



STATE OF NEW MEXICO

## Educational Retirement Board

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# MEMORANDUM

TO: ERB ADMINISTRATIVE UNITS

FROM: JEFF RIGGS, ACTING DIRECTOR 

DATE: SEPTEMBER 19, 2007

RE: ARP ELIGIBILITY

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Recently, there have been an increasing number of questions from members and participants regarding certain Alternative Retirement Plan ("ARP") eligibility issues. Due to the complexity of these questions, ERB has reviewed the ARP statutes, rules and procedures.

The following reflects ERB's current interpretation of ARP eligibility and assumes that the employee meets all of the other conditions of ARP eligibility as set forth in 1978 NMSA 22-11-2W and 22-11-47 through 22-11-52:

1. ARP eligibility if a member has had previous ERB service. A member may join ARP even if they had previous ERB service, but only if they are hired for the first time by an ARP institution listed in 22-11-2W in an ARP position after July 1, 1991 for the four year institutions, and after July 1, 1999 for the 2-year institutions. Any employment, (except for employment under .25FTE and/or as an independent contractor) by any of the institutions listed in 22-11-2W triggers this first time hire provision, regardless of that position's ARP eligibility. For example, if an employee is hired by UNM for a non-ARP position, and then is hired for an ARP position at UNM or any of the other qualifying institutions, they are not eligible for ARP. If on the other hand, they were hired by APS and were a member of ERB and then are hired by UNM in an ARP position after July 1, 1991, they would be eligible for the ARP.
2. ERB eligibility after an ARP Participant takes an ERB position. Whenever a participant, who is in the ARP plan takes a non-ARP position, they will contribute to ERB and no longer be eligible to return to ARP no matter when they are hired into an ARP position.

3. Simultaneous employment in ARP and Non-ARP position

If a member has simultaneous employment in both an ARP position and an ERB position (both more than .25FTE), the employee will have to make a decision as to which employment they wish to keep, and that shall determine to which plan they shall belong. If they choose to remain with the ERB employer they can change from ARP participation to ERB membership with the simultaneous employer, but can never return to the ARP.

An ARP participant employed more than .25 FTE with an ERB employer is eligible to continue ARP if he terminates the ERB employment within 60 days of notification from ERB. If he continues the ERB employment the ARP eligibility is forfeited.

If a member has simultaneous employment in both the ARP and ERB (both more than .25FTE), the member will have to make a decision as to which employment they wish to keep, and that shall determine to which plan they shall belong.