

**SALARY DETERMINATION FOR RETIREMENT
SYSTEM PURPOSES
CALCULATION OF FINAL AVERAGE SALARY**

A.C.A. § 24-7-202, A.C.A. § 24-7-602, and A.C.A. § 24-7-705
(SEE ALSO POLICY NOS. 7-3 AND 7-4.)

DEFINITIONS (Amended by Acts 460, 542, and 638 of 1995 and Act 146 of 2005.)

1. **Salary** means the remuneration paid to a member by an ATRS participating employer ~~an employee in a position or positions covered by the System and on which the employer withholds federal income tax. This includes all salary "picked up" by the employer including employee contributions to a qualified retirement plan, deferred compensation plan, or cafeteria plan. For remuneration paid other than in cash, salary is the amount reported to the Internal Revenue Service for income tax purposes. It includes remuneration received from all covered employers during a school fiscal year; however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount allowed under the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995~~

2. ~~**Covered Salary** means, effective July 1, 2003, employees' regular and federal salaries for the current fiscal year, plus supplemental salary payments received for the previous fiscal year(s), plus adjustments agreed upon by both the employer and the Teacher Retirement System. For each member who first became a member before July 1, 1971, the covered salary for each year after June 30, 1969, is the first \$7,800.00 of the member's total annual salary for all covered employment (Salary Option 2) unless he/she has elected to make contributions to the System on full salary. For each member who first became a member after June 30, 1971, or who has elected to make contributions on full salary, the covered salary is his or her full salary for all covered employment (Salary Option 1). If, however, a member making contributions only on the first \$7,800.00 of total annual salary (Salary Option 2) receives a refund of contributions and subsequently returns to covered service as a noncontributory member, he or she shall be considered on full salary for reporting purposes (Salary Option 1).~~

3. ~~A. 2.~~ **Final Average Salary** means the average of the annual salaries paid to a member by a participating employer during the fiscal year ending June 30

~~used in calculating a member's retirement annuity under A.C.A. § 24-7-705. three (3) years of credited service producing the highest annual average, subject to the provisions in Nos. 3B and 3C below.~~

~~B. In computing retirement benefits, no salary paid in one (1) of the years that is utilized in the computation of the member's final average salary shall exceed one hundred ten percent (110%) of the salary earned in the year preceding that year used in the computation, unless the increase is a direct result of a promotion, change in position, incremental increases provided in the school district salary schedule, or an increase in school revenues.~~

~~C. i. Effective August 12, 2005, Act 1288 of 2005 amended A.C.A. § 21-4-503 to allow state-supported institutions of higher education to compensate classified employees for unused sick leave upon retirement or death; however, compensation for accumulated unused sick leave shall not be used by Teacher Retirement System in calculating final average salary under A.C.A. § 24-7-202(14). Exceptions will be made for classified employees of those institutions that allowed such compensation prior to August 12, 2005.~~

~~ii. Effective August 12, 2005, Act 971 of 2005 (A.C.A. § 21-4-505) authorizes state-supported two-year colleges to provide compensation to their employees (not limited to classified) for unused sick leave upon retirement or death. It also provided that the compensation for accumulated unused sick leave shall not be used by Teacher Retirement System in calculating final average salary under A.C.A. § 24-7-202(14). Exceptions will be made for employees of those two-year colleges that allowed such compensation prior to August 12, 2005.~~

~~4.3. **Covered Participating Employer** means an employer who participates in the Arkansas Teacher Retirement System whose employees are eligible for member under A.C.A. § 24-7-501 or other applicable law. each employer for whom a member renders service in a covered position.~~

REGULATIONS

1. The Board of Trustees may set the number of years used in calculating a member's final average salary at no less than three (3) years or more than five (5) years.

2. For purposes of calculating a member's final average salary, the System will include salary received from all participating employers during a fiscal year.

3. When calculating final average salary, the following limits shall apply:

- A. The System shall rank the member's highest salary years from lowest to highest. The lowest salary year shall be considered the initial base year.
 - B. The next highest year shall then be compared to the initial base year. If the next to highest year exceeds the initial base year by 120% or more, the next highest salary year shall be reduced by the amount it exceeds 120% of the initial base year or \$5,000, whichever is greater.
 - C. After any reduction under No. 3B above, the member's highest salary year shall be compared to the next highest salary year. If the highest year exceeds the next highest year by 120% or more, then the highest year will also be reduced by the amount it exceeds 120% or the next highest year or \$5,000 whichever is greater.
 - D. Other than the initial base year used in the calculation of final average salary, all final average salary years shall be reduced as provided herein for calculating retirement benefits under A.C.A. § 24-7-705.
 - E. However, if a salary year used in calculating final average salary does not constitute salary for a full service year, the next highest salary year shall not be reduced although it may exceed 120% of the next highest year.
4. For purposes of determining if a salary year constitutes a full service year, the following shall be excluded from the limits under No. 3 above:
- A. Any salary year which constitutes member service during two (2) or fewer quarters in a fiscal year; or
 - B. Any salary year that constitutes less than one (1) year of service credit under the schedule set forth in ATRS Policy No. 7-2.
5. If a member is retiring with a retirement effective date other than October 1, January 1, April 1, or July 1, no salary paid to a member for the last year worked shall be counted in calculating a member's final average salary.
6. Regardless of any provision in statute or regulation to the contrary, salary or other compensation paid which exceeds the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount allowed under the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995.
7. If a conflict exists between the statute or policy governing the treatment of a member's salary between the participating employer's laws or policies relating

to compensation and the calculating of a member's final average salary for benefits, the System's laws and regulations shall control.

RULES (Amended by Acts 460 and 638 of 1995, and Act 11 of 1999, Acts 460, 542, and 638 of 1995, Act 146 of 2005, and Act 1325 of 2009)

- ~~1. In determining "salary," employer pick-up contributions, cafeteria plans as defined in A.C.A. § 21-5-901, and employee contributions to tax-sheltered annuities shall be included; however, a member may establish salary earned under a purchase service contract with a covered employer by paying employee and employer contributions plus interest.~~
1. Effective April 1, 1998, when calculating a member's final average salary, the System shall calculate final average salary using the three (3) years in which the member received the highest salary from a participating employer subject to the foregoing limitations.
- ~~2. Money in lieu of remuneration and used by an employer to purchase a qualified tax-sheltered annuity or a life insurance policy for an employee shall be considered as salary for System purposes.~~
- ~~3. An employee who is receiving remuneration under both a regular contract and a purchased contract or under both a regular contract and a contract won through litigation shall have only the greater of the two amounts considered as "salary" for System purposes.~~
- ~~4. Should an employee make a charitable donation or return any part of his or her salary to the employer, the amount of recurring remuneration otherwise usable as "salary" shall be reduced by such amount or amounts to arrive at "salary" for System purposes.~~
- ~~5. The System will not knowingly accept contributions that have been withheld from payments that do not meet the criteria for salary in Rule Nos. 1-3 above. In case of doubt, the facts will be determined, and the Board will decide whether or not payments reported as salary can be accepted as salary for retirement purposes. Contributions based on payments that are not salary for retirement purposes will be refunded as promptly as possible.~~
- ~~6. If a member is making contributions to the System on a covered salary of \$7,800.00 rather than full salary, 6% of his/her pay for each pay period must be withheld until withholding amounts to 6% of \$7,800.00 (\$468.00). Withholding of this amount shall not be spread over a longer time than it takes to withhold 6% of \$7,800.00.~~

- ~~7. A member who left covered employment before July 1, 1985, and who had annual compensation of \$7,800 or less, shall upon return to covered employment have full salary considered for retirement purposes.~~
- ~~8. If an eligible employee of a government entity, as defined in Act 810 of 1987, (A.C.A. § 21-5-901—904) elects to participate in a cafeteria plan that meets the requirements of the Federal Internal Revenue Code, the amount that such employee's salary is reduced pursuant to a salary reduction agreement, as defined in Act 810 of 1987, shall continue to be included as compensation for the purpose of computing retirement benefits. Employees participating in the contributory plan will pay 6% of the total salary earned before such reductions are made, and employers will report the total salary earned before reductions.~~
- ~~9. Each employer shall deduct the member contributions from the salary of each contributory member on each payroll from the date of entrance into the System until retirement, and the employer shall remit the contributions to the System; however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount allowed by the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995.~~
2. The final average salary used for members with reciprocal service shall be the highest salary years credited by either the ATRS participating employer or the reciprocal system. Salary year used shall not include salaries credited by the Arkansas Judicial Retirement System or any alternate retirement plan.
44. 3. For persons members who are retiring and who are employed in agencies or other institutions that use the state 26-week payroll, employers should report to Teacher Retirement the salary, contributions, and actual days worked through the current year payroll period. Contributions should not be withheld on any salary earned after the close of the current year's payroll, nor should any salary or days of service be reported for that period of time.
4. For members who are retiring and who are employed by employers using a fiscal year ending June 30, employers should report to the System the salary contributions, and actual days worked through the current fiscal years ending June 30. Contributions should not be withheld on any salary earned after the end of the current fiscal year, no should any salary or days of service be reported for that period.
5. For retiring members, employee contributions remitted on salary paid after the end of the current fiscal year or current year payroll period, whichever applied, will be refunded as promptly as possible.

406. In case of any dispute concerning an ~~employee's~~ member's final average salary for System purposes, the System, the Board shall have the ~~power to settle the dispute~~ the authority to decide the dispute.

Amended: August 11, 1998
July 18, 2005
June 16, 2009 (Emergency)

PROOF OF YEARS OF SERVICE CREDIT

A.C.A. § 24-7-601—611, A.C.A. § 24-7-406, A.C.A. § 24-7-701,
and A.C.A. § 24-7-705

DEFINITIONS

1. **Actual service** means service rendered in a position covered by the Arkansas Teacher Retirement System.
2. **Credited service** means service that is creditable by the Arkansas Teacher Retirement System.
3. **Employee** means any person employed by an employer covered by the Arkansas Teacher Retirement System.
4. **Reciprocal service** means credited service rendered under a reciprocal system as defined in A.C.A. § 24-2-401.

~~Teaching service or other duties performed pertaining to one's occupation must be made in affidavit form or on special forms drafted by the System. A year of service beginning with the establishment of the System will be from one (1) day to 120 days, from July 1 to June 30 of a fiscal year as set forth by the following policies established by law and the Board of Trustees of the Teacher Retirement System.~~

REGULATIONS

The Board shall determine the number of years and fractions thereof for paid service credited to members of the System. No fewer than 120 days of employee service in a fiscal year (ending June 30) shall be credited as a full year of service.

Upon a member's retirement, he or she shall receive a straight life annuity calculated as provided in A.C.A. § 24-7-705. The years of service credit year credited to the member shall be counted as provided therein.

RULES ON SERVICE AFFIDAVITS

Membership:

1. FOR MEMBERS WITH SERVICE AFTER JULY 1, 1971

Fractional Years of Service Rule:

8. A. Beginning July 1, 1971, for teaching Actual service credited to a member's account rendered in any one fiscal school year shall be determined in accordance with the following table:

<u>Number of Days Worked in a Fiscal Year</u>	<u>Years of Service Credited Earned</u>
1 - 29	None
30 - 59	$\frac{1}{4}$ <u>0.25</u> year
60 - 89	$\frac{1}{2}$ <u>0.50</u> year
90 - 119	$\frac{3}{4}$ <u>0.75</u> year
120 days or over	<u>1.00</u> year

9. A B. Four (4) hours in a day shall be required as the minimum for a "day of service" for all members employees. For part-time employees members who do not work four (4) hours or more a day, the total number of hours worked in a school year fiscal quarter divided by four (4) will determine the number of days to be credited. To be credited, employees must be paid at least the minimum wage. If the employer is unable to verify the number of service days, the System may credit 20 days of service for each month of member service verified by the employer.

B. Twenty (20) days shall be considered a month.

C. For purposes of days counted toward service credit, absences shall be counted as service if for paid leave including paid sick leave.

D Service credit purchased by a member under A.C.A. § 24-7-602 – 611 shall be credited upon full payment of the amount required for the purchase including any required interest. The amount of service credited to the member for purchased service shall be established using the rules for actual service credit.

E. Service credit certified by a member as reciprocal service shall be established using the rules for actual service credit.

F. The System shall not give service credit to a member until all required contributions, and interest, if any, is remitted to the System.

G. The participating employers shall certify proof of service on such forms with any documentation required by the System.

H. If a member is retiring with an effective date other than October 1, January 1, April 1, or July 1, service credited for the year in which a member retires shall not exceed ¼ year for each full calendar quarter worked during the fiscal year. A full calendar quarter shall be considered working at least 30 days in any fiscal quarter.

I. If a member has signed an employment contract for a fiscal year and the member does not work for the full period covered by the contract, the member shall receive service credit for only the full calendar quarters worked during the fiscal year.

J. In any case of question as to service credit of a member, the Board of Trustees has the final authority to decide the amount of service creditable to a member.

2. SERVICE CREDITED PRIOR TO JULY 1, 1971

~~4~~A. One day or more is a year of service when rendered prior to February 11, 1949, and proved prior to July 1, 1955, unless otherwise determined by information in the member's file. "Proved" for membership service means service rendered and contributions paid before February 11, 1949, or a contract entered into prior to July 1, 1955, to pay such contributions at a later date and at least a partial payment is made.

2B. Sixty (60) days in a fiscal year of service when rendered and proved between the period of February 11, 1949, and July 1, 1957.

~~3~~C. Eighty-five (85) days in a fiscal year is a year of service when proved subsequent to July 1, 1957 (1957-71).

~~4~~D. Service rendered and proved prior to July 1, 1957, can be combined to count as a year of service provided:

A i. The minimum number of days combined is 85.

~~B~~ii. The maximum number of fiscal years to be combined is three (3) and the years do not have to be consecutive.

~~C~~ iii. The minimum number of days in a fiscal year to be counted is thirty (30).

5. E Service rendered subsequent to July 1, 1957, and proved before July 1, 1971 (1957-1971) can be combined to count as a year of service provided:

- A~~i~~. The minimum number of days to be combined is 85.
 - B~~ii~~. The maximum number of fiscal years to be combined is two (2).
 - C ~~iii~~ The fiscal years combined must be consecutive years.
 - D ~~iv~~. The minimum number of days in one fiscal year is forty (40).
- 6-~~E~~ One hundred twenty (120) days in a fiscal year is a year of service beginning July 1, 1971, to present.
- 7 F Service prior to 1937 shall not be established as credit with the System.
The 1937-38 year may be established as a back contribution year without cost to the member, unless contributions were paid for the 1937-38 year and later refunded. In such case, the amount of refund plus interest must be paid in order to establish credit for the 1937-38 year. Proof submitted subsequent to July 1, 1971, must show a minimum of 120 days of service.

Amended: July 18, 2005
June 16, 2009 (Emergency)

AGE AND SERVICE (VOLUNTARY) RETIREMENT

A.C.A. § 24-7-502, A.C.A. §§ 24-7-701—707, and A.C.A. § 24-7-202 (unless otherwise noted)

RULES

REGULATIONS

1. RETIREMENT ELIGIBILITY QUALIFICATIONS

A. If eligible, Any any active or inactive member who attains age 60 and has five (5) or more years of actual and reciprocal service credit may voluntarily retire upon written application filed with the System. In order to be eligible, a member must comply with the following requirements:

A. Satisfy the credited service requirements under one of the System's retirement statutes, A.C.A. § 24-7-701—707,

B. Be credited with all required employer and member contributions in the member's deposit account with no amounts owed to the System,

C. Pay all amounts owed to the System for underpayments or purchase service accounts; and

D. Terminate employment with all participating employers or have reached age 65 or older.

~~B. Any active or inactive member who has 28 or more years of credited service but has not attained age 60 years may voluntarily retire without reduction in benefits upon written application filed with the System.~~

~~i. For active members, annuities payable under the provisions of this rule shall commence the calendar month following the member's eligibility to receive the annuity under A.C.A. § 24-7-701.~~

~~ii. For inactive members, annuities payable under the provisions of this rule shall commence the calendar month following the member's eligibility to receive the annuity under A.C.A. § 24-7-707.~~

~~C. **Separation from Service**~~

~~Effective July 1, 2001:~~

- ~~i. A member who has not attained normal retirement age (65) must terminate covered employment to be eligible for retirement.~~
 - ~~ii. A member shall not be considered terminated from employment for retirement purposes if the person returns to a position that would otherwise be covered by ATRS within thirty (30) days of the person's effective date of retirement.~~
 - ~~iii. A person failing to meet these requirements shall not be eligible to retire and shall forfeit retirement benefits until the requirements are met. Any retirement benefits received shall be repaid to the System.~~
- ~~D. The annuity shall not begin earlier than the July 1 following a fiscal year in which the member has signed an employment contract, unless his/her contract is terminated with employer consent before the year of service is rendered.~~
- ~~E. The official postmark date may be used as the official date the retirement application was received by ATRS.~~
- ~~F. The date of application for disability retirement benefits may be used to determine the effective date of age and service retirement benefits under the provisions of the law. The date of application for age and service retirement benefits may be used to determine the effective date of disability retirement under the provisions of the law.~~
- ~~G. A member may cancel an application for retirement benefits any time prior to thirty (30) days after the later of the effective date of benefits or the receipt of the first retirement check. The member shall notify the Teacher Retirement System of such cancellation in writing within the 30-day period and shall again become eligible for active membership in the System. This shall be in effect for the 1993-94 fiscal year and thereafter.~~
- ~~H. Leave earned prior to the date of termination of employment does not change the date of termination, although a lump-sum payment is made subsequent to the date of termination. The key to termination is the date the employee actually goes off the payroll.~~

2. BENEFITS

A. Benefits Formula

The retirement benefits payable shall be the total number of contributory years of credited service multiplied by 2.065% of the final average salary, plus the total number of noncontributory years of credited service multiplied by 1.305% of the final average salary.

If an employer reports additional salary for a member ~~retirant~~, but the result does not increase or decrease the annual benefits by ~~\$5.00~~ 25.00 or more, the contributions will be transferred from the member's deposit account to the employer accumulation account without making any change in the member's benefit. If the additional salary does increase or decrease the ~~retirant's~~ retiree's annual benefit by ~~\$5.00~~ 25.00, the retirement benefits will be ~~recomputed~~ recalculated, and necessary changes will be made in the member's benefit.

B. Minimum Retirement Benefits (A.C.A. §§ 24-7-707 and § 24-7-713)

A member who retires under A.C.A. § 24-7-701 shall receive no less than the following benefits:

- i. A member who has at least ten (10) years of contributory credited service with ATRS will receive not less than \$1,800 per year; or
- ii. A member who has at least five (5) years of contributory credited service with ATRS will receive not less than \$1,200 per year; or
- iii. A member who has at least ten (10) years of noncontributory credited service with ATRS will receive not less than \$1,128 per year; or
- iv. A member who has at least five (5) years of noncontributory credited service with ATRS will receive not less than \$768 per year; or
- v. A member who has a mixture of contributory and noncontributory credited service greater than ten (10) years but less than the minimum credited years listed above will receive a prorated amount between \$1,128 and \$1,800 per year according to the relationship between the member's noncontributory and contributory credited service and total credited service; or
- vi. A member who has a mixture of contributory and noncontributory credited service greater than five (5) years but less than the minimum credited years listed above will receive a prorated amount between \$768 and \$1,200 per year according to the relationship between the member's noncontributory and contributory credited service and total credited service.

In addition to the minimum benefit amount, a member who meets eligibility requirements shall receive benefits applicable under A.C.A. § 24-7-713.

C. Effective Date of Retirement Benefits (A.C.A. § 24-7-701)

~~A retirement benefit shall not begin earlier than July 1 following a fiscal year in which the member has signed an employment contract unless the contract is terminated with employer consent before the year of service is rendered. If a member has signed an employment contract for a fiscal year and has been paid in full for that year, benefits shall not become effective until the next July 1.~~

~~For a member retiring with an effective date other than July 1 who has terminated employment and wants to retain credit for service within the current fiscal year, no salary earned during the fiscal year may be used in the computation of benefits, and no more than one-fourth (1/4) of a year of service credit may be given for each quarter worked regardless of the number of days worked in a quarter.~~

If a member meets all eligibility requirements for retirement and is approved for retirement, annuity benefits shall be effective the month proposed by the member. If the member does not file an application at least one calendar month prior to the proposed effective retirement date, then that proposed retirement effective date cannot be used, and the member's effective retirement date shall be the following month.

If a member has signed an employment contract for the fiscal year and has been paid in full without providing service for the full period of the employment contract, the member's retirement effective date shall not be prior to July 1 of the subsequent fiscal year.

D. Annual Cost of Living Increase

i. ~~On July 1 of each year, all retirees who have received a retirement annuity benefit for 12 months or longer shall receive a 3% cost-of-living (COLA) increase. (A.C.A. § 24-7-713)~~

ii. ~~Act 404 of 1999 grants the ATRS Board of Trustees authority to compound the cost-of-living adjustment when actuarially appropriate. (A.C.A. § 24-7-727)~~

E. Compound Cost of Living Adjustment (A.C.A. § 24-7-727)

Effective each July 1, when actuarially appropriate, the ATRS Board may elect to compound the cost of living adjustment for all retirees who have been receiving benefits for the prior 12-month period pursuant to A.C.A. § 24-7-727.

- i. The compound COLA shall apply to all retirees and beneficiaries who have been receiving a monthly retirement annuity for the prior 12-month period. The Compound COLA will also apply to T-DROP participants if the member is otherwise eligible for a retirement benefit under A.C.A. § 24-7-705.
- ii. The compound COLA shall be calculated on 100% of the prior June 30 benefit amount times (X) 3%.
- iii. The redetermined amount will be payable for the ensuing fiscal year.
- iv. In the years that the Board elects to compound the COLA, the simple COLA shall not be payable. In a year the Board elects not to compound the COLA, the simple COLA under A.C.A. § 24-7-713 shall be given under paragraph 2D above.
- v. Each July 1 of a year in which the Board has compounded the COLA, the base amount shall be updated to include the prior June 30 benefit plus the compound COLA amount.

~~E-F.~~ **Annuity Stipend - Additional Benefit** (~~Act 400 of 1999, Acts 360 and 742 of 2001, Act 853 of 2003, and Act 297 of 2007~~) [A.C.A. § 24-7-713(b)(2)]

Members with five (5) or more years of actual service with ATRS retiring after July 1, 1999, but prior to July 1, 2008, and their survivors and beneficiaries, shall receive an additional benefit of \$75.00 per month over and above the regular annuity.

Members with ten (10) or more years of actual service with ATRS retiring on or after July 1, 2008, and their survivors and beneficiaries shall receive an additional benefit of \$75 per month over and above the regular annuity.

For the purpose of determining eligibility for the additional benefit, “actual service” means service rendered in a position covered by ATRS. “Actual service” does not include purchased or free credited service or reciprocal service.

~~F-G.~~ **Suspension of Benefits** (~~Act 29 of 1999 and Act 97 of 2007~~) [A.C.A § 24-7-209(a)]

Subject to the minimum distribution provisions of A.C.A. § 24-7-730, anyone entitled to receive an annuity from the System may request the ATRS Executive Director in writing, for personal reasons and without disclosure, to suspend the payment of all benefits otherwise payable to him/her by the System. Upon approval to authorize suspension of

benefits, the person shall be deemed to have forfeited all rights to the benefit but will retain the right to have the full benefit reinstated upon written notice to the Executive Director to revoke the request for suspension.

~~G-H~~. Benefits are payable through the month in which the retirant's death occurs.

RULES

1. A member age 65 or older may apply for retirement benefits without terminating employment and may begin drawing benefits with no effect on the member's retirement benefit.

2. For members requiring termination of employment to retire, a member shall not be terminated if the member does not terminate employment with all participating employers including public higher education institutions by his or her effective date of retirement or the member becomes employed within the required termination period with a participating employer after retirement.

Salary paid after the member's termination will not affect retirement eligibility if the payment is for services or other benefits accruing prior to termination and not uninterrupted employment.

3. Effective July 2, 2009, the following termination requirements shall apply:

A. For a member with 38 years of participation in ATRS, including actual or purchased service, reciprocal service, or T-DROP participation, by the member must terminate and remain terminated with all participating employers for a minimum of 30 calendar days after the effective date of retirement. For this purpose, the System will assume one month is equal to 30 calendar days regardless of the actual number of days in the month.

B. For a member with less than 38 years of participation in ATRS, including actual or purchased service, reciprocal service, or T-DROP participation, the member must terminate and remain terminated with all participating employers for a minimum of 180 calendar days after the member's effective date of retirement. For this purpose, the System will assume one month is equal to 30 calendar days regardless of the actual number of days in the month.

4. The retirement application and all required documentation must be received by the System at least 30 calendar days prior to the proposed effective date of benefits. If the application is not received within 30 calendar days prior to the proposed effective date, the proposed date may not be used, and the member's effective date will be the following month.

5. The date of application for disability retirement benefits may be used to determine the effective date of age and service retirement benefits under the provisions of the law. The date of application for age and service retirement benefits may be used to determine the effective date of disability retirement under the provisions of the law.

6. A member may cancel an application for retirement benefits any time prior to thirty (30) days after the later of the effective date of benefits or the receipt of the first retirement check. The member shall notify the System of cancellation in writing and, upon cancellation, the member shall be eligible for active membership in the System.

Amended: June 15, 2004
February 7, 2006
April 26, 2007
October 6, 2008
June 16, 2009 (Emergency)

**RETIRANT'S RETURN TO COVERED
EMPLOYMENT
EMPLOYMENT OF AN ATRS RETIREE BY A
PARTICIPATING EMPLOYER**

A.C.A. § 24-7-202, A.C.A. § 24-7-502, and A.C.A. § 24-7-708
(amended by Act 1293 of 1995, Act 384 of 1997, Act 30 of 1999, Act 1146 of
2001, Act 911 of 2005 and Acts 612 and 698 of 2007)

DEFINITIONS

1. **Covered Salary** means remuneration paid from a covered employer to an ATRS ~~retirant~~ member on which ~~waiver contributions are paid~~. The employer withholds federal income taxes including pretax contributions to a qualified retirement plan. For salary paid other than in cash, such as a vehicle allowance, salary is the amount reported to the IRS for income tax purposes.
2. ~~**Earnings limitation** means the limitation applicable to a member's retirement annuity when a retiree receives remuneration from a covered employer.~~
3. ~~**Normal retirement age** means sixty-five (65) years of age.~~
4. **Participating Employer** means an employer who participates in the Arkansas Teacher Retirement System whose employees are eligible for membership under A.C.A. § 24-7-501 or other applicable law.
5. **Retiree Retirant** means a member receiving an ATRS retirement annuity.
6. **Retires** means that a member ceases to be active and is eligible to receive an ATRS annuity.

AGE AND SERVICE RETIRANT

1. ~~If a retirant returns to work service for a covered employer⁴ without rescinding retirement under A.C.A. § 24-7-717, then for each twelve-month period ending June 30, the amount of the member's covered salary shall be subject~~

⁴ ~~Prior to July 1, 1991, the earnings limitation applied to retirants who were~~

- ~~•• Employees with ATRS, ASHERS, or ASERS from July 1, 1971, through June 30, 1977;~~
- ~~•• Employees with a public employer, whose employers are covered by a state-supported retirement plan or the University of Arkansas from July 1, 1977, through June 30, 1978;~~
- ~~•• Employees of a public employer whose employees are covered by a retirement plan supported wholly or in part by state contributions from July 1, 1978, through June 30, 1991.~~

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~~to a limitation equivalent to twice the limitation imposed by the Social Security retirement test.²~~

- ~~2. A retirant entering into a position of employment with the Department of Education is exempt from No. 1 of this section and shall be employed with no limitations placed on his or her earnings (Act 698 of 2007).~~
- ~~3. For any retired member hired by the Department of Education pursuant to No. 2 of this section, the employee and employer contribution rate shall commence at the rate in effect at the time of the employment and shall be remitted by the employer in the manner prescribed by the System. Any contribution amounts paid by the employer under this section shall not be refundable and shall not constitute the addition of service credit.~~
- ~~4. Effective July 1, 1992, a retirant who is under normal retirement age may receive earnings from a covered employer up to twice the Social Security earnings limitation amount without affecting his/her ATRS annuity benefits. If his/her ATRS covered earnings exceed that amount, ATRS will reduce the member's retirement annuity \$1 for each \$2 earned in covered salary above the earnings limitation amount.
 - ~~A. A retirant reaching the System's normal retirement age may return to service without being subject to the earnings limitation.³ Normal retirement age for the System means sixty five (65) years of age or older.~~
 - ~~B. 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.~~
 - ~~C.
 - ~~i. For those retirants exceeding the earnings limitation, the System will suspend annuity payments to collect the reduction when the earnings limitation is exceeded. If at the end of the fiscal year, the System has not received from the suspension the amount due from the retirant exceeding the earnings limitation, the System may carry over suspension of benefits into the next fiscal year.~~
 - ~~ii. Upon written request by the retirant upon reemployment, the System may initiate an equal monthly reduction of the retirant's retirement annuity in the fiscal year in which the earnings limitation will be exceeded to collect the earnings limitation reduction.~~~~~~

²The Social Security earnings limitation ceases upon reaching Social Security "full retirement age" as defined P.L. 106-182.

³In establishing an equivalent limitation for the System, ATRS considers full retirement age to be the "normal retirement age" for the System under A.C.A. § 24-7-202(19).

iii. ~~The amount recovered by ATRS will not exceed the amount of benefits paid during the year(s) in which the earnings limitation is/was exceeded.~~

iv. ~~In extraordinary hardship circumstances, the retirant may request an alternate method of repayment other than total suspension of benefits for a violation of the earnings limitation.~~

~~v. For questions not covered by this rule, see Rule No. 9-7 (Error Corrections and Collection of Overpayments).~~

REGULATIONS

~~5A1. Upon acceptance of employment with a covered participating employer, the retirant retiree and employer must report to ATRS that the retirant retiree has returned to covered employment on the forms and reports required by the System. 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.~~

~~B2. Employers will report monthly all retirants retirees who are employed by a participating employer on the retirement reports filed by employers. have returned to employment in an ATRS covered position. The monthly report will be filed on a Return to Service form, which will be furnished by ATRS.~~

~~3. Effective July 1, 2009, no earnings limitation shall apply to retirees who become employed with participating employers.~~

~~4. Effective July 1, 2009, a participating employer employing an ATRS retiree shall remit the employer contribution rate for salaries paid to all retirees at the rate in effect for active members for the fiscal year.~~

~~C. In the event that both a retirant and employer fail to notify the System of a retiree's return to covered employment, any retirement benefits paid in violation of this policy during the time of employment are subject to collection by the System under the overpayment policy. ATRS reserves the right to immediately suspend the retirement annuity until all benefits overpaid to the retirant are repaid to the System.~~

~~6. 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.⁴~~

⁴From July 1, 1971, through June 30, 1977, this "exemption" covered employees receiving remuneration "from any other public employer or private employer."

~~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.~~

~~75. When a retirant retiree returns to covered employment becomes employed by a participating employer and does not rescind his/her retirement, the retirant retiree shall not accrue additional service credit in the System, and no member contributions should be withheld or paid to the System. no contributions shall be remitted on behalf of the retirant.⁵~~

~~86. For the return to work rules applicable to disability retirees receiving benefits under A.C.A. § 24-7-704, see Policy No. 9-3 (Disability Retirement).~~

~~WAIVER OF EARNINGS LIMITATION (Act 30 of 1999, Act 1146 of 2001, Act 911 of 2005, and Act 612 of 2007)~~

~~1. A. 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 and be submitted to the ATRS Executive Director for approval within sixty (60) days of employment. If approved, the waiver shall be effective for one (1) year from the date of hire or until the end of the current fiscal year, whichever comes first, with the option to renew annually for up to a total of six (6) years as requested by ADE (Act 612 of 2007). Waiver renewals are not automatic and any extensions must be approved by the ATRS Executive Director.~~

~~C. Waiver requests (1) initiated by the employer prior to the member's effective date of retirement or (2) filed within thirty (30) days following the member's effective date of retirement will not be eligible for consideration by ATRS.~~

~~2. Effective July 1, 2005, under Act 911 of 2005, the ATRS Executive Director is authorized to take appropriate action on waivers of the ATRS earnings limitations requested by the Department of Education:~~

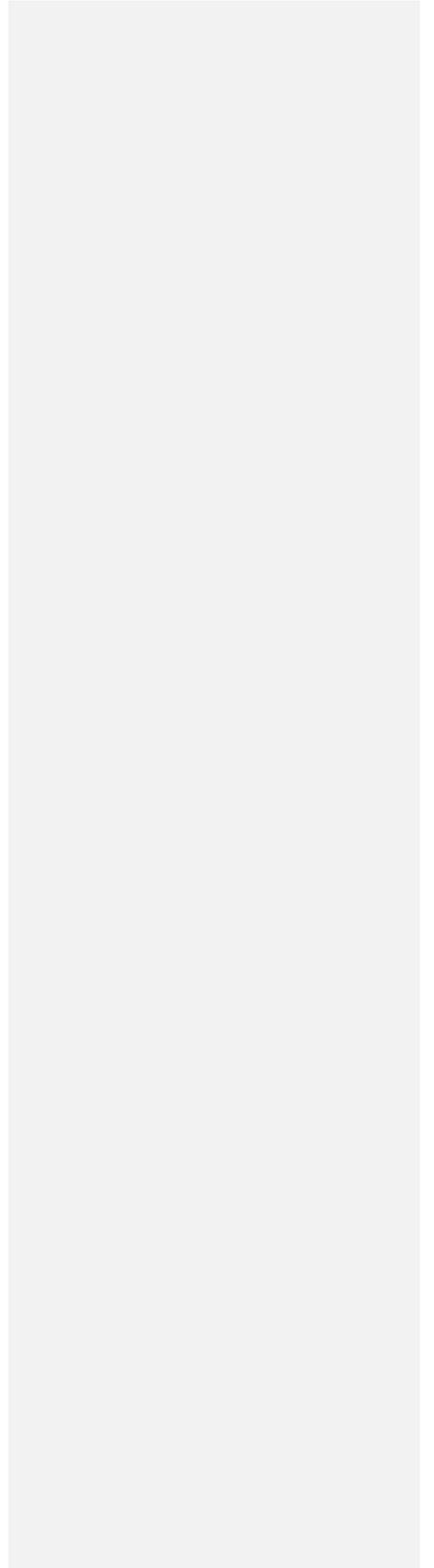
~~— A. If the retiree is hired by a public school district due to a shortage of certified teachers in a critical academic area in which the retiree is certified; OR~~

⁵ Act 1293 of 1995 provided that if a retirant is employed in a covered position by a public college, university, or vocational-technical school, his/her annuity shall not be subject to the limitations provided in No. 1 above. This exemption was repealed by Act 384 of 1997, effective July 1, 2007.

- ~~B. If the retiree is hired as a superintendent due to a reconstitution or reorganization of a public school district as allowed in A.C.A. §§ 6-15-201 et seq., §§ 6-15-401 et seq., or §§ 6-20-1901 et seq., following an appropriate determination by the State Department of Education that:
 - ~~i. The public school district has failed to meet standards of accreditation pursuant to A.C.A. §§ 6-15-201 et seq.; OR~~
 - ~~ii. The public school district is in academic distress status for failing to meet the minimum level of academic achievement on the ACTAAP examinations pursuant to A.C.A. §§ 6-15-401 et seq.; OR~~
 - ~~iii. The public school district is in fiscal distress status pursuant to A.C.A. §§ 6-20-1901 et seq.; AND~~
 - ~~iv. An appropriately qualified applicant, as determined by the State Department of Education, who is not an ATRS-covered retiree is not available to be employed.~~~~
- ~~3. Critical academic areas in which there is a shortage of certified teachers shall be determined annually by the State Department of Education.~~
- ~~4. Employers shall maintain audit files identifying personnel granted a waiver and documenting the reasons for the waiver and will be responsible for reporting to ATRS all retirees who have returned to employment under these provisions.~~
- ~~5. Beginning July 1, 2005, a covered employer who employs a retired member who is approved for a waiver under this policy shall remit to the System an amount equal to the combined employee and employer contribution rate in effect for the fiscal year worked. This waiver fee shall be paid on all covered salary earned in the fiscal year and shall not be charged to or collected from the retiree. These amounts shall be recorded by the System in the ADE Waiver Income Account. (Act 911 of 2005).~~

Amended: June 15, 2004
July 18, 2005
October 4, 2005
December 6, 2005
June 19, 2007
February 11, 2008
June 16, 2009 (Emergency)

10-2-6



LUMP-SUM DEATH BENEFIT

A.C.A. § 24-7-720

See also A.C.A. § 24-7-202, A.C.A. § 24-7-205,

and A.C.A. § 24-7-305(b)

Act 1022 of 1997, Act 296 of 2007

DEFINITIONS

1. **Active member** is any member rendering service to an ATRS participating employer.
2. **Actual service** is service credit accrued by a member for service to an ATRS covered employer, excluding purchased, free, or reciprocal service with another Arkansas public retirement plan.
- ~~3. **Person** includes a corporation, partnership, or other legal entity.~~
3. **Lump-sum death beneficiary** means the person(s) or entity(s) ~~a member or retiree has~~ designated in writing by the member on file with ATRS to receive the lump-sum death benefit payable payment of the lump-sum death benefit under ACA § 24-7-720.
4. **Retired member** is a member receiving a retirement annuity from the System.

REGULATIONS

1. Lump-sum death benefit paid on or before July 1, 2007 (Act 1022 of 1997)
If on or before July 1, 1997, upon the death of an active or retired member with 5 or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service credit. The payment will be paid as a lump-sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or a designated beneficiary did not survive, the lump-sum benefit will be paid to the following persons in statutory succession: spouse, then children, then parents, then the member's estate.
2. Lump-sum death benefit paid after July 1, 2007 (Act 1022 and 296 of 2007)
After July 1, 2007, upon the death of an active or retired member with 10 or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory

members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service credit. The benefit will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or a designated beneficiary did not survive, the lump-sum benefit will be paid the member's estate.

3. Lump-sum death benefit paid on or after July 1, 2009 (Act 1323 of 2009)

On or after July 1, 2009, upon the death of an active or retired member with 10 or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service credit. The benefit will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or a beneficiary did not survive, then the benefit will be paid to the member's estate.

To effectuate the legislative intent of Act 1323 of 2009, all lump-sum death benefit distributions made after June 30, 2009, shall be tax exempt and no federal or state income tax shall be withheld the System. After June 30, 2009, the lump-sum death benefit will not be eligible for a direct rollover.

4. Lump-sum death benefit payable on or after July 1, 2009, for retired members (Act 1323 of 2009)

On or after July 1, 2009, upon the death of a retired member with 5 or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service *if the member retired on or before July 1, 2007*. The benefit will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or no designated beneficiary survives, then the benefit will be paid to the member's estate.

If a retired member, who is eligible for the lump-sum benefit under Section 4, died between July 1, 2007, and July 1, 2009, with more than 5 but less than 10 years of actual service at his or her death, the System will notify the beneficiary(s) of eligibility at the last known address. If the beneficiary(s) fails to make application for the lump-sum benefit after written notice is provided, ATRS is not obligated to search for the beneficiary(s). ATRS will distribute the lump sum upon receipt of a valid claim by the beneficiary under ACA § 24-7-734.

RULES

1. The amount of the lump-sum death benefit may be set pursuant to the rules and regulations adopted by the Board of Trustees in an amount up to \$10,000 per member. The amount of the lump-sum benefit may be adjusted by the Board of Trustees each year.
2. The Board of Trustees may, as actuarially appropriate, prorate the amount of the lump-sum benefit based on the ratio of the member's contributory and noncontributory service credit.
3. A member must be classified as either *active* or *retired* at the time of his or her death to qualify for the lump-sum death benefit. Inactive members shall not be entitled to a lump-sum death benefit.
4. A member must have accrued the required amount of actual service at the time of his or her death to qualify for the lump-sum death benefit.
5. A member may nominate any natural person(s) or duly formed legal entity as his or her lump-sum beneficiary including a corporation, trust, partnership, or other recognized legal entity.
6. To nominate a lump-sum death beneficiary, a member must designate an eligible beneficiary on an ATRS approved form and sign the form.
7. To be effective, the completed lump-sum beneficiary form must be received by ATRS prior to the member's death.
8. A lump-sum beneficiary form, which is properly executed and filed with ATRS, supercedes all prior designations filed by the member for the lump-sum benefit.
9. If the member is eligible for the lump-sum death benefit at his or her death, the lump-sum benefit payment shall be made within a reasonable amount of time to the member's proper beneficiary upon receipt of a written application, acceptable proof of the beneficiary's identification, and proof of the member's death.
10. Lump-sum beneficiary forms signed by a member's agent (such as an attorney-in-fact under a power of attorney) will not be processed until the document appointing the agent is filed with and accepted by the System. The authorizing document must contain authorization for the agent related to retirement plan transactions or the change of beneficiaries in order to authorize the agent to change the member's lump-sum beneficiary(s).

11. ATRS will not accept a beneficiary form signed by a guardian of the member's estate or other court-appointed conservator without an accompanying court order authorizing the guardian's designation of beneficiary(s).
12. A lump-sum beneficiary may waive his or her rights to payment of the lump-sum benefit by submitting a waiver and relinquishment form acceptable to ATRS. Upon receipt of a valid waiver, ATRS will pay the remaining, eligible beneficiary(s).
13. A lump-sum beneficiary may not assign payment of a lump-sum death benefit to another person or entity.
14. ATRS reserves the right to deduct from the lump-sum benefit any amounts owed by ATRS by the member under ACA § 24-7-205.
15. ATRS reserves the right to collect any overpayments or other amounts owed to ATRS by the lump-sum beneficiary(s).
16. ATRS shall comply with all applicable laws relating to the distribution of the lump-sum benefit including federal and state tax laws and the Uniform Transfer to Minors Act.

RULES

Effective July 1, 1997, Act 1022 of 1997 provides a lump-sum death benefit for certain active and retired members:

1. ~~A. If prior to July 1, 2007, an active member of the Arkansas Teacher Retirement System with five (5) or more years of actual service, including service for the year immediately preceding the member's death, dies while in employer service before retirement, then a lump sum shall be paid to the member's designated lump-sum death beneficiary(ies).~~
 - ~~B. If on or after July 1, 2007, an active member of the Arkansas Teacher Retirement System with ten (10) or more years of actual service, including service for the year immediately preceding the member's death, dies while in employer service before retirement, then a lump sum shall be paid to the member's designated lump-sum death beneficiary(ies).~~
 - ~~C. For members dying on or before June 30, 2006, if no such designated beneficiaries survive the member, the lump sum shall be paid in the order of statutory succession. For members dying after June 30, 2006, if no designated beneficiaries survive the member, the lump sum shall be paid to the member's estate.~~

- ~~D. i. If the member had only contributory service, then the lump sum payable shall be ten thousand dollars (\$10,000.00).~~
- ~~ii. If the member had only noncontributory service, then the lump sum payable shall be six thousand six hundred and sixty seven dollars (\$6,667.00).~~
- ~~iii. If the member had a combination of actual service, both contributory and noncontributory, the lump sum will be prorated according to the ratio of the member's contributory and noncontributory service.~~
- ~~2. The Board of Trustees sets the amount of the lump-sum payments up to the statutory limits as it determines is actuarially appropriate for the System.~~
- ~~3. The Board of Trustees is authorized to set the level of the lump-sum benefit to the current members and retirants where the ratio between the contributory and noncontributory benefits are maintained at a three-to-two (3:2) ratio and to a level to match the benefits that the Board finds are appropriate for the actuarial soundness of the System.~~
- ~~4. The lump-sum payments shall be directly payable from the System upon receipt and acceptance of the lump-sum death benefit application, member or retirant's original death certificate, copy of the recipient's Social Security card or Form W-9, and other documentation required by ATRS.~~
- ~~5. The Arkansas Teacher Retirement System shall comply with any and all federal and state income tax laws regarding the payment of lump-sum death benefits.~~

Amended: June 15, 2004
February 7, 2006
April 26, 2007
June 16, 2009 (Emergency)