cease.
9. a) An early retirant under A.C.A. § 24-7-702 may rescind the decision to terminate active membership (retirement) and may become an active member upon reemployment for the purpose of participation in the Teacher Deferred Retirement Option Plan under the following conditions:
- i) Retirement Rescission form must be filed with the System;
 - ii) The rescission shall become effective the first day of the calendar month next following the date the written rescission is received by the Board.
 - iii) Any annuity benefit formerly due from the System shall be terminated upon the effective date of the rescission.
 - iv) Re-employment will be for at least three (3) years.
- b) When the early retirant who has rescinded accumulates the minimum number of years required for participation in the T-Drop (28), he/she will enter the T-Drop at that time and begin to accumulate a T-Drop account.
- c) The early retirant's T-Drop account will be based upon his/her voucher amount at the time of his eligibility to participate in the T-Drop.
- d) If the early retirant who has rescinded terminates employment before the completion of three (3) full years of credited service under rescission, the following will apply:
- i) The retirement annuity will resume at the rate effective at the time of rescission (including any cost of living adjustments and legislative adjustments);
 - ii) Member contributions paid while rescinded will be refunded;
 - iii) Funds accumulated in the T-Drop account will be forfeited. (Act 481 of 2001).
- e) When the early retirant who has rescinded completes three (3) full years of credited service under rescission, he/she may retire and receive benefits accrued from both accounts (T-Drop and retirement) as provided under normal T-Drop provisions.

Amended: June 17, 2003
June 15, 2004

**CONDITIONS UNDER WHICH A RETIRANT MAY RETURN TO COVERED
SERVICE OTHER THAN BY RESCINDING HIS RETIREMENT
UNDER ACT 39 OF 1989**

**(Amended by Act 1293 of 1995; Act 384 of 1997; Act 30 of 1999; Act 1146 of 2001
(A.C.A. § 24-7-708)**

AGE AND SERVICE RETIRANT

1. Except for a waiver provided in accordance with Act 30 of 1999 and Act 1146 of 2001, if a retirant returns to service - as an employee of a public employer whose employees are covered by ATRS¹ - without rescinding his/her retirement under Act 39 of 1989 (A.C.A. § 24-7-717), then, for each twelve-month period ending June 30, the amount of his/her system annuity shall be subject to the limitations equivalent to twice the limitations imposed by the social security retirement test.. The amount a retirant may earn and still collect full benefits depends upon whether he/ has reached “full retirement age (FRA)” as defined in P.L. 106-182.
 - (a) Effective for years ending after December 31, 1999, pursuant to P.L. 106-182, which eliminated the Social Security retirement earnings test in and after the month a person attains “full retirement age (FRA)”, a retirant reaching full retirement age may return to service without being subject to the earnings limitations. “Full retirement age (FRA)” will gradually increase from age 65 to age 67.²
 - (b) Effective July 1, 1992, a retirant that is under age 65 may earn up to twice the Social Security earnings limitation amount without affecting his/her ATRS benefits. If his/her ATRS covered earnings exceed that amount, \$1 in benefits will be deducted for each \$2 earned above the earnings limitation amount.
 - (c) For each year ending June 30, the social security retirement test to be considered shall be the test in effect for the calendar year beginning the January 1, immediately preceding June 30. The retirant’s earnings shall be his or her remuneration for the employment for the year ending June 30.

¹ (Prior to July 1, 1991, the earnings limitation applied to retirants who were

- employees with ATRS, ASHERS, or ASERS from 7-1-71 through 6-30-77;
- employees with a Public employer, whose employers are covered by a State supported retirement plan or the University of Arkansas from 7-1-77 through 6-30-78;
- employees of a public employer whose employees are covered by a retirement plan supported wholly or in part by State contributions from 7-1-78 through 6-30-91;)

² Previously, a retirant that is aged 65 to 69 may could earn up to twice the Social Security amount without affecting his/her ATRS benefits. If his/her ATRS covered earnings exceeded that amount, \$1 in benefits will was to be deducted for each \$3 earned above the earnings limitation amount.

(d) Unless the system is directed otherwise in writing, the benefits of those retirants exceeding the earnings limitations will be reduced in the proper amount in the fiscal year following the fiscal year in which the earnings limitation is exceeded. A retirant may direct ATRS to reduce benefits within the same fiscal year the earnings limitation is expected to be exceeded.

2(a) Employers and retirants must report immediately, upon acceptance of employment in a regular or special position covered by ATRS, a return to covered employment by a retirant. A Statement of Employment Form must be completed immediately by employers and retirants upon acceptance of employment for each retirant hired in a position covered by ATRS.

(b) Employers will report semi-annually all retirants who have returned to full or part-time employment in an ATRS covered position and who have not rescinded their retirement. The semi-annual report will be filed on a Retired Member Returned To Service Form which form will be furnished by ATRS.

(c) In the event that both the employee and his employer fail to notify the Teacher Retirement System of a retiree's return to service and benefits are paid illegally due to such lack of notice, the Teacher Retirement System shall delay restoration of benefits until all funds paid illegally have been recovered either through direct payment by the retiree or through delay in restoration of benefits by the System.

3. (a) Effective July 1, 1977, a retirant may receive remuneration as an employee from any private employer or as a member of the General Assembly without any effect on his/her annuity.³

(b) Effective July 1, 1991, an age and service retiree may be employed by a public employer whose employees are not covered by ATRS without any effect on his/her annuity.

4. During any period of employment in a position covered by the system (which is not covered by Act 39 of 1989) an age and service retiree shall not accrue additional service credit, nor shall he/she contribute to the Arkansas Teacher Retirement System.

24-7-708(e) which has not changed since July 1, 1971 reads: "During any period of employment, a retirant shall not accrue additional credited service nor shall he or she contribute to the system." Act 39 of 1989?" 24-7-717(d)(1): upon rescission, a former retirant shall be considered an active member and shall accrue additional credited service. See retirants return to service policy.

³ (From 7-1-71 through 6-30-77 this "exemption" covered employees receiving remuneration "from any other public employer or private employer.")

5. (a) Effective July 1, 1995, Act 1293 of 1995 provided that if a retirant is employed in a covered position by a state college, university, or vocational-technical school, his annuity shall not be subject to the limitations provided in Item 1.
- (b) Effective July 1, 1997, Act 384 of 1997 repealed Act 1293 of 1995, making subject the ATRS earnings limitation the annuity of a retirant who is employed in a covered position by a state college, university or vocational-technical school, as provided in Item 1.

WAIVER OF EARNINGS LIMITATION

1. (a) In accordance with Act 30 of 1999, in accordance with rules and regulations adopted by the State Board of Education, the Arkansas Department of Education (ADE) may request of the ATRS Executive Director, a waiver of the conditions subjecting annuities to the ATRS earnings limitation
- (b) All requests for waiver must originate with ADE. If approved, the waiver shall be effective for one (1) year from the date of approval. The waiver may be reviewed for consideration annually by the ATRS Executive Director upon request by ADE.
2. (a) Effective July 1, 2001, under Act 1146 of 2001, the ATRS Executive Director is authorized to take appropriate action on waivers of the ATRS earnings limitations requested by the Department of Education under the following conditions:
 - i. The retiree is hired by the appropriate entity due to a shortage of certified teachers in a critical academic area in which the retiree is certified; or
 - ii. The retiree is hired by a school district which qualifies as a school district in academic distress as defined in § 6-20-1602.
- (b) Critical academic areas in which there is a shortage of certified teachers shall be determined annually by the State Department of Education.
- (c) The waiver of the earnings limitations shall be for one (1) year, with the option of renewal, provided the same conditions for granting the original waiver still exist;
- (c) Employers will be responsible for reporting to ATRS, all retirees who have returned to employment under these provisions (Act 1146 of 2001).

DISABILITY RETIRANT

Under the provisions of the Teacher Retirement law a disability retiree is permitted, should he regain his health and should he be employed under contract in a position covered by the Arkansas Teacher Retirement System to establish a year or more of

service credit and have his benefits recomputed at a time of retirement either on age and service or disability as the case might be.

1. Disability Retiree Employed Full-Time

When a disability retiree is employed under contract in a position covered by the Teacher Retirement System as a full-time employee in a regular or special position on a fiscal year basis, the Teacher Retirement System is required to remove him from the disability payroll. It is the responsibility of the employing agency to report such employment to the retirement office immediately. Unless the retiree was a member of the non-contributory plan, it is also the responsibility of the employing agency to withhold 6% of applicable salary. If the retiree completes a minimum of 120 days or more during a fiscal year in Arkansas, thus adding a year's service credit, he can then again make application for disability or age and service retirement and his benefits will be recomputed based on the additional year or years of service credit. Full-time employment is defined as a member working at least 480 hours in a fiscal year. A disability retiree shall not be permitted to establish service credit when employed in a part-time position.

2. Disability Retiree Employed Part-Time

A disability retiree employed part-time will be subject to the same earnings limitation policy as age and service retirees. Part-time employment is defined as a member working less than 480 hours in a fiscal year.