

## **24 CAR § 1-218**

### **Proposed Amended Rule Regarding Termination of Employment Requirement For Appointed Special Judges**

**PURPOSE:** The Arkansas Public Employees' Retirement System (APERS) seeks to amend APERS 24 CAR § 1-218 to comply with Act 370 of 2025 that allows retired judges, including district judges, to serve as special judges immediately upon retirement.

**BACKGROUND:** The APERS Board has the authority to make all rules necessary to administer the Arkansas Public Employees' Retirement System. Ark. Code Ann. § 24-4-105(b)(1). The current rule is not clear that a retired district judge may serve as a special judge until after meeting the separation from service time period or else forfeit their retirement. Act 370 found that the need for special judges is imminent to ensure the timely administration of justice and clarified that a retired district judge may serve as a special judge immediately upon retirement.

**KEY POINTS:** The amended rule:

- (1) Clarifies that a retired district judge's appointment to serve as a special judge in accordance with Arkansas Constitution Amendment 80, § 13 does not constitute a failure to terminate covered employment under Arkansas Code § 24-4-520;
- (2) Repeals obsolete and repetitive language; and
- (3) Makes technical corrections to the rule for clarity.

**DISCUSSION:** Arkansas Code § 24-4-520 and the current rule 24 CAR § 1-218 requires that all APERS members terminate APERS covered employment to be eligible for retirement. Returning to work for an APERS participating employer within 180 days, or in some cases one year, constitutes a failure to terminate covered employment. Act 370 of 2025 specifically allows judges, which includes district judges covered under APERS, to serve as special judges immediately upon retirement. The amended rule clarifies that a retired district judge's appointment to serve as a special judge does not constitute a failure to terminate covered employment under Arkansas Code § 24-4-520. The amended rule also repeals repetitive language and language that restates Arkansas Code § 24-4-520.

**RECOMMENDATION:** APERS recommends that amended rule 24 CAR § 1-218 be approved to clarify APERS' administration of retirement benefits for district judges who serve as special judges pursuant to Act 370 of 2025.

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## 24 CAR § 1-218. Termination of covered employment required for retirement.

(a)~~(1)~~ When used in the context of Arkansas Code § 24-4-520, “terminate covered employment” shall mean that the employee/employer relationship has been brought to an end and no longer exists in any form, currently or prospectively, between the Arkansas Public Employees’ Retirement System (APERS) member and ~~the Arkansas Public Employees’ Retirement System~~ an APERS covered employer.

~~(b)(2) In the case of~~ For elected public officials, in addition to ~~the foregoing (a), they shall have complied,~~ “terminate covered employment” includes complying with state law requirements for vacating their office.

~~(b)(1) Any~~ A retiring elected public official ~~shall execute an affidavit, along together with the local official responsible for certifying that the public office has been vacated shall execute an affidavit on a form provided by APERS stipulating compliance with this section.~~

(2) This affidavit shall be filed with ~~the Arkansas Public Employees’ Retirement System~~ APERS at least thirty (30) calendar days prior to the effective date of retirement.

~~(c)(1) In compliance with Arkansas Code § 24-4-520(b)(1), when a member who either does or does not have service credit under Arkansas Code § 24-4-521 at a rate of two (2) or more years credited service for each year of actual service, Acts 2011, No. 774, terminates for retirement purposes, he or she is not eligible to return to employment in any position or capacity with an Arkansas Public Employees’ Retirement System covered employer within one hundred eighty (180) days of the person’s effective date of retirement is met, unless said position is:~~

~~(A) Covered by another retirement system; or~~

~~(B) An elected position that has never been covered by the Arkansas Public Employees’ Retirement System.~~

~~(2) When a member who does have service credit under Arkansas Code § 24-4-521 at a rate of two (2) or more years credited service for each year of actual service terminates for retirement purposes, he or she is not eligible to return to employment in any position or capacity with an Arkansas Public Employees’ Retirement System covered employer within one (1) year from the person’s effective date of retirement, unless said position is:~~

~~(A) Covered by another retirement system; or~~ I

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~~(B) An elected position that has never been covered by the Arkansas Public Employees' Retirement System. APERS; or~~

~~(3) Any prearranged agreement that the member will return to work for any participating employer in any capacity, full-time or part-time, including as a leased employee, before the expiration of the period mandated by Arkansas Code § 24-4-520(b)(1), shall create a rebuttable presumption that the member has not terminated covered employment.~~

~~(d)(1) When a member terminates in compliance with under Arkansas Code § 24-4-520(b)(2) and (3), they are not eligible to return to employment in any position or capacity with an Arkansas Public Employees' Retirement System covered employer sooner than thirty (30) days from the commencement of his or her retirement, unless said position is:~~

~~(A) Covered by another retirement system; or~~

~~(B) An elected position that has never been covered by the Arkansas Public Employees' Retirement System.~~

~~(2) Any prearranged agreement that the member will return to work for any participating employer in any capacity, full time or part time, including as a leased employee, before the expiration of the thirty-day period mandated by Arkansas Code § 24-4-520(b)(2) or Arkansas Code § 24-4-520(b)(3), shall create a rebuttable presumption that the member has not terminated covered employment.~~

~~(e)(1) Persons failing to terminate covered employment shall forfeit all Arkansas Public Employees' Retirement System retirement benefits to the Arkansas Public Employees' Retirement System until the requirements of Arkansas Code § 24-4-520 and this section are met.~~

~~(2) Failure to meet termination requirements shall not operate to revoke a member's retirement election.~~

~~(3) However, those individuals returning to employment in a position covered by another retirement system or having been elected to an office never covered by the Arkansas Public Employees' Retirement System should be free to pursue said endeavors without unnecessary restriction.~~

(d) A retired judge's appointment to serve as a special judge in accordance with Arkansas Constitution Amendment 80, § 13 does not constitute a failure to terminate covered employment under Arkansas Code § 24-4-520.