

Arizona Administrative Register
Notices of Final Rulemaking

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

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6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Arizona State Board of Accountancy conducted its 5-year rule review which was approved by the Governor's Regulatory Review Council September 1, 1998. As a result of this review, the Board and its committees are recommending various grammatical and stylistic amendments. The proposals also include: 2 new rules identifying Board committees; addition of terms to be defined; amendments necessitated by statutory changes or duplication; repeal of out-dated materials; and a correction to a rule reference.

The new and amended rules will benefit the public and the profession by providing additional definitions; describing the work of the agency and its committees; clarifying the requirements for taking the CPA examination and reviewing grade results; clarifying the requirements for certification and registration; expanding the qualifying courses for continuing professional education; and updating the rules of professional conduct to conform to the current standards.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact:

The amended rules will benefit small business and the consumer by minimizing potential confusion. The proposed changes which incorporate the OAH legal proceedings could impact the cost to the registrant, small business and the public. With the elimination of the preexamination, there may be a minimal or moderate cost to an exam candidate who needs additional education credits to meet the exam requirements. Registrants submitting firm names to the Board for registration that do not comply with R4-1-455.03(D) may incur moderate costs to bring a firm name into compliance.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The bulk of the changes to the proposed rules are format, grammatical and stylistic. The wording in R4-1-105(C) was revised for clarification. R4-1-114 and R4-1-344(2), (3) and (5) were reworded to accommodate the new OAH legislation. R4-1-342(A) was revised to clarify that the certificate issued in another state must be in good standing. Additional language was added to R4-1-345(E) describing the consequence of a lingering suspension. For clarification purposes, the word "applicants" was replaced with the word "registrants" in R4-1-453(D)(1) and (2), and the word "registered" was replaced with the word "certified" in R4-1-453(D)(2). The word "firms" was added to indicate that the firm is also under the Board's jurisdiction. The parentheses were removed from R4-1-455.03(D)(2).

11. A summary of the principal comments and the agency response to them:

The Board received two written comments to its proposed rule amendments and no oral comments.

One response was directed to R4-1-345(D) in which the Board deletes the words "partnership" and "professional corporation" and adds the word "firms". The intent of the Board was to avoid listing all of the new legal entities being adopted by accounting firms, for tax and liability purposes, by using the all inclusive word "firms." The registrant who was concerned interpreted that to mean sole proprietors would be considered under the term "firms" which is not the case. The registrant was so informed.

The second letter of response addressed proposed changes to R4-1-455.03(D)(2) which clarifies firm names the Board considers to be misleading. The Board considers the terms "& Company" and "& Associates" to lead the public to believe there is more than 1 professional employed by the firm. It has previously approved firm names for firms that would no longer meet the new criteria; however, the rule is not retroactive.

The registrant was informed by letter that his firm would not be required to meet the terms of the proposed rule.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

13. Incorporations by reference and their location in the rules:

None.

14. Was this rule previously adopted as an emergency rule?

No.

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15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 1. GENERAL PROVISIONS

- Section
R4-1-101. Definitions
R4-1-102. Powers of the Board: Applicability; Excuse; Extension
R4-1-104. Board records; ~~public access; copying fees~~ Records; Public Access; Copying Fees
R4-1-105. Confidential records Records
R4-1-113. Meetings; Examinations
R4-1-114. Contested cases; Hearing; Rehearing or Review
R4-1-115. Accounting and auditing standards committees Advisory Committees
R4-1-115.01 Law Review Advisory Committee
R4-1-115.02 Continuing Professional Education Advisory Committee
R4-1-116. Certification advisory committee Advisory Committee
R4-1-117. Procedure: witnesses; service Witnesses; Service

ARTICLE 2. CPA EXAMINATION PROVISIONS

- R4-1-226. Applications; Examination
R4-1-227. Examination grades; notice of grades
R4-1-228. Papers Examination Results; Review and Processing of Grades and Papers
R4-1-229. Condition Credit
R4-1-230. Non-conditioned candidates Candidates; Evidence of additional study Additional Study

ARTICLE 3. CERTIFICATION AND REGISTRATION PROVISIONS

- R4-1-342. CPA Certificates; by reciprocity Reciprocity
R4-1-343. Accounting experience requirement Experience
R4-1-344. Denial of certification Certification
R4-1-345. Registration; certificate renewal Fees; Certificate Renewal
R4-1-346. Notice of Change of Address

ARTICLE 4. REGULATION PROVISIONS

- R4-1-453. Continuing Professional Education Requirement
R4-1-454. Periodic re-examination
R4-1-455. Rules of Professional Conduct: Independence, Integrity, and Objectivity
R4-1-455.01. Rules of Professional Conduct: Competence and Technical Standards
R4-1-455.02. Rules of Professional Conduct: Responsibility to Clients Confidentiality; Records Disposition
R4-1-455.03. Rules of Professional Conduct: Other Responsibilities and Practices
R4-1-455.04. Rules of Professional Conduct: Interpretations

ARTICLE 1. GENERAL PROVISIONS

- R4-1-101. Definitions
In these rules, unless the context otherwise requires:
1. "Board" means the Board of Accountancy created by A.R.S. § 32-701.
2. "Certificate" means a document issued by the Board authorizing the use of the CPA designation.

23. "Certified public accountant" or "public accountant" includes any individual, partnership, professional corporation, or professional limited liability company or firm registered as such by the Board.
34. "Client" means the person or entity which retains a certified public accountant or public accountant, engaged in the practice of public accounting, for the performance of professional services.
45. "Contested case" means any proceedings in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
6. "Expired" means the termination of a registrant's certificate if a registrant fails to reinstate the certificate within 12 months after it has been suspended for nonregistration or if a registrant fails to reinstate a certificate that has been inactive for more than 6 years.
57. "Financial statements" means statements and footnotes related thereto to them that purport to show financial position which relates to a point in time or changes in financial position which relate to a period of time, and statements which use a cash or other incomplete comprehensive basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of changes in financial position cash flows, statements of changes in owner's equity and other commonly used or recognized summaries of financial information are financial statements. The statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such the opinion.
68. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
79. "Person" may include any individual, any form of corporation, partnership, or professional limited liability company.
810. "Practice of accounting" means the providing provision of any accounting services, including recording and summarizing of financial transactions, analyzing and verifying financial information, reporting of financial results to an employer, clients, or other persons parties and the rendering of tax and management advisory services to an employer, clients, or other persons parties. A.R.S. § 32-701.01(8)
911. "Practice of public accounting" means the practice of accounting by a certified public accountant or public accountant.
12. "Registrant" refers to any certified public accountant, public accountant, or firm registered with the Board.
13. "Relinquishment" means the voluntary surrender of a registrant's certificate pending an investigation.

- R4-1-102. Powers of the Board: Applicability; Excuse; Extension
A.R.S. § 32-703(A) provides that this "Board may adopt and amend regulations for the conduct of its affairs and for the administration of this chapter". These regulations shall be cited as the Arizona State Board of Accountancy rules and regulations.

- ~~1A. Notice, part of record, amendment: These rules apply to all actions and proceedings of the Board and shall be deemed a part of the record in every action or proceeding without formal introduction of, or reference to the same. All parties are deemed to have knowledge of the same rules. A copy will be supplied. The Board shall supply a copy of the rules to any person free of charge by the Board.~~
- ~~2B. Excuse of failure to comply: The Board, when it is within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any of these rules.~~
- ~~3C. Extension of time: The Board, or in case of an emergency, the President, when it is within its jurisdiction, may grant an extension of time within which to comply with any rule when it shall deem such the extension to be proper and is reasonable.~~

R4-1-104. Board records; public access; copying fees
Records; Public Access; Copying Fees

- A. The Board shall maintain all records, subject to A.R.S. § 41-1351, reasonably necessary or appropriate to maintain an accurate knowledge of its official activities including, but not limited to, applications for C.P.A. and P.A. certificates and supporting documentation and correspondence, applications to take the uniform certified public accountant examination; requests for annual registration; documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.
- B. Except as provided in R4-1-105, all records of the Board shall be available for public inspection and copying as provided in this Section.
- C. Any person desiring to inspect or obtain copies of records of the Board available to the public under these rules shall make a request to the Board's Executive Director or designate the Director's designee, during regular office hours. The Executive Director shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director is unsure as to whether a record may be made available for public inspection and copying, the Executive Director shall refer the matter directly to the Board for final determination.
- D. ~~No A person shall not remove original records of the Accountancy Board shall be removed from the Office of the Board unless they are in the custody and control of a Board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director may designate a staff member to observe and monitor any examinations of Board records.~~
- E. Copies of all records available for public inspection and copying shall be provided according to the procedures described in ~~Article 2, Chapter 1, Title 39, A.R.S. A.R.S. Title 39, Chapter 1, Article 2.~~
- F. Any person aggrieved by a decision of the Executive Director's denial of Director to deny access to records of the Board may request a hearing before the Board to review the Executive Director's action by filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person ~~desiring access to Board records~~ requires immediate access to Board records, he the person may request and may be granted an earlier hearing, ~~provided he if the person~~ sets forth sufficient grounds therefor for immediate access.

R4-1-105. Confidential records Records

- A. Complaints, reports, photographs, transcripts, correspondence and other documents relating to an investigation by the Board of possible violations of the Arizona accountancy statutes or the these rules and regulations promulgated thereunder shall not be made available for public inspection and copying, except that investigative records shall be made available ~~to~~ for public inspection and copying upon the institution of civil enforcement or ~~informal or formal~~ disciplinary proceedings against the person who is the subject of the investigation.
- B. Correspondence between the Board, members of the Board or staff members, ~~or members of the Board's committees~~ and the Board's attorney shall not be made available for public inspection and copying.
- C. The questions contained in the uniform certified public accountants accountant examination, in pre-examination tests in re-examination tests and in the Board's examination for foreign applicants and an examinee's answers shall not be made available for public inspection and copying except that ~~the questions shall be made available to examinees for purposes of taking the examination at the time and place designated by the Board, and the questions contained in the uniform certified public accountants examination shall be made available to public inspection and copying at the conclusion of the examination~~ the examinee may submit to the Board, in writing, a request for a grade review or an appeal to review specific questions and answers related to an examinee's own examination papers.
- D. The answers of individual examinees and their respective An examinee's grades on the uniform certified public accountants accountant examination, the pre-examination tests, the re-examination tests and the Board's examination for foreign applicants shall not be made available for public inspection and copying, except that: the Board may disclose the identity of those who pass the examination after the date set by it for the release of grades.
1. ~~The fact of passing or failing each part of the examination by each examinee shall be made available to public inspection and copying on and after the date set by the Board for release of examination grades;~~
 2. ~~An examinee shall, upon written request, be granted access to his own examination papers.~~
- E. Letters of reference received in connection with applications for certificates shall not be made available for public inspection and copying.
- F. Resumes, employment applications, personnel evaluations and injury reports regarding employees of the Board or applicants for employment shall not be made available for public inspection and copying, except that ~~such the~~ records shall be disclosed as directed by the employee or applicant concerned.
- G. Minutes of executive sessions of the Board and its committees and these portions of the Board's executive session agendas containing confidential information shall not be made available for public inspection or copying.
- H. The Board may, in the case of a record not otherwise made confidential by this Section, order that ~~such the~~ record not be made available for public inspection or copying whenever the Board determines that public disclosure of ~~such the~~ record would have a significant and adverse effect on the Board's ability to perform its duties or would otherwise be detrimental to the best interests of the state.
- I. Notwithstanding subsections (A) through (H) of this Section, the Board may order that any record of the Board made confi-

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dential under this Section be made available for public inspection and copying when it determines that the reasons justifying the confidentiality of such the record ~~not~~ no longer exists ~~exist~~.

R4-1-113. Meetings; Examinations

A. The Board and its committees shall conduct meetings shall be conducted in accordance with the current edition of Robert's Rules of Order ~~insofar as not incompatible if these rules are compatible~~ with the laws of the state of Arizona or its own resolutions ~~as to its conduct regarding meetings~~.

1. Regular Meetings and special meetings of the Board of Accountancy for the purpose of conducting general business shall be held subject to the call of called by the President or a majority of the Board members.
2. ~~Special~~ Regular and special meetings of the Board of Accountancy committees may shall be held at any time subject to the call of called by the President chairperson or a majority of the Board committee members.
3. Examinations:

B. The Board shall designate the time and place for conducting the CPA examination in accordance with A.R.S. § 32-723(A). (See Article 2.)

R4-1-114. Contested cases; Hearing; Rehearing or Review

A. Hearing: All hearings shall be conducted before the The Board or its hearing officer an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH) shall hear all contested cases and appealable agency actions. Hearings held by the Board shall be conducted pursuant to the provisions of A.R.S. § 32-743 Title 41, Chapter 6, Article 10 as supplemented and amplified by A.R.S. Title 41, Chapter 6, Article 6 R4-1-117. Hearings held by OAH shall be conducted pursuant to A.R.S. Title 41, Chapter 6, Article 10 and the rules and procedures established by OAH. To the extent they do not conflict with A.R.S. Title 41, Chapter 6, Article 10, the provisions of A.R.S. § 32-743 apply to hearings conducted by the Board and OAH. The following subsections apply to hearings conducted by the Board and hearings conducted by OAH where applicable.

1. Power to Join any Interested Party: Any Board member or the hearing officer ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, who may or might appear appears to have an interest in the matter before the Board.
2. Stipulation at Hearing: The parties may stipulate to any facts that are not in dispute. Such The stipulation may be in writing, or may be made orally by reading the same stipulation into the records record at the hearing, and will be is binding upon the parties unless the Board or the hearing officer ALJ grants permission to withdraw therefrom from the stipulation. The Board or the hearing officer ALJ may set aside any stipulation and proceed to ascertain the true facts.
3. Settlements and Consent Decisions Orders: At any time before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of conditional settlement whereby, instead of formal disciplinary proceedings by the Board, in which the registrant agrees to take specific remedial steps such as enrolling in continuing education courses, limiting the scope of the registrant's practice, accepting limitation on the filing of public reports, and submitting the registrant's work product for peer review to avoid formal disciplinary proceedings by the Board.

If the Board determines that the proposed conditional settlement will protect the public safety and welfare and is more likely to rehabilitate or educate the registrant than formal disciplinary action under A.R.S. § 32-741, the Board may accept the offer and enter a decision an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent decision order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the decision order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent decision order shall further provide that, upon failure of the registrant to comply with all provisions of the decision order, or upon the discovery of material facts unknown to the Board at the time it issued the decision order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent decision order additionally may provide that, upon failure of the registrant to comply with all provisions of the decision order, the Board may immediately and summarily suspend the registrant's certificate for not more than 1 year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent decision order.

4. Decisions and Orders: All decisions and orders of the Board shall be made The Board shall make all decisions and orders by a majority vote of the members of the Board considering the case. A decision to continue or reschedule a meeting or to grant an extension of time for performing acts required by these rules or an order of the Board may be made by the President unless the President is directed otherwise by the Board. The Board shall issue a final written decision in a contested case shall be in writing or stated state the decision on in the record, and The decision shall state separately the findings of fact and conclusions of law, upon which the decision was is based, and the Board's order to implement the decision. All written decisions and orders of the Board shall be signed by the President or Secretary of the Board. When the Board suspends or revokes the certificate of a registrant, the Board may order the registrant to return the registrant's certificate within 30 days of receipt of the order. The Board shall serve each party. All parties, or their each attorneys attorney of record, and the Attorney General shall be served with a copy of all each decisions and decision or orders order of the Board, as provided in R4-1-117.

B. Hearing Officer: The Board may appoint a hearing officer to hear any contested case before the Board. In such cases the hearing officer may enter all orders necessary to conduct the hearing and may issue subpoenas and cause depositions to be taken as provided in R4-1-117. Within 30 days after the conclusion of the hearing, the hearing officer shall submit to the Board written recommendations which shall include proposed findings of fact, conclusions of law, and order. The recommendation of the hearing officer may be approved or modified by the Board.

ALJ: In hearings conducted by the Office of Administrative Hearings (OAH), the ALJ shall provide the Board with written findings of fact, conclusions of law, and a recommended order within 30 days after the conclusion of the hearing or as otherwise provided by A.R.S. Title 41, Chapter 6, Article 10. The Board's decision approving or modifying the hearing officer's ALJ's recommendations shall be is the final decision

of the Board, subject to the filing of a motion for rehearing or review as provided in subsection (C), of this Section.

- C. Rehearing or Review: Any party aggrieved by a decision of the Board may file with the Board a written motion for rehearing or review within 15 30 days after service of any the decision of the Board, file with the Board a written motion for a rehearing specifying the particular grounds therefor for the motion. The Attorney General may file a response to the motion for rehearing within 10 15 days after service of such the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing or review and may provide for oral argument. Upon review of the motions and briefs documents submitted, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting the moving a party's rights:
1. Irregularity in the administrative proceedings or any order or abuse of discretion, whereby the moving that deprived a party was deprived of a fair hearing;
 2. Misconduct of the Board or its hearing officer the ALJ;
 3. Accident or surprise which that could not have been prevented by ordinary prudence;
 4. Material evidence, newly discovered, Newly discovered material evidence, that could not which with reasonable diligence could not have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or during the progress of the proceeding; or
 7. That the findings of fact, conclusions of law and order or decision is not justified by the evidence or is contrary to law.

R4-1-115. Accounting and auditing standards committees Advisory Committees

- A. No Change.
- B. The Board, in its discretion, may accept, reject or modify the advisory recommendation. The respondent may accept a settlement proposal communicated by the Board or submit an offer of settlement pursuant to rule A.A.C. R4-1-114(A)(11) R4-1-114(A)(4). If a settlement is reached, respondent may execute a consent order in lieu of formal disciplinary proceedings by the Board pursuant to A.R.S. § 32-741.

R4-1-115.01. Law Review Advisory Committee

- A. The Board may appoint an advisory committee to assist it in the evaluation of its statutory and regulatory provisions. The committee shall make advisory recommendations to the Board.
- B. The Board, in its discretion, may accept, reject, or modify the recommendations of this advisory committee.

R4-1-115.02. Continuing Professional Education Advisory Committee

- A. The Board may appoint an advisory committee to assist it in the evaluation of continuing professional education (CPE). The committee shall make advisory recommendations to the Board concerning the following:
 1. CPE programs;
 2. Individual registrant's satisfaction of CPE requirements; and
 3. Applications for exemption from CPE requirements under A.R.S. § 32-730.
- B. The Board, in its discretion, may accept, reject, or modify the recommendations of this advisory committee.

R4-1-116. Certification advisory committee Advisory Committee

- A. The Board may appoint an advisory committee to assist in the evaluation of applicants for the Uniform Certified Public Accountant Examination and for certified public accountant. The committee shall review applications, transcripts and related materials, and make advisory recommendations to the Board concerning the qualifications of applicants for the CPA exam and for certificate certification of certified public accountant accountants.
- B. The Board, in its discretion, may accept, reject, or modify the advisory recommendation in determining the qualifications of applicants.

R4-1-117. Procedure: witnesses; service Witnesses; Service

- A. Pleadings; depositions; briefs; etc. and related documents: All papers of importance such as A party shall print or type all pleadings, depositions, briefs, etc., and related documents shall be printed or typewritten and, when not printed, use only 1 side of the paper shall be used.
- B. Witnesses: All parties desiring witnesses to be summoned to testify at a hearing before the Board must shall make application to the Board to issue subpoenas to such the witnesses.
- B.C. Witness' depositions: When any if a party desires wants to take the oral deposition of any a witness residing outside the state, such party the party shall file with the Board a petition for permission to take the deposition of such the witness, showing stating the name and address of such the witness and setting forth specifically and in detail the nature and substance of the testimony expected to be given by such the witness. Said The petition may be denied unless it appears from such petition that if the testimony of such the witness is not relevant and material, and if such statement be not made specifically and in detail, so that the Board may determine therefrom the relevancy and materiality of the testimony of such witness, such petition may be disregarded. Upon the granting of such petition If the petition is granted, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure. The Board may, in its discretion, designate the time and place and the officer before whom such a deposition may be taken. The expense of any deposition must be borne by the party applying to the Board for permission to take same. The party applying to the Board for permission to take a deposition shall bear the expense of the deposition.
- C. Witness' interrogatories: Any party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board in duplicate a copy of the interrogatories and a statement showing the name and address of such the witness, and containing the interrogatories such party wishes such witness to answer. The adverse party may file in duplicate cross-interrogatories within 10 days following the service upon him of a copy of said statement with a copy of the statement within 10 days following the service upon the adverse party. Any party having any objection who objects to the form of any an interrogatory or cross-interrogatory may file a statement of his the objections with the Board within 5 days after the service upon him of the interrogatories or cross-interrogatories, and may suggest to the Board any amendment to any an interrogatory or cross-interrogatory. The Board may amend, add, or strike out any an interrogatory when in its judgment it is proper to do so. The deposition of any witness shall be taken in such manner as in the judgment of the Board is best calculated to ascertain

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the substantial rights of the parties and to expedite the investigation of the facts.

1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require it to be taken upon that the information be provided through written interrogatories and vice versa.
 2. A copy of The deposition or answers to the interrogatories must shall be returned and filed with the Board within 45 days after permission for the taking of the same is granted the interrogatories have been answered.
- D. Subpoenas: The Board officer, presiding at a hearing, may ~~cause to be issued~~ authorize subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Any party desiring the Board to issue a subpoena for the production of evidence, documents or to compel the appearance of a witness at any a hearing shall apply for it in writing make application therefor, stating the substance of the witness's testimony expected of the witness.
- If such the testimony appears to be material and necessary, a the Board shall issue the subpoena will be supplied. The affixing of the seal of the Board and the signature of a Board officer shall be is sufficient attestation of the same to show that the subpoena is genuine. Service of such subpoena must be made at the expense of the party applying for same and shall be made in the manner provided by law for service of subpoenas in civil actions. The party applying for the subpoena shall bear the expense of service.
- E. Service, same as civil action:
1. Service of any decision, order, subpoena, notice, or other processes paper may be made personally in the same manner as a summons is served in a civil action,; and, in such event, If a paper is served in this manner, service shall be is deemed complete at the time actually made of delivery.
- F. Service by mail:
12. Service may also be made of any decision, order, notice or other process by enclosing the same copy or a copy thereof. Except as provided in subsection (E)(5), service of any document may also be made by personal service or by enclosing a copy of the document in a sealed envelope and depositing the same envelope in the United States mail, with 1st-class postage prepaid, addressed to the party served, at the address as shown by the records of last provided to the Board.
 23. Service shall be by mail is deemed complete when the paper to be served is so deposited; in the United States mail, provided that where If the distance between the place of mailing and the place of address is more than 100 miles, service shall be is deemed complete 1 day after the deposit of the paper for each 100 miles, or majority fraction thereof distance between the place of deposit and the place of address. In any event, service shall be is deemed complete within 6 days after the date of mailing.
 34. In computing time, the date of mailing is not counted; all, All intermediate Sundays and holidays are to be counted; but, if the last day falls on a Sunday or a holiday, it is not to be counted, but that day is not counted and service will be is considered completed on the following the next business date day.
 45. All notices of hearings before the Board and all final decisions of the Board shall be, when mailed, mailed The Board shall mail each notice of hearing and final

decision by certified mail to the last known address as reflected in the records of the Board.

- G. Service of subpoenas: Service of any subpoena issued by the Board shall be served as provided in subsection (E) or as in civil actions. Subpoenas issued at the request of the Board or a member thereof may be served by any member of the Board or of the Board's staff, or any attorney or agent of the Attorney General's Office.
- H.6. Service upon attorney: Service upon an attorney who has appeared in behalf of for a party will constitute constitutes service upon such the party.
- I.7. Proof of service: Proof A party shall demonstrate proof of service by mail may be made by filing with the Board a written statement that service has been made. Proof of service made under subsections (E) or (G) of this Section may be made by filing with the Board a written affidavit or by oral testimony before the Board of the person making such service, by filing an affidavit, as provided by law, proof of mailing by certified mail, or an affidavit of 1st-class mailing.

ARTICLE 2. CPA EXAMINATION PROVISIONS

R4-1-226. Applications; Examination

- A. Persons A person desiring to take the examination for qualification as certified public accountant shall apply on a form provided by the Board which shall include the following information: applicant's name, address and telephone number; description of applicant's education background; applicant's prior examination status and sites; applicant's background information; authorization for investigation; and affirmation of truthfulness. Different The Board shall provide different forms will be provided for original examinations and re-examinations. The applicant shall cause to be forwarded submit with the application to the Board office Registrar-certified, or the equivalent, university or college transcripts to confirm that the Bachelor's Degree educational requirements set forth in A.R.S. § 32-721 have been completed.
- B. Filing date: Examinations are held twice a year in months designated by the Board. All The applicant shall file the applicable application forms form, fees, and photos shall be filed during no earlier than the first 1st day of the fourth 4th month and no later than the last day of the third 3rd calendar month preceding the examination for which the candidate makes application applicant applies. For purposes of this Subsection subsection, applications shall be are considered filed on the date received by the Board office. Applications received after 5:00 p.m. on the last day for filing shall be are considered late except that, if the last day for filing falls on a Saturday, Sunday or a legal holiday, the applications shall be are considered filed by the required date timely if received in the Board Office by 5:00 p.m. on the first working day there after next business day. Late applications will are not be accepted.
- C. Application fees: Each applicant to sit for the examination shall be charged pay an examination fee pursuant to A.R.S. § 32-729 in the following amount:
1. Initial applicants: For an initial examination where the applicant has not previously filed an application in Arizona for the examination, \$175.00 \$175.
 2. Retake noncondition applicants: (See also R4-1-230) For an examination where the retake applicant has no condition, \$175.00 \$175. (See also R4-1-230)
 3. Retake condition applicants: (See also R4-1-229) For an examination where the retake applicant has a condition

from this state, ~~\$50.00~~ \$50 for each section of the examination which has not been successfully completed. (See also R4-1-229)

4. Out-of-state candidates: All candidates applying through a state other than Arizona, but sitting for the examination in Arizona, shall pay the applicable fee set forth in paragraph subsections (C)(1), (2), or (3).
5. Pre-examination applicants: For the pre-examination required under A.R.S. § 32-723(B), \$60.00.

6-5. Refunds:

- a. The Board shall refund 1/2 of the examination fee if a written notice of withdrawal is received in the Board office no later than 5:00 p.m. on the last day for filing.
- b. The Board may refund 1/2 of the examination fee to an applicant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service, or financial hardship which prevented the applicant from appearing for the examination.
- c. Except as provided in subsection (C)(5)(b), the full fee shall be is forfeited by the an applicant who withdraws after the final date for filing applications or who fails to appear for the examination.

D. Re-examination: Pursuant to

1. ~~Examinations provided for in A.R.S. § 32-723(A): The 32-723, the applicant shall apply for all sections of the examination which have not been successfully completed. (For the purpose of application, until January 1, 1994, Practice I and Practice II are considered as two sections.)~~
2. ~~Pre-examinations provided for in A.R.S. § 32-723(B)(2): Any candidate who has taken two pre-examinations and has failed to pass may be required, before being accepted for further examinations, to furnish evidence satisfactory to the Board that the candidate has made further diligent study in the subjects tested by the pre-examination.~~

E. The Board shall accept or reject applications Applications and fees will be accepted or rejected as provided by law but will shall not be held hold applications or fees for future examinations.

R4-1-227. Examination grades; notice of grades

- A.** The grades earned in accounting, economics, business law, English composition and business mathematics in the pre-examination tests shall be averaged. An average of 60 percent shall be considered a passing grade for the pre-examination tests.
- B.** ~~The Executive Director will advise a candidate by mail whether he has passed the pre-examination or all or any part of the certified public accountant examination.~~

R4-1-228. Papers Examination Results; Review and Processing of Grades and Papers

- A.** Grade results of the examination shall be mailed to each candidate on the grade release date established by the American Institute of Certified Public Accountants.
- A.** Review of papers: Examination papers may be subsequently reviewed by an unsuccessful candidate only after grading has been reviewed and passed upon by the Board.
- B. Examination papers; grades**
 1. A candidate may request a review of the candidate's examination answers by the American Institute of Certi-

fed Public Accountants by submitting a written request to the Board.

2. A candidate may file an appeal to review examination questions that were answered incorrectly by submitting a written request to the Board.

BC. Examination papers; destruction: The Board may, in its discretion, destroy examination papers one year after the examination time-frame set forth in A.R.S. § 32-723(E) has expired.

R4-1-229. Condition Credit

A. Requirements. ~~On and after January 1, 1994, a~~ A candidate shall be is required to pass all sections of the examination in order to qualify for a certificate. However, if, at a given sitting of the examination, a candidate passes ~~two~~ 2 or more but not all sections, the Board grants the candidate shall be given condition credit for those sections passed and the candidate need not sit for re-examination in retake those sections provided:

1. The candidate wrote all sections of the examination at that sitting; and
2. The candidate attained a minimum grade of 50 on each section not passed at that sitting; and
3. The candidate passes the remaining sections of the examination within ~~six~~ 6 consecutive examinations given after the 1 at which the 1st sections were passed; and
4. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate writes all sections not yet passed; and
5. In order to receive credit for passing additional sections in any such subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed on such at that sitting.

B. Transitional Period:

1. ~~Candidates who have been awarded condition credit under the prior examination structure for the Auditing section shall be awarded condition credit for the Auditing section under the current structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~
2. ~~Candidates who have been awarded condition credit under the prior examination structure for the Business Law section shall be awarded condition credit for the Business Law and Professional Responsibilities section under the current structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~
3. ~~Candidates who have been awarded condition credit under the prior examination structure for the Accounting Theory section shall be awarded condition credit for the Financial Accounting and Reporting Section under the current structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~
4. ~~Candidates who have been awarded condition credit under the prior examination structure for the Accounting Practice section shall be awarded condition credit for the Accounting and Reporting section under the current examination structure and shall retain such credit until they pass the remaining sections or until the conditional status of such credit expires, whichever occurs first.~~

C.B. Transfer of condition credit.

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A candidate shall be given credit for any and The Board shall give a candidate credit for all sections of an examination passed in another state if such credit would have been given, under the then applicable requirements, if had the candidate had taken the examination in this state. If a candidate transfers condition credit from another state, as provided in A.R.S. § 32-723(G), the candidate must shall pass the remaining sections of the examination within three 3 years or within six 6 consecutive examinations following the date the candidate received the condition credit in the other state.

R4-1-230. Non-conditioned candidates; evidence Candidates; Evidence of additional study Additional Study

- A. Any candidate who has taken two 2 examinations and has failed to receive a condition shall be is required, before being accepted for further examination, to furnish to the Board the following evidence of additional study:
1. A candidate will shall be permitted to take examination number three 3 based upon a statement of self-study.
 2. A candidate will shall be permitted to take the fourth 4th and subsequent examinations based upon:
 - a. Upon a A statement of self-study, providing the grades on the last examination demonstrate an overall improvement over the examination immediately prior, otherwise
 - b. Upon proof Proof of additional formal education.
- B. The applicant shall swear to and sign the The statement of self-study required under this rule must be sworn to and signed by the applicant and notarized by section before a notary public, and must demonstrate ensure that the statement demonstrates a comprehensive program of self-study, described in detail as to time spent, subjects reviewed, and textbooks used.
- C. Proof of additional formal education required under this rule means a certificate or transcript of grades from the institution, supervisor, or teacher, demonstrating the adequate completion of extension courses, correspondence courses, regular day or night college courses, or other supervised courses of study dealing with accounting or related subjects. Documentation shall be provided to the Board to confirm current enrollment in 2 or more parts of a supervised study program for the American Institute Certified Public Accountants uniform certified public accountant examination.

ARTICLE 3. CERTIFICATION AND REGISTRATION PROVISIONS

R4-1-342. CPA Certificates; by Reciprocity

- A. Application: A person desiring applying for a certificate as a certified public accountant in Arizona on the basis of a certificate in good standing issued by another state, under pursuant to A.R.S. § 32-727, shall comply with the application requirements as set forth in R4-1-341.
- B. No Change.
- C. No Change.
- D. No Change.

R4-1-343. Accounting experience requirement Experience

- A. Definitions. For the purpose of this Section only, the following definitions shall apply:
1. No Change.
 2. No Change.
 3. No Change.
 4. No Change.
- B. Experience requirement. In order to fulfill the experience requirement in A.R.S. § 32-721(A)(5), the applicant shall

have been employed in the full-time practice of accounting, either before or after passing the examination for certified public accountant, for a minimum period of two years in one or a combination of the following:

1. Certified public accountant or public accountant office.
2. Private industry.
3. Government agency.

Such employment shall have exposed the applicant to and provided the applicant with experience in the practice of accounting, including examinations of financial statements and reporting thereon, or the applicant shall have completed one year of the experience requirement described above and hold a Master's or more advanced degree in accounting or business administration from a college or university recognized by the Board, provided that the academic transcript showing completion of the degree program shall include a minimum of 30 semester hours in accounting, business administration, economics and such related subjects as the Board shall determine to be appropriate, of which a minimum of 12 semester hours credit shall be in graduate level accounting courses.

CB. Graduate courses. In order for For a course to qualify as a graduate level accounting course that meets the experience requirement of A.R.S. § 32-721(5):

1. The course must shall be designated by the educational institution at which credit has been earned as a course that is normally open only to graduate students, and
2. The content of the course must be such that it requires as shall require a prerequisite, and mastery of the subject matter normally required for completion of an undergraduate degree, whether or not the prerequisite is expressly stated.

DC. Certificate of experience. The accounting experience required by this rule shall be confirmed by the submission of a completed application form including one or more "certificates of experience" and such other information as the Board may require The applicant shall submit a completed application package which includes 1 or more certificates of experience to confirm the accounting experience required by A.R.S. § 32-721(5) and such other information as the Board may require for explanation or clarification of experience.

R4-1-344. Denial of certification Certification

An applicant who has been is denied certification or registration by the Board shall be is entitled to have a hearing before the Board or an ALJ in regard thereto.

1. Written application: The applicant must shall file, by written application, a notice of appeal pursuant to A.R.S. § 41-1092.03 within 15 30 days after receipt of the notice of denial.
2. Hearing notice: Notice The Board shall provide the applicant with notice of such the hearing shall be given to the applicant by the Board in the manner prescribed by R4-1-114 of the Board rules A.R.S. § 41-1092.05.
3. Conduct of hearing: Such The Board or the ALJ shall conduct the hearing shall be conducted in accordance with R4-1-114 of the Board rules for contested cases A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of proof: At such the hearing, the applicant shall be is the moving party and have has the burden of proof.
5. Matters limited: At such the hearing, matters shall be limited the Board or ALJ shall limit the issues to those originally presented to the Board.

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R4-1-345. Registration; ~~certificate renewal~~ Fees, Certificate Renewal

- A. Initial registration: A registration fee is due when a new certificate is issued or when a new partnership or professional corporation firm is registered by the Board. The initial registration fee is prorated for registration periods of less than two 2 years.
- B. Renewal registration: All registrants, individuals and firms, shall register biennially by filing with the Board the appropriate completed registration form specified in A.A.C. R4-1-118 and pay the registration fee prescribed by this Section. Registration shall be made during the month of the anniversary of the registrant's birth or during the month of the anniversary of the initial registration with the Board in the case of a partnership or professional corporation. Registrations must be received in the Board office by A registrant shall file the appropriate form no later than 5:00 P.M. on the last business day of the month. Registrations shall be deemed filed on the date received in the Board Office. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
1. Individual registrants: All individual registrants shall register at the following times:
 - a. Registrants born in even-numbered years shall register during the month of their birth date in each even-numbered year.
 - b. Registrants born in odd-numbered years shall register during the month of their birth date in each odd-numbered year.
 2. Partnerships and professional corporations Firms: All firms shall register at the following times:
 - a. Firms which initially registered with the Board in even-numbered years shall register during the month of their initial registration in each even-numbered year.
 - b. Firms which initially registered with the Board in odd-numbered years shall register during the month of their initial registration in each odd-numbered year.
- C. Registration fees for individuals: The biennial registration fee for each certified public accountant and each public accountant is \$150.00 \$150 per registration period. The registration fee will shall be prorated by month for initial registration periods of less than two 2 years. If a suspension under this subsection continues for more than six months, an individual shall return the registration certificate to the Board.
- D. Registration fees for firms: The biennial registration for each certified public accountant or public accountant partnership or professional corporation firm is \$150.00 \$150 per registration period.
- E. Failure The penalty for failure to register and pay a registration fee as provided for in this Section shall result in the Section is suspension of the registrant's registration. A The Board shall vacate a suspension under this Section shall be vacated only after Section when the registrant has paid all past due registration fees, a \$25.00 \$25 late fee plus \$25.00 and \$25 for each full year the registrant has failed to register, total payment not to exceed \$350.00 \$350. If a suspension under this subsection continues for more than 6 months, an individual shall return the registration certificate to the Board. If a suspension under this subsection continues for more than 12 months, an individual's certificate shall be deemed expired pursuant to A.R.S. § 32-741(C).
- F. Registrants who have been granted inactive status shall not provide accounting services, for a fee or other form of com-

ensation, including but not limited to: recording and summarizing financial transactions; analyzing and verifying financial information; reporting financial results to an employer, client, or other party; and rendering tax and management advisory services to an employer, client, or other party during the period of time in which the registrant's CPA certificate is inactive.

R4-1-346. Notice of Change of Address

- A. Notice shall be given Each registrant shall give notice to the Board, within 30 days, of any business, mailing, or residential change of address including the address of any office opened for the practice of public accounting in this state by filing a revised Biennial Registration Form. Notice shall be similarly given of the closing of any such offices.
- B. Notice Each registrant shall give notice to the Board of the opening of any new or additional office, or the closing of any existing office. Notice shall be given to the Board by filing a revised Biennial Registration Form.

ARTICLE 4. REGULATION PROVISIONS

R4-1-453. Continuing Professional Education Requirement

- A. No Change.
- B. Measurement Standards. The Board shall use the following standards shall be used to measure the hours of credit to be given for CPE programs completed by an individual registrant.
1. A class hour shall at a minimum consist of a minimum of 50 continuous minutes of instruction. CPE credit shall be given for whole class-hours only. One The Board shall give 1 CPE credit hour shall be given for each class-hour class hour of instruction.
 2. Courses taken at colleges and universities described in R4-1-231 shall apply toward the CPE requirement as follows:
 - a. Each semester system credit hour shall equal is worth 15 CPE credit hours,
 - b. Each quarter system credit hour shall equal is worth 10 CPE credit hours, and
 - c. Each noncredit class hour shall equal is worth 1 CPE credit hour.
 3. Each correspondence program hour shall equal is worth 1 CPE credit hour.
 4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and up to 1 additional hour of actual preparation time for each hour of presentation. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time shall may not exceed 40 credit hours of the renewal period's requirement, and Credit shall be is limited to only one 1 presentation of any seminar or course with no credit for repeat teaching of that course.
 5. A maximum of 20 hours of CPE credit may be earned during each renewal period by writing and publishing articles and/or books, during that renewal period, that contribute to the accounting profession. Writing and publishing articles or books that contribute to the accounting profession may be counted for a maximum of 20 hours of CPE credit during each renewal period.
 - a. Credit may be earned for writing accounting material not used in conjunction with a seminar. Such, if the material must address addresses an audience of

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certified public accountants, be is at least 3,000 words in length, and be is published by a recognized 3rd-party publisher of accounting material or a sponsor.

- b. For each 3,000 words of original material written, the author(s) author may earn 2 credit hours. Multiple authors may share credit for material written.
 6. A registrant may earn a combined maximum of 40 hours of CPE credit may be earned under subsections (B)(4) and (5) above during each renewal period.
 7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer related courses. Computer related courses may qualify as management advisory services pursuant to subsection (D), if they meet the provisions of subsection (C)(1).
- C. Programs Which Qualify. CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. Qualified programs shall:
 - a. Be developed by persons knowledgeable and experienced in the subject matter;
 - b. Provide written outlines or full text;
 - c. Be administered by an instructor or organization knowledgeable in the program content; and
 - d. Utilize teaching methods consistent with the study program.
 2. Correspondence programs will qualify, provided if they meet the provisions above and provided that if the sponsors maintain written records of each student's participation and records of the program outline for three 3 years following the conclusion of the program.
- D. Hour Requirement. Hour A registrant shall complete the hour requirements shall be completed as specified under subsections (1) through (9) below. A The registrant shall ensure that a minimum of 50% of any required credit hours shall be are in the subject areas of accounting, auditing, taxation, business law, or management advisory services, including the following credit hours required under subsection subsections (1) through (9).
1. Applicants Registrants in public practice whose last renewal period was for 2 years shall complete 80 credit hours of CPE during the 2-year period immediately preceding biennial registration renewal.
 2. Applicants Registrants for registration renewal who have been registered certified less than 2 years shall complete 10 credit hours of CPE for every 3 months registered before registration renewal.
 3. Registrants who neither reside nor practice accounting in Arizona are required to fulfill Arizona's CPE requirement before renewing their registrations.
 4. Registrants not engaged in public accounting practice, who do not perform public accounting services for compensation, shall complete 60 hours of CPE during the 2-year period immediately preceding registration renewal.
 5. Registrants re-entering entering public accounting practice, for any length of time, shall notify the Board upon reentry. The registrant and shall complete a total of 80 credit hours of CPE in the 2-year before practicing public accounting. period prior to reentry CPE hours taken to satisfy the registrant's current biennial registration may be used toward meeting this requirement. The additional CPE hours submitted in support of this requirement may not be used to meet the CPE credit hour

requirement for the next biennial registration. Once re-entered, the registrant shall complete 10 credit hours of CPE for each 3-month period from the date of reentry to the next renewal date. Once entered, the registrant shall complete the applicable hours required for registration.

6. An individual A registrant who is retired, at is age 60 or over more, and does not perform any accounting services, whether or not participating in the profits of a public accounting entity, does not need not to complete any CPE for registration renewal.
 7. Applicants for reinstatement following the suspension of a certificate pursuant to A.R.S. § 32-741(C) shall complete any deficiency in CPE not to exceed 80 credit hours. CPE hours utilized used to meet the reinstatement requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. An applicant whose suspension has extended beyond the next biennial registration period shall complete the deficiency which resulted in the suspension as well as the 80 credit hours required for re-registration.
 8. Applicants for reinstatement following the suspension of a certificate, other than that described in subsection (D) (7), shall complete the applicable credit hour requirement for registration. The CPE hours used to meet the reinstatement requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. For purposes of this subsection, an applicant whose suspension was for reasons other than nonregistration and whose suspension has extended beyond 2 registration periods (4 years) is not required to report more than 160 hours of CPE.
 89. The Board may grant a partial or complete exemption from the CPE requirement to an individual registrant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service, or financial hardship which prevented the individual registrant from completing the CPE requirement.
 910. CPE credit hours used as qualifying hours for a registration period may not be used as qualifying credit hours for subsequent registration periods. A registrant shall report total CPE credit hours completed during the renewal period. Credit hours in excess of the number required for the current registration may not be carried forward to a subsequent registration period.
- E. Reporting. Applicants for initial registration, renewal, reinstatement or who are subject to audit may provide a signed statement, under penalty of perjury, of the CPE programs for which they apply for credit. This statement shall show:
1. Sponsoring organization;
 2. Location of program;
 3. Title of program or description of content; and
 4. Dates attended;
 5. Credit hours claimed. Applicants shall maintain for three years and provide the Board upon request the following documents: course outline, proof of attendance or participation, and written proof of completion.
- F. Carryover disallowed. Total CPE credit hours completed during the renewal period shall be reported for Board approval. Credit hours in excess of the number required for the current registration shall not be carried forward to a subsequent registration period.
- F. CPE Record Retention. Applicants shall maintain for 3 years and provide the Board upon request the following docu-

ments: course outline, proof of attendance or participation, and written proof of completion.

G. Continuing professional education committee. The committee shall make recommendations to the Board concerning the following:

1. CPE programs;
2. Individual registrant's satisfaction of CPE requirement;
3. Applications for exemptions from CPE requirements under A.R.S. § 32-730(C).

R4-1-454. Periodic re-examination

The Board shall grant exemption from the continuing professional education requirement for one registration period for registrants who successfully complete a periodic re-examination, which shall be conducted by the Board as follows:

1. Persons desiring to take the re-examination shall apply on a re-examination application provided by the Board and obtainable from its office. This application shall set forth areas of accounting practice — auditing, taxation, financial reports and disclosures and management advisory services. The registrant shall specify the areas of accountancy in which he practices, using only the accounting categories described on the application.
2. Re-examinations are held in May and November of each year and all applications to take re-examinations must be filed during the period January 1 through the month of February for the next May re-examination and during the period July 1 through August 31 for the next November re-examination. For purposes of this Section, applications shall be deemed filed on the date received by the Board Office. Applications received after 5:00 P.M. on the last day for filing shall be deemed late. If the last day for filing falls on Saturday, Sunday or a legal holiday, the application must be received in the Board Office by 5:00 P.M. on the first working day thereafter. Late applications will not be accepted.
3. Each applicant desiring to sit for the re-examination shall pay a non-refundable re-examination fee of four hundred dollars (\$400.00), pursuant to A.R.S. § 32-730.01, to cover administrative costs in connection with the re-examination. Each registrant who takes the re-examination shall be examined in the categories of accountancy he designated in the re-examination application.
4. The Board may make use of all or any part of the uniform certified public accountants' examination and advisory grading service, or both, as it deems appropriate. A registrant must obtain a grade of 75 percent or more in each category of accountancy in which he is tested to satisfy the periodic re-examination requirement. Persons failing to pass the re-examination shall meet the continuing professional education requirements set forth in rule R4-1-453.
5. The Executive Director will advise the registrant by mail whether he has successfully completed the re-examination. Re-examination papers must be reviewed by the unsuccessful candidate only after grading has been passed upon by the Board.

R4-1-455. Rules of Professional Conduct: Independence, Integrity, and Objectivity

A. Independence: Certified public accountants, or public accountants, or firms of which they are partners or shareholders shall not express an opinion on financial statements of an enterprise unless they and their firms are independent with

respect to such the enterprise. Independence will be is considered to be impaired if, for example:

1. During the period of their professional engagement, or at the time of expressing their opinion, they or their firms:
 - a. Had or were committed to acquire any direct or material indirect financial interest in the enterprise; or
 - b. Had any joint closely held business investment with the enterprise or any officer, director or principal stockholder thereof of the enterprise, which was material in relation to their or their firm's net worth; or
 - c. Had any loan to or from the enterprise or any officer, director or principal stockholder thereof of the enterprise. This latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms and requirements:
 - i. Loans obtained by certified public accountants or public accountants or their firms which are not material in relation to the net worth of such the borrower;
 - ii. Home mortgages; and
 - iii. Other secured loans, except loans guaranteed by certified public accountants' or public accountants' firm which are otherwise unsecured.
 2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, they or their firms:
 - a. Were connected with the enterprise as promoters, underwriters or voting trustees, directors or officers or in any capacity equivalent to that of a member of management or of an employee; or
 - b. Were trustees of any trust or executors or administrators of any estate if such the trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or were trustees for any pension or profit-sharing trust of the enterprise.
 3. The above examples are not intended to be all-inclusive.
- B. Integrity and objectivity: Certified public accountants, or public accountants, or firms shall not knowingly or recklessly misrepresent facts when engaged in the practice of public accounting, including the rendering of tax and management advisory services. In tax practices, certified public accountants or public accountants may resolve doubt in favor of their client as long as there is reasonable support of for their position.
1. Contingent fees: A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for purposes of this rule, the fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.
 - a. A certified public accountant, public accountant, or firm engaged in the public practice of public accounting shall not for a contingent fee for any client:
 - i. Perform an audit or review of a financial state-

- ment; or
 - ii. Prepare a compilation of a financial statement when the certified public accountant, or public accountant, or the firm expects, or reasonably should expect, that a third ³rd party will use the financial statement and the certified public accountant, or public accountant, or the firm's compilation report does not disclose a lack of independence; or
 - iii. Perform an examination of prospective financial information; or
 - iv. Prepare an original or amended tax return or a claim for a tax refund.
- b. ~~The prohibition prohibitions~~ in subsection (B)(1)(a) ~~above applies apply~~ during the period in which the certified public accountant, or public accountant, or the firm is engaged to perform any of the services listed ~~above in subsection (B)(1)(a)~~ and the period covered by any historical financial statements involved in the listed services.
2. Commissions and referral fees:
- a. A commission is a fee calculated as a percentage of the total sale or service.
 - b. A referral fee is a fee paid in exchange for producing a purchase of goods or services.
 - c. Prohibited commissions: A certified public accountant, or public accountant, or firm engaged in public the practice of public accounting shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission when the certified public accountant, or public accountant, or the firm also performs any of the following for that client:
 - i. An audit or review of a financial statement; or
 - ii. A compilation of a financial statement when the certified public accountant, or public accountant, or the firm expects, or reasonably might expect, that a third ³rd party will use the financial statement and the certified public accountant, or public accountant, or the firm's compilation report does not disclose a lack of independence; or
 - iii. An examination of prospective financial information.
 - d. ~~This prohibition applies~~ The prohibitions in subsection (B)(2)(c) apply during the period in which the certified public accountant, or public accountant, or the firm is engaged to perform any of the services listed ~~above in subsection (B)(2)(c)~~ and the period covered by any historical financial statements involved in the listed services.
 - e. Disclosure of permitted commissions: A certified public accountant, or public accountant, or firm engaged in the public practice of public accounting who is not prohibited by this rule from performing services ~~for~~ or receiving a commission and who is paid or expects to be paid a commission shall make a written disclosure in advance of accepting the engagement. This disclosure shall be made to any person or entity to whom the certified public accountant, or public accountant, or the firm recommends or refers a product or service to which

the commission relates and shall include the dollar amount or percentage to be received.

- f. Disclosure of referral fees: Any certified public accountant, or public accountant, or firm that accepts a referral fee for recommending or referring any product or service to any person or entity or that pays a referral fee to obtain a client shall disclose to the client, in writing, the acceptance or payment of the referral fee and its amount.
3. Incompatible occupations: Certified public accountants or public accountants who are engaged in the practice of public accounting shall not concurrently engage in any business or occupation which impairs their objectivity in rendering professional services.

R4-1-455.01. Rules of Professional Conduct: Competence and Technical Standards

- A. No Change.
- B. Auditing standards: Registrants shall not permit their names to be associated with financial statements in such a manner as to imply that they are acting with independence with respect to ~~such the~~ financial statements unless they have complied with applicable generally accepted auditing standards.
- C. Accounting principles: Registrants shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if ~~such the~~ financial statements contain any departure from ~~such the~~ accounting principle which has a material effect on the financial statements taken as a whole, unless the registrants can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been misleading. In such case, the registrants' reports ~~must shall~~ describe the departure, the approximate effects thereof ~~of the departure~~, if practicable, and the reasons why compliance with the principle would result in a misleading statement.
- D. Accounting and review standards: Certified public accountants, or public accountants, ~~or firms~~ shall not permit their names to be associated with unaudited financial statements or other unaudited financial information of a non-public entity in ~~such a manner as to which may~~ imply that they are acting as independent accountants unless they have complied with all applicable standards for accounting and review services.
- E. Forecasts and projections: Certified public accountants, or public accountants, ~~or firms~~ shall not permit their names to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the certified public accountants, or public accountants, ~~or firms~~ vouch for the achievability of the forecast or projection.
- F. In expressing an opinion on representations, in financial statements which they have examined, certified public accountants, or public accountants, ~~or firms~~ ~~shall be held guilty of an act in violation of~~ have violated A.R.S. § 32-741(A)(4) if ~~they~~:
 - 1. ~~They fail Fail~~ to disclose a material fact known to them which ~~is necessary to make~~ makes the financial statements not misleading; or
 - 2. ~~They fail Fail~~ to report any material misstatement known to them to appear in the financial statement; or
 - 3. ~~They are Are~~ materially negligent in the conduct of their examination or in making their report ~~thereon; or on the examination;~~
 - 4. ~~They fail Fail~~ to acquire sufficient information to warrant expression of an opinion, or their exceptions are sufficiently material to negate the expression of an opinion; or

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5. ~~They fail~~ Fail to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in ~~under~~ the circumstances.

The provisions of this subsection are not intended to be all-inclusive or to limit the ~~provisions under~~ application of A.R.S. § 32-741(A)(4).

- G. Tax practice standards: Certified public accountants, ~~or public accountants, or firms~~ shall exercise due diligence in the conduct of their tax practices, and the current standards set forth in the American Institute of Certified Public Accountants (AICPA) Statements on Responsibilities in Tax Practice (1988 Revision) shall presumptively represent due diligence.
- H. Standards: The application of ~~such~~ standards such as "generally accepted accounting principles," "generally accepted auditing standards," and "applicable standards for accounting and review services" by certified public accountants, ~~or public accountants, or firms~~ is to be made to the specific engagement or problem at hand by the exercise of professional judgment in the context of the literature of the accounting profession. ~~Official~~ The Board considers official statements of the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other specialized bodies dealing with accounting and auditing matters to be among the persuasive sources and for interpretation of such the standards. These Persons who take positions that depart from such the official statements must shall be prepared to justify them.

R4-1-455.02. Rules of Professional Conduct: Responsibility to Clients Confidentiality; Records Disposition

- A. Confidential client information: Certified public accountants, ~~or public accountants, or firms~~ shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client. This rule shall not be construed to:
1. Relieve certified public accountants, ~~or public accountants, or firms~~ of their obligation under R4-1-455.01(B) and ~~(E); (C)~~;
 2. Affect in any way their compliance with a validly issued subpoena or summons enforceable by order of a ~~court;~~ court;
 3. Prohibit review of certified public accountants', ~~or public accountants', or firms'~~ professional practices as a part of any peer or quality review pursuant to Board decision or ~~authority; authority;~~ or
 4. Preclude certified public accountants, ~~or public accountants, or firms~~ from responding to any inquiry made by the Board under state statutes.
- B. Records disposition responsibility: Certified public accountants, ~~or public accountants, or firms~~ shall furnish to their client, or former client, upon request, within a reasonable time after original issuance:
1. A copy of any tax returns prepared for ~~such the~~ the client.
 2. A copy of any reports, or other documents, that were previously issued to ~~such the~~ the client.
 3. Any accounting or other records belonging to the client which they or their firm may have had occasion to remove from the client's premises, or to receive for the client's account, but this shall not preclude them from making copies of ~~such the~~ the documents when they form the basis for work done by them ~~(or their firm) or their firm.~~

R4-1-455.03. Rules of Professional Conduct: Other Responsibilities and Practices

- A. Discreditable acts: Certified public accountants, ~~or public accountants, or firms~~ shall not commit any act that reflects adversely on their fitness to engage in the practice of public accounting, ~~which shall include without limitation including:~~
1. Violation of any of the provisions of R4-1-455 through ~~R4-1-455.04 (Rules of Professional Conduct); R4-1-455.04;~~
 2. Violation of a fiduciary duty or trust relationship with respect to any ~~person; person;~~ or
 3. Violation of any of the provisions of ~~Article 3, Chapter 6, Title 32, Arizona Revised Statutes A.R.S. Title 32, Chapter 6, Article 3,~~ or any regulation or rule promulgated thereunder under these statutes.
- B. Advertising practices: Certified public accountants, ~~or public accountants, or firms~~ shall be deemed to have ~~violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in violation of A.R.S. § 32-741(A)(4) and to have violated the high standards of integrity and dignity in public accounting where, in connection with the communication or advertising of public accounting services through any media, if those accountants willfully engage in any of the following conduct:~~
1. Employ any device, scheme, or artifice to ~~defraud;~~ defraud;
 2. Make any untrue statement of material fact or ~~omit fail~~ to state any material fact necessary ~~in order to make the statements made, in light of the circumstances under which they were made, not misleading;~~
 3. Engage in any advertising which would operate as a fraud or ~~deceit;~~
 4. Violate A.R.S. § 44-1522 and a court finds a ~~willful violation thereof the violation willful;~~
 5. ~~Are convicted of a violation of A.R.S. § 44-1481 concerning fraudulent or misleading practices in the advertising of public accounting services. Engage in fraudulent or misleading practices in the advertising of public accounting services which leads to a conviction pursuant to A.R.S. § 44-1481; or~~
 6. ~~Are convicted of a violation of any other state or federal law concerning fraudulent practices in the advertising of public accounting services. Engage in fraudulent practices in the advertising of public accounting services which leads to a conviction for a violation of any other state or federal law.~~
- C. Solicitation practices: Certified public accountants, ~~or public accountants, or firms~~ shall be deemed to have ~~violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in violation of A.R.S. § 32-741(A)(4) and to have violated the high standards of integrity and dignity in public accounting where, in connection with the direct or indirect personal solicitation of public accounting services, if those accountants willfully engage in any of the following conduct:~~
1. Violate any of the provisions of R4-1-455.03(B); ~~(Advertising Practices), which provisions are incorporated by reference in this subsection (C) as constituting personal solicitation violations; or~~
 2. Engage in direct or indirect personal solicitation through the use of coercion, duress, undue influence, compulsion, or intimidation practices.
- D. Form of practice and name
1. Certified public accountants or public accountants may practice public accounting, whether as owners or

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Article 4	New Article
R6-15-401	New Section
R6-15-402	New Section
R6-15-403	New Section
R6-15-404	New Section
Article 5	New Article
R6-15-501	New Section
R6-15-502	New Section
R6-15-503	New Section
R6-15-504	New Section
R6-15-505	New Section
R6-15-506	New Section
Article 6	New Article
R6-15-601	New Section
R6-15-602	New Section
R6-15-603	New Section
R6-15-604	New Section
R6-15-605	New Section
R6-15-606	New Section
R6-15-607	New Section
R6-15-608	New Section
R6-15-609	New Section
R6-15-610	New Section
R6-15-611	New Section
Article 7	New Article
R6-15-701	New Section
R6-15-702	New Section
R6-15-703	New Section
R6-15-704	New Section
R6-15-705	New Section
R6-15-706	New Section
Article 8	New Article
R6-15-801	New Section
R6-15-802	New Section
R6-15-803	New Section
R6-15-804	New Section
R6-15-805	New Section
Article 9	New Article
R6-15-901	New Section
R6-15-902	New Section
R6-15-903	New Section
R6-15-904	New Section
Article 10	New Article
R6-15-1001	New Section
R6-15-1002	New Section
R6-15-1003	New Section
Article 11	New Article
R6-15-1101	New Section
R6-15-1102	New Section

- The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing Statutes: A.R.S. §§ 41-1003, 41-1954(A)(3), Laws 1997, Ch. 300 § 73
Implementing Statutes: A.R.S. §§ 46-341 through 46-355
- The effective date of the rules:**
November 17, 1998
- A list of all previous notices appearing in the Register addressing the final rule.**
Notice of Rulemaking Docket Opening: 4 A.A.R. 287, January 23, 1998.
Notice of Proposed Rulemaking: 4 A.A.R. 1723, July 10 1998.

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5. The name and address of the agency personnel with whom persons may communicate regarding the rulemaking:

Name: Thomas Colombo
Address: P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005
Telephone: (602) 542-0213
Fax: (602) 542-6000
E-mail: votc7989@de.state.az.us

6. An explanation of the rules, including the agency's reasons for initiating the rules:

Laws 1997, Chapter 300 (SB1357) as amended by Laws 1998, Chapter 211 (SB 1082) implements the Arizona Works Program. The Department of Economic Security was given the authority to establish administrative rules for the Arizona Works Program. Arizona Works is a work-based program to provide Temporary Assistance for Needy Families (TANF) cash assistance and employment services to qualified, low-income recipients in eastern Maricopa County. A private contractor will operate the Arizona Works pilot project. The rules set forth the eligibility and operational guidelines for all aspects of the Arizona Works Program. The rules include a section with terminology drawn from federal law, state law, and from the actual language used in operation of the Arizona Works program. The rules set forth standards regarding the disclosure of confidential information concerning Arizona Works applicants and recipients. The rules explain all aspects of the program including: (1) the application process; (2) the specific geographic scope of the pilot project; (3) non-financial eligibility factors; (4) financial eligibility factors; (5) the determination of eligibility and benefit amount; (6) work participation requirements; (7) cash payments; (8) overpayments; (9) Intentional Program Violations; and (10) the subsidized employment program for Arizona Works. The rules set clear, legally enforceable standards and procedures for operation of the Arizona Works Program, which are consistent with federal and state laws governing the program.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

Not applicable.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state.

Not applicable.

9. The summary of the economic, small business, and consumer impact:

There is no significant impact attributable to the rules. The economic impact results from the statutory mandate to operate the Arizona Works pilot project. Arizona Works will provide TANF cash assistance and employment services to low-income families in eastern Maricopa County. Arizona Works will be funded through a combination of state and federal funds. Taxpayers bear the cost of the program. Low-income children and families receive the benefits and services of the program at no cost. The state agency will bear a minimal cost to write and implement the rules.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The Department received several written comments concerning the proposed rules for the Arizona Works Program. Technical changes were made to the rules based on the substance of certain comments. The Department also made non-substantive, grammatical, technical, and punctuation changes, in response to suggestions from staff of the Secretary of State's Office and the Governor's Regulatory Review Council (GRRC). All changes are designed to make the rules more clear, concise, and understandable; to improve grammar and form; and to conform the rules to current, accepted standards for rule writing.

R6-15-101:

- One comment indicated that there was a failure to include the opportunity for clients to continue to receive benefits if an appeal is filed timely. The comment also stated that this failure to include such language is contradictory to the Goldberg v. Kelly decision and statements made in the state's TANF plan. In response to this comment, the Department reworded subsection (1)(a) as follows, "Explains the action the Agency intends to take, the reason for the action, the specific authority for the action, the recipient's appeal rights, and the right to benefits pending appeal; and..."
- Made the following change to subsection (3), "Adverse action" means 1 of the Agency actions described in R6-15-802(C) or R6-15-803 R6-15-805(A), including action to terminate or reduce a benefit or assistance grant, or change the manner or form in which benefits are provided."
- In response to a comment regarding the definition of "domestic violence," added "emotional abuse" in subsection (19). The Department received a comment indicating that A.R.S. § 46-347 added emotional harm as a good cause exception for non-cooperation with child support.
- Made the following changes in subsection (70). "...child support payments, alimony payments, spousal maintenance payments, or medical support."
- The Department received a comment that the definition of "unavailable child care" was unreasonable in requiring a recipient to walk 1½ hours to work by way of the child care provider. In response to this comment, the Department revised subsection

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(76)(a) with the following, "Is located within 1½ hours, 1 way, from a recipient's home to work by way of the provider, after exploring all modes of transportation, except for including walking. When the only method of transportation is walking, unavailable child care means no child care provider is located within ½ hour, 1 way, from a recipient's home to work by way of the provider."

- Revised layout of "work activities" to move the statutory reference at the beginning of the definition in subsection (82).
- In response to a comment on what the Agency would determine as a good work record, added the following to subsection (84), "Work experience" means unpaid work in the public or private sector through which a participant establishes a good work record, develops good work habits and skills, and encounters opportunities to transition into unsubsidized paid employment. A good work record is determined as satisfactory attendance and acceptable performance in the particular job being completed based on requirements set by the employer and generally imposed on all persons working in that same capacity for the employer."

R6-15-103:

In response to a comment that the controlling statute excludes tribal lands from the pilot project, removed subsection (14) "Fort McDowell Indian Reservation - 85264" from this list. Renumbered section to conform.

R6-15-203:

- In response to a comment that the Agency needs to be more proactive with helping clients obtain information, made the following change to subsection (C), "...who has difficulty obtaining verification and advises the Agency of the difficulty requests help." The Department retained the language placing some burden on the client to advise the Agency of the difficulty because otherwise the Agency would be unaware of the problem.
- Changed "7 day" to "10-day" in subsection (D)(1).

R6-15-302:

In response to a comment that indicated the rules did not specify the differences in the treatment of income for 213A aliens and non-213A aliens, added the following new subsection (A) to R6-15-302 and renumbered the subsections to conform:

"A. The Agency shall determine eligibility of sponsored non-citizens based on whether they are classified as a 213A alien or a non-213A alien. The Agency shall determine the income and resources of a non-213A alien in accordance with limitations in 42 U.S.C. § 608(f). This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona. The remaining provisions in this Section apply to 213A sponsored non-citizens."

R6-15-306:

Made the following change in subsection (B) and other appropriate sections of the rules where a time-frame is indicated, "...within 10 calendar days..."

R6-15-311:

In response to a comment regarding the notification to the Division of Child Support Enforcement when an Order Against Harassment is issued against the non-custodial parent, made the following change to subsection (C), "...issues a protective order or an order against harassment involving the..."

R6-15-611:

- Added the following to subsection (A), "...as described in subsection (C) or (D) below."
- Based on comment from within the Department, added the following to subsection (C)(2), "The participant needed child care to participate in or accept employment and verifies that child care for a child under the age of 13 was unavailable, unaffordable, or unsuitable;..." This change aligns this good cause reason with that of the EMPOWER Redesign Program for the Department.
- In response to a comment that a client should be excused from participation in work activities when the client's absence is due to required cooperation with child support enforcement, added the following subsection (C)(5), "Any absence due to a required meeting, administrative hearing, or court appearance to comply with child support enforcement requirements; or..." Renumbered to conform.

R6-15-703:

In response to a request from within the Department, added subsection (B) with the following language, "The Agency shall pay benefits for the month of application only from the filing date of the application. The benefit amount is prorated based on the number of days remaining in the month after the date of application." This ensures that the Agency will not be paying a full month's benefits when the client applies after the 1st of the month. Renumbered Section to conform.

R6-15-803:

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In response to a comment questioning the use of the term "first paycheck possible", the Department made the following change to subsection (B), "...to the 1st cash assistance payment first pay-check possible." Clients will receive a flat grant amount of assistance based on their participation in the program. Changed the wording for this provision to indicate that the hourly sanctions shall be applied to the 1st cash assistance payment possible.

R6-15-805:

- In response to a comment on the inclusion of hourly sanctions in the list for adequate notice (less than 10 days), the Department removed subsection (D)(4) "A participant receives an hourly sanction under R6-15-803." Renumbered remaining subsections to conform.
- The department added subsection (E) with the following text, "Recipient is presumed to receive the notice of adverse action on the 10th day following the mailing date of the notice when the Agency has mailed the notice to the person's last known address of record, unless the facts show otherwise." This provides clarification for R6-15-902(A) governing the time-frame for a client to request hearings on Agency decisions.

R6-15-1101:

Deleted the following from subsection (P)(2), "Sanction the participant under R6-15-802 and ~~R6-15-803~~."

General Comment:

After review by GRRC, it was determined that the adoption of certain Sections of the Arizona Works Rules was delegated to the Arizona Works Agency by the controlling statute. The Sections where this authority has been delegated to the Arizona Works Agency do not appear in the final rulemaking package. The Sections that have been removed from the proposed rulemaking package are: Article 9. Appeals and all Sections that followed in that Article; R6-15-1102. Disqualification Proceedings (for Intentional Program Violations); R6-15-1104. Disqualification Hearings; R6-15-1105. Appeals; subsections (H), (I), and (J) of R6-15-1202; and R6-15-1203 Limits on Employer Participation, Workforce Waiver. The remaining Articles and Sections were renumbered to conform. The Department received various written comments regarding these sections, however, due to the limitations placed on the Department by the statutory language, the comments are a moot issue at this current time. The Arizona Works Agency will be required to develop and adopt rules for hearing procedures [A.R.S. § 46-349(D)], the process to waive the limit on the number of participants placed with an employer in the subsidized employment program [A.R.S. § 46-352(B)], and criteria for excluding employers from participation in the subsidized employment program for failure to abide with the program requirements [A.R.S. § 46-352(C)].

11. A summary of the principal comments and the agency response to them.

The Department received various comments regarding the rules. Most of the comments came from the Arizona Justice Institute or Monsignor Edward Ryle on behalf of the Arizona Catholic Conference. The Department was given the authority to establish administrative rules for the Arizona Works Program. The Secretary of State's Office and the Governor's Regulatory Review Council also provided comments on grammatical, technical, punctuation, and format changes, all of which were addressed as described in Section 10 above.

The Arizona Works Program was adopted at the same time as the Department's EMPOWER Redesign initiative. Arizona Works was modeled after the Wisconsin Works (W-2) Program. The rules follow the controlling statute and generally conform to the EMPOWER Redesign Program provisions to allow for a true test of effectiveness between the 2 programs. The exception to the alignment between the Arizona Works and EMPOWER Redesign is that if an item was specifically mentioned in EMPOWER Redesign legislation, but not Arizona Works legislation, it was treated as a deliberate omission.

The Department's explanation and responses to the comments are set forth below:

R6-15-101:

The Department received various comments regarding the definitions for the Arizona Works Program. The comments are as follows:

- A comment on the definition of "domestic violence" indicated that the wording used, "...subjected to *extreme* cruelty..." is too strict and limited an interpretation and suggested that the word "extreme" be removed.

Response: The Department followed the definition of domestic violence, as it appears in Section 103, Part A § 402(a)(7)(B) the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193. The domestic violence provisions are used to exempt certain individuals from the federal time limit for Temporary Assistance for Needy Families (TANF). The federal definition puts strict limitations on the number of people allowed to be exempt from the time limit. By conforming to the federal definition, Arizona will maintain an emphasis on encouraging employment, because employment leads to independence from abuse and the abuser.

- A comment was received on the definition of "education directly related to employment." The comment suggested adding employment skills training as a form of adult education.

Response: The Department did not include this comment as "job skills training" is defined later in the list of definitions. "Job skills training" covers the intent of employment skills training for the purposes of Arizona Works.

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- Received a comment that appeared to criticize our definition of "minor parent." The comment indicated that the definition of minor parent did not include all of the requirements listed in the federal law. The federal law states that a minor parent must have satisfactory attendance at a secondary school or its equivalent to meet the work participation requirement of the TANF Program. The Department's definition states that a minor parent is a custodial parent who is under age 18. The program requirements for minor parents are listed in R6-15-307, R6-15-308, and R6-15-609.

Response: This comment to expand the definition of minor parents was not included, as the program requirements are not listed in the definitions. Program requirements are discussed in the body of the rules.

- Received a comment that timely notice was not included in the definitions for the Arizona Works Program.

Response: The Department did not add a definition because R6-15-805, which spells out the requirements for timely notices and adverse action notices, clarifies what is meant by timely notice.

- The definition of "work experience" states that the client will establish a "good work record." One comment asked how the Agency would define a good work record.

Response: This definition is the same definition that the Job Opportunities and Basic Skills (JOBS) Program uses in the administrative rules for that program. A good work record is determined as satisfactory attendance and acceptable performance in the particular job being completed based on requirements set by the employer and generally imposed on all persons working in that same capacity for the employer.

R6-15-111:

- One comment asked why the immigration status of applicants was not included in the list of identifiable information that must be kept confidential.

Response: The list includes "unique identifying numbers such as a driver's license" and "any other information that is reasonably likely to permit another person to readily identify the subject of the information." The Department feels this includes an individual's immigration information and status.

- The Department received comments on the requirement that the Agency must contact an individual client's physician prior to releasing any medical information to the client directly. The rule states that the Arizona Works Agency "...may withhold medical information which, if released, may cause physical or mental harm to the person requesting the information."

Response: The Agency will be required to provide services to a wide variety of applicants and recipients. Among those served will be individuals who are under the care of a doctor for emotional and mental disorders. Releasing certain medical information to these individuals may cause "physical or mental harm" to the individual, which could be avoided if the Agency follows current rules for the Department. An applicant or recipient will be allowed to review all other contents of the case record which include financial and non-financial information and history information.

R6-15-202:

The Department was asked why applicants must explain how they met their needs before seeking assistance, as part of the eligibility interview.

Response: As indicated in the controlling statute, the Agency is being allowed as much flexibility as possible to assist clients in their goal to be self-sufficient. The job counselor needs this information to help the family to determine the best path to self-sufficiency. If the family may resume a prior activity or method of meeting their needs in lieu of receiving cash assistance, that will be an option for discussion with the applicant.

R6-15-203:

- The Department received comments that the time-frame of 7 days for the client to return requested information to the Agency was too short.

Response: Although 7 days was consistent with the Wisconsin W-2 Program, the Department changed the 7-day time-frame to a 10-day time-frame for the client to provide information. 10 days for providing information is consistent with the EMPOWER Redesign Program. Other sections of the rules were revised in a similar fashion to follow through with this change.

- One comment indicated that the Agency should be specific about the type of information being requested from third parties during the eligibility verification process.

Response: The provision that is being commented on falls under the section for verifying information for eligibility purposes. The Agency will contact a third party only at the request of the applicant and after obtaining the applicant's written approval listing the information to be obtained.

R6-15-204:

The Department received a comment that the use of "timely" for rescheduling a home visit was vague. The comment suggested using "10-days" in place of "timely."

Response: The Department elected to leave the wording as is to allow flexibility for the Arizona Works vendor. The Arizona Works Agency will have the flexibility to further define timely rescheduling in policy, and may elect to use a 10-day time-

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frame. Current Department policy and rules for the EMPOWER Redesign Program require an applicant to reschedule by 5:00 p.m. on the day of the scheduled interview. In the EMPOWER Redesign Program, if an applicant does not reschedule by 5:00 p.m. on the day of the scheduled interview, the Department denies the application for cash assistance, because of the short time-frame for the issuance of the decision. The Arizona Works vendor may elect to allow clients additional time to reschedule.

R6-15-206:

One comment said that an applicant should not have the application denied if the applicant is unable to provide requested information when the inability is beyond the applicant's control.

Response: The Department has cross-referenced this section with a previous section of the rules addressing good cause (R6-15-203). In the previous section, the reasons to extend the 10-day time period are listed. Both the applicant and the Agency must exhaust all reasonable means to obtain the information. When all means have been exhausted, the Agency will then make a determination as to whether the client's self-declaration is sufficient verification.

R6-15-207:

The Department received a comment regarding the process of scheduling a periodic review for Arizona Works recipients. The comment suggested alternative hour appointments for recipients who work. There was also a comment that criticizes the frequency of the periodic reviews.

Response: Alternative appointments (outside the normal 8:00 to 5:00 office hours) are an option for the vendor. Controlling statutes and rules neither require nor prohibit the vendor from utilizing alternative hours. The proposals submitted by vendors will be reviewed to determine their accessibility to the applicant and recipients. The Arizona Works Agency Procurement Board will evaluate this in choosing the vendor for the Arizona Works Program [A.R.S. § 46-342(C)]. Experience has shown that 6 months is the best time span to review a participant's financial and non-financial circumstances, so most reviews will be scheduled for 6 months.

R6-15-303:

Received comments on the duration for clients to no longer be considered as Arizona residents. Comments suggest that placing a 30-day limit to consider the individual as no longer residing in Arizona is extremely limiting and in various circumstances, residency may be retained while living outside the state.

Response: The rule indicates a client will no longer be considered an Arizona resident when they live outside Arizona for more than 30 consecutive days. This rule for the agency follows other similar rules for various programs within the Department. It also ensures that Arizona will not be paying benefits for persons who reside outside the boundaries of the state. When clients live outside the state for more than thirty days, they will then be required to apply for assistance from the state in which they now reside.

R6-15-309:

A comment was made regarding the assignment of support rights to the state. The comment stated that a client should not have to assign the right to any support accrued prior to receiving assistance.

Response: A.R.S. § 46-407 contains the assignment changes and distribution requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193. The mandatory requirement for an assignment of support rights is not a new requirement. The support rights, which are assigned, have always been those that accrued prior to the assistance period, as well as those that accrue while receiving assistance. The Department did not make the recommended change based on the federal statutory requirements.

R6-15-310:

- Received a comment that "support" is too generic a term to use in reference to the assignment of support rights.

Response: Support is defined in R6-15-101(70). The Department revised the definition to clarify that support is considered monetary or other similar forms of support.

- Comments were submitted which questioned the wording used in this section regarding the applicant assisting the Agency by identifying and locating the absent parent and obtaining support payments. The comments suggested that the applicant should not actually be the individual to locate or identify the absent parent.

Response: These activities are listed as forms of cooperating with child support enforcement. Clients are required to assist in any way possible to help establish paternity and obtain an order of support for the children receiving assistance. The Department elected to retain the current wording.

R6-15-404:

A comment was made stating that a resource should not be counted if the group has taken reasonable measures to dispose of the resource or property, but has been unable to do so.

Response: Subsection (A) indicates that if fair consideration was given for a resource, then that resource will not count against the group. When the group attempts to sell or liquidate a resource and due to extreme depreciation to the resource makes it

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unable to do so, the group will be able to verify the inability to dispose of the resource and the resource will not count against the group. This will be further defined in the Arizona Works vendor's policy.

R6-15-501:

A comment was made indicating the Department's use of the term "in-kind" income is vague and needs further clarification. The comment further indicated that it is unreasonable to tally meals provided to workers as in-kind income.

Response: In-kind income is work that is provided in exchange for room, board, or other basic needs. Other basic needs include groceries or meals provided as payment for work. The Department utilizes this definition in its rules and policies for the EMPOWER Redesign Program. Keeping the same definition will maintain similarity between the Arizona Works and EMPOWER Redesign Programs.

R6-15-503:

A comment was made on the manner in which the Agency will determine child support, alimony, and spousal support is unfair to the group. The comments suggest that it is unfair when the Department collects child support from the non-custodial parent, and then compares the income to the group's income limit to see if the group will remain eligible for assistance.

Response: The method that the Agency will use to calculate the above support payments takes into consideration that program recipients are only eligible for months in which they meet program requirements. When a client's support payment equals more than the client's TANF cash assistance, the client becomes "prospectively ineligible" for assistance, and can then receive the support payments in lieu of cash assistance.

R6-15-505:

A comment was made that certain terms used in this section were vague. For example, "reasonably expects" and "future circumstances."

Response: The Agency will base the eligibility of a group on the income expected to be in the household for a particular month. If it is indicated that a member of the group will be obtaining employment in the following month, the Agency will verify the information received and project the future calculations to determine eligibility. The use of the terms in question allows the Agency to utilize the past history of a participant's income as well as the flexibility to project future income.

R6-15-601:

A comment was received criticizing the method the Agency will use to assess an individual for placement in 1 of the 4 employment levels. Rules state that the job counselor shall determine the need for child care or other support services when assessing a client for placement.

Response: The rules attempt to give as much flexibility as possible to the vendor. The vendor will determine how to complete an assessment on a client. The Arizona Works Program was designed to allow private vendors to use ingenuity in getting clients to work.

R6-15-602:

Several comments were received regarding the manner in which the Agency will determine the applicant's placement into one of the four employment levels. The comment said that the section fails to give guidance on how the employment level is assigned and how, if necessary, an applicant can appeal a decision.

Response: The Agency has flexibility in designing the process for assessment that leads to the assignment to the work level. The assignment to employment levels is dependent upon the assessment, which is required by statute. The assessment and assignment to work levels are addressed in R6-15-601 and R6-15-602. The Arizona Works Agency will have the responsibility to develop and adopt hearing procedures for the Arizona Works Program.

R6-15-604:

One person commented that good cause reasons for excuse from work were too restrictive.

Response: The Department followed the example from the federal law regarding the exemption for a victim of domestic violence. The federal law provides that there must be an immediate threat of danger. Regarding the comment on job counselor discretion on physician statements, the rules state that the job counselor will make the determinations based on the verification provided. When a physician verifies that a person cannot work, the job counselor must allow the requested time off.

R6-15-607:

One comment indicated that recipients should be allowed to appeal denials of education and training services.

Response: During the assessment, the job counselor and the client will discuss the appropriate path for self-sufficiency. The decision on how to achieve self-sufficiency is a mutual decision with the job counselor having the decisive voice based on greater expertise. The vendor is being given flexibility in designing the method they plan to place clients into jobs that will lead them to self-sufficiency. The Department elected to retain the wording currently in rule and believes that allowing appeals would open the floodgates to administrative appeals and unduly restrict the vendor.

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R6-15-608:

One comment requested the removal of the wording indicating that any later editions or amendments are not being incorporated.

Response: The language utilized for the incorporation by reference is in the standard format as required by state law [A.R.S. § 41-1028(B)]. The Department cannot change the incorporated text without going through the rulemaking process.

R6-15-611:

- A minor comment was made regarding the correcting of a cross-reference in this section.

Response: Made the necessary correction to include all appropriate subsections.

- A comment was made that a lack of transportation should be added to the list of good cause reasons for not complying with work requirements.

Response: The Department has attempted to be as flexible as possible in the rules for the Arizona Works Program. The reasons indicated for good cause allow for circumstances beyond the client's reasonable control. This could include transportation if the reasons are appropriate.

- One comment indicated that it appears there may be a double sanction for Levels 3 and 4 when the client does not comply with the work requirements.

Response: There are two separate sanction processes for the Levels 3 and 4. The first is an hourly sanction to reduce the individual's check by the number of hours the client missed if the client does not participate in work requirements. The next sanction is applied by reducing the entire cash grant for the group by 25%, 50%, or 100% of the total grant amount. While this may seem like a harsh penalty, there is nothing in statute to indicate the one sanction is in lieu of the other. In certain cases both sanctions could be used together.

R6-15-805:

One comment indicated that the adverse action notices should contain more information such as: the reason for the sanction, the name of the non-compliant member, and what specific steps need to be taken to cure the sanction.

Response: The information contained on the adverse action notice generated by the automated system contains most of the requested information. Information contained in the adverse action notice is spelled out in R6-15-805(C).

R6-15-903:

Suggestion made to require the Department to begin overpayment collections within 30 days.

Response: As overpayments are determined using the actual facts for the month and the wording in this section was retained. Requiring the Department to complete all verification processes associated with overpayments and complete all calculations required in a very restricted time-frame is not feasible.

R6-15-1101:

One person's comment requested the Department correct the reference to the sanctioning process for participants who are in the subsidized employment program. These participants are not subject to be sanctioned on an hourly basis.

Response: Removed the reference to R6-15-803, which addresses hourly sanctions, from this section.

General Comments

- One comment suggested that in areas where the rules and statutes conflict, the statute would prevail.

Response: The Department agrees that the statute is the prevailing authority and that rules cannot exceed or change statutory authority. The Department has taken care to ensure that the rules and statutes are in agreement.

- Another comment suggested that the rules serve as a resource, but not prescribed mandatory procedures.

Response: The Department was mandated to prepare rules for the Arizona Works Program as prescribed in Section 73 of SB 1357. Because the rules directly affect the substantive rights of cash assistance applicants and recipients, the Arizona Administrative Procedures Act requires that they be adopted as rules (see A.R.S. § 41-1000 et seq.). The rules serve as an additional tool to operate the Arizona Works Program. The requirements are a further clarification of the provisions listed in statute.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules.

Not applicable.

13. Incorporations by reference and their locations in the text:

<u>Citation</u>	<u>Location</u>
29 U.S.C. § 142(2)	R6-15-101(54)
8 U.S.C. § 1645	R6-15-101(56)
42 U.S.C. § 607	R6-15-101(85)

42 U.S.C. § 608(f)
42 U.S.C. § 607

R6-15-302(A)
R6-15-608(B)

14. Was this rule previously adopted as an emergency rule?
No.

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 15. DEPARTMENT OF ECONOMIC SECURITY
ARIZONA WORKS PROGRAM**

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R6-15-104. Eligibility for Pilot; Relocation Outside Pilot Area
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R6-15-106. Food Stamp Program
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Sum Income

R6-15-505. Calculating Monthly Income
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ARTICLE 6. WORK PARTICIPATION; EMPLOYMENT LEVELS

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R6-15-602. Assignment of Employment Levels
R6-15-603. Work Requirement
R6-15-604. Participants Who Are Temporarily Excused From Work Participation
R6-15-605. Individual Responsibility Plan
R6-15-606. Job Counselor; Assisted Employment Plan
R6-15-607. Education and Training Activities
R6-15-608. Employment Search and Job Readiness Activities
R6-15-609. Participation Deemed to Be Meeting the Work Requirement
R6-15-610. Support Services
R6-15-611. Noncompliance; Good Cause

ARTICLE 7. ELIGIBILITY AND PAYMENTS

R6-15-701. Determining Eligibility
R6-15-702. Notice of Determination
R6-15-703. Benefits for Participants in Employment Positions
R6-15-704. Payment of Benefits for Participation in Levels 3 and 4
R6-15-705. Non-Receipt of Payments
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ARTICLE 8. CHANGES; ADVERSE ACTION

R6-15-801. Reporting Changes
R6-15-802. Sanctions; Applicable to Grant
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ARTICLE 9. OVERPAYMENTS

R6-15-901. Collection
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R6-15-1001. Disqualification
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ARTICLE 11. SUBSIDIZED EMPLOYMENT PROGRAM

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ARTICLE 1. GENERAL PROVISIONS

R6-15-101. Definitions

The following definitions apply in this Chapter:

1. "Adequate notice" means a written notice that:
 - a. Explains the action the Agency intends to take, the reason for the action, the specific authority for the action, the recipient's appeal rights, and the right to benefits pending appeal; and
 - b. Is mailed before the effective date of the action.
2. "Adequate and timely notice" means a written notice that is consistent with R6-15-101(1) and is sent within the time-frame provided for a timely notice.
3. "Adverse action" means 1 of the Agency actions described in R6-15-802(C) or R6-15-803, including action to terminate or reduce a benefit or assistance grant, or change the manner or form in which benefits are provided.
4. "Agency" means an entity under contract with the Department to operate the Arizona Works program, A.R.S. § 46-341(1), and is sometimes referred to as the Arizona Works Agency.
5. "AHCCCS" means the "Arizona Health Care Cost Containment System" which is a system established pursuant to A.R.S. § 36-2901 et seq., for the provision of hospitalization and medical care coverage to members.
6. "AHCCCSA" means the "The Arizona Health Care Cost Containment System Administration" which is the Arizona state government agency that administers the AHCCCS program.
7. "Arizona Works" means the program to provide temporary assistance for needy families within the geographic areas of this state in which a private vendor has entered into a contract with the State pursuant to A.R.S. Title 46, Chapter 2, Article 9, A.R.S. § 46-341(2).
8. "Arizona Works group," which is sometimes referred to as "the group," means a group consisting of a person who is a custodial parent, all dependent children with respect to whom the person is a custodial parent and any spouse of the person who resides in the same household as the person and any dependent children with respect to whom the spouse is a custodial parent. A.R.S. § 46-341(3).
9. "Benefit" means a cash grant provided to an Arizona Works group that is in compliance with program requirements.
10. "Bona fide funeral agreement" means a prepaid plan that specifically covers only funeral related expenses as evidenced by a written contract.
11. "Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.
12. "Child only case" means an eligible child who is either:
 - a. In foster care as determined pursuant to title 8, chapter 5, article 1 or who is living with a non-parent relative or adult who has obtained guardianship pursuant to title 14, chapter 5, article 2.
 - b. Resides with a parent who meets the Arizona Works financial assistance criteria, but does not meet the non-financial criteria [as defined by A.R.S. § 46-346] for reasons other than non-cooperation with providing requested information to the Agency. A.R.S. § 46-341(4).
13. "Community referral" means unsubsidized, unpaid mentoring and work activities that are arranged through community and faith-based service providers, and are

designed to improve a participant's employability and help the participant obtain unsubsidized employment by providing work experience.

14. "Custodial parent" means, with respect to a dependent child, a parent who resides with that child and, if there has been a determination of legal custody with respect to the dependent child, has legal custody of the child. A.R.S. § 46-341(5).
15. "DCSE" means the Department's "Division of Child Support Enforcement," which is the state administrative unit responsible for Arizona's Title IV-D child support program, and includes contracted county attorneys and contracted private companies.
16. "Department" means the Arizona Department of Economic Security.
17. "Dependent child" means a person under 18 years of age who resides with a parent.
18. "Diversion option" means granting ... [a 1 time payment of] cash assistance to certain applicants who are eligible for Arizona Works but who have only short-term cash assistance needs, and for whom the diversion option is the most appropriate means to self-sufficiency. A.R.S. § 46-341(7).
19. "Domestic violence" means an individual has been battered or subjected to extreme cruelty by a spouse or intimate partner, including the following actions:
 - a. Physical acts that resulted in, or threatened to result in, physical injury to the individual;
 - b. Sexual abuse;
 - c. Sexual activity involving a dependent child;
 - d. Being forced to engage in nonconsensual sexual acts or activities;
 - e. Threats of, or attempts at, physical or sexual abuse;
 - f. Mental or emotional abuse; or
 - g. Neglect or deprivation of medical care.
20. "Earned income" means cash or in-kind income received as compensation for wages, salaries, commissions, or profit through employment or self-employment, less the earned income disregards for initial applicants allowed under R6-15-506.
21. "Education directly related to employment" means adult basic education (remedial reading and math) and English for Speakers of Other Languages (ESOL), for adults who have not attained a high school diploma or GED.
22. "Eligibility determination date" means the date the Agency makes the decision described in R6-15-702 and issues an eligibility decision notice.
23. "Employment level" means 1 of the 4 tiers in the Program. Each tier contains structured work activities at progressive levels and is designed to meet the federal work requirements, improve a participant's employability, and assist the participant in obtaining employment as described in R6-15-602.
24. "Employment plan" means the agreement between the participant and the Agency describing the steps and services needed to transition a participant to self-sufficiency.
25. "Employment search," which is sometimes referred to as "job search," means a structured activity in which a participant actively seeks employment by identifying employment opportunities, applying for employment, and participating in employment interviews.
26. "Encumbrance" means a legal debt.

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27. "Equity value" means fair market value minus encumbrances.
28. "Fair consideration" means an amount which reasonably represents the fair market value of transferred property.
29. "Fair market value" means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts.
30. "Foster care maintenance payment" means a monetary amount which the Department pays to a foster parent for the expenses of a child in foster care.
31. "Foster child" means a child placed in a foster home or a child welfare agency.
32. "Full-time employment" means employment that is 40 hours per week, or a lesser amount if less is regarded as full-time for a specific industry.
33. "GED" means a general equivalency degree which is a certificate awarded upon completion of a series of 5 tests that demonstrate high school skills equivalency.
34. "Good cause" means reasons deemed acceptable by the Agency, in accordance with federal and state law, which prevent a participant from participating in work activities, complying with Agency requirements, or accepting employment.
35. "Homebound" means a person who is confined to the home because of physical or mental disability.
36. "Income" means earned and unearned income, combined.
37. "Individual Responsibility Plan" means an agreement between the Agency and the participant regarding the participant's work activities and services provided by the Agency. A.R.S. § 46-341(8).
38. "Job counselor" means a caseworker employed by the Agency to provide financial or employment counseling services to a participant. A.R.S. § 46-341(9).
39. "Job readiness activities" means activities to help a person prepare for employment, including employment-related education and training, life skills, employment, and job retention skills.
40. "Job skills training" means training opportunities which enable a participant to become proficient in an occupation or skill necessary to meet the participant's employment goal.
41. "Licensed physician" means a:
 - a. Medical doctor.
 - b. Doctor of osteopathy.
 - c. Doctor of naturopathic medicine.
 - d. Chiropractor.
 - e. Psychiatrist, or
 - f. Board certified psychologist.
42. "Liquid asset" means cash or another financial instrument that is readily convertible to cash.
43. "Lump sum income" means a single payment of earned or unearned income, such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
44. "Member" means a person who is included in an Arizona Works group.
45. "Minimum wage" means the federal minimum hourly wage under 29 U.S.C. § 206(a)(1), A.R.S. § 46-341(10).
46. "Minor parent" means a custodial parent who is under age 18.
47. "Non-citizen" means a person who is not a United States citizen.
48. "Non-citizen sponsor" which is sometimes referred to as "sponsor," means a person who, or an organization which, has executed an affidavit of support or similar agreement on behalf of a non-citizen who is not the child or spouse of the sponsor, as a condition of the non-citizen's entry into the United States.
49. "Notice date" means the date that appears as the official date of issuance on a document or an official written notice the Agency sends or gives to an applicant or recipient.
50. "OSI" means the "Office of Special Investigations" which is the Department's office to which the Agency will refer cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies, and other similar functions.
51. "Overpayment" means a cash grant payment received by or for an Arizona Works group in excess of the amount to which the group was lawfully entitled.
52. "Parent" means the lawful mother or father of a dependent child and includes only a birth or adoptive parent.
53. "Participant" means an individual who participates in the Arizona Works Program.
54. "Participating in a strike" means engaging in any activity as defined at 29 U.S.C. § 142(2), as amended through June 23, 1947, which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.
55. "Putative father" means a male person whom a birth mother has named as father of her child, but whose paternity has not been established as a matter of law.
56. "Qualified quarter of coverage" has the same meaning as prescribed in 8 U.S.C. § 1645 (August 22, 1996) which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.
57. "Recipient" means a person who is a member of an Arizona Works group or a person who is only receiving child care assistance from the Agency.
58. "Resident" means a person who meets the definition of A.R.S. § 46-292(A)(1).
59. "Resources" means the group's real and personal property.
60. "Review" means a review of all factors affecting a group's eligibility and assistance amount.
61. "Sanction" means a reduction or termination of an Arizona Works group's employment level grant for failure to participate or comply with Agency requirements without good cause.
62. "Satisfactory attendance in high school or GED activities" means that a participant who has not completed high school or received a GED is attending high school

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- or GED activities and meeting attendance requirements established by the school or GED program.
63. "Satisfactory participation in education directly related to employment" means that a participant is meeting, on a periodically measured basis, a consistent standard of progress based upon standards established by the educational institution or program the participant is attending.
64. "Self-sufficiency" means a condition where a person relies on their own income and resources for support of self and family, and does not need to rely on cash grant payments under Arizona Works.
65. "Sponsored non-citizen" means a non-citizen whose entry into the United States was sponsored by a person who, or an organization which, executed an affidavit of support or similar agreement on behalf of the non-citizen, who is not a child or spouse of the sponsor.
66. "Student" means a person who is:
- a. Attending a school, college, or university;
 - b. Enrolled in a course of vocational or technical training designed to prepare the trainee for gainful employment; or
 - c. A participant in Job Corps.
67. "Subsidized paid employment," which is sometimes referred to as "subsidized employment" or the "Subsidized Employment Program," means employment in a public or private sector organization that receives an Agency subsidy to offset the cost of wages (and possibly other employer-paid benefits) of an employee.
68. "Suitable work" means work in an occupation that a person can successfully perform.
69. "Support" means child support payments, alimony payments, spousal maintenance payments, or medical support.
70. "SVES" means the "State Verification and Exchange System" which is a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and state wage and unemployment insurance benefit data files.
71. "Teen custodial parent," for the purpose of work requirements, means a parent, under age 20, who is caring for that person's own child.
72. "Temporary Assistance for Needy Families" means assistance granted under Section 403 of Title IV of the Social Security Act as it exists after August 21, 1996, A.R.S. § 46-341(11)
73. "Trial job" means an unsubsidized, unpaid position the Agency has solicited from the community to improve the employability of a participant by providing work experience and training to assist the participant to obtain unsubsidized employment.
74. "Unaffordable child care" means that child care is not affordable to a family because the cost of care is more than what the Agency will pay and would require additional payment by the participant.
75. "Unavailable child care" means no child care provider:
- a. Is located within 1½ hours, 1 way, from a recipient's home to work by way of the provider, after exploring all modes of transportation, except for walking. When the only method of transportation is walking, unavailable child care means no child care provider is located within ½ hour, 1 way, from a recipient's home to work by way of the provider;
 - b. Has available slots or vacancies; or
 - c. Can provide services to a disabled or handicapped child with special needs.
76. "Unearned income" means income received from sources other than employment, self-employment, or in-kind income.
77. "Unsubsidized employment" means all paid employment in the public or private sector except subsidized paid employment.
78. "Unsuitable child care" means that child care is available through a relative provider, but the recipient declares in writing that the relative provider is inappropriate because the provider:
- a. Has a history of committing or allowing child neglect or abuse;
 - b. Is experiencing domestic violence;
 - c. Has a history of serious crime;
 - d. Is a drug abuser;
 - e. Has an emotional, mental, or physical condition that prevents the relative from providing safe care; or
 - f. Resides in a home which is unsafe for children.
79. "Unwed minor parent" means a parent under age 18 who is not married.
80. "Vendor payment" means a money payment made on behalf of a participant directly to a provider of goods or services.
81. "Work activities" [as defined in A.R.S. § 46-101(23)] means activities that are countable toward the Federal work participation rate as prescribed in P.L. 104-193, Section 407 (1996):
- a. Unsubsidized employment.
 - b. Subsidized private or public employment.
 - c. Work experience.
 - d. On-the-job training.
 - e. Job search and job readiness assistance.
 - f. Community service programs.
 - g. Vocational educational training.
 - h. Job skills training directly related to employment.
 - i. Education directly related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency.
 - j. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.
82. "Work day" means Monday through Friday, excluding Arizona state holidays.
83. "Work experience" means unpaid work in the public or private sector through which a participant establishes a good work record, develops good work habits and skills, and encounters opportunities to transition into unsubsidized paid employment. A good work record is determined as satisfactory attendance and acceptable performance in the particular job being completed based on requirements set by the employer and generally imposed on all persons working in that same capacity for the employer.
84. "Work requirement" means the minimum number of hours required for all families and 2-parent families to participate in work activities as a condition of eligibility for Arizona Works, as prescribed in 42 U.S.C. § 607 (August 22, 1996), not including any later amendments or editions, which is incorporated by reference in this

rule. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 W. Jefferson, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 W. Washington, Phoenix, Arizona.

R6-15-102. Chapter Scope and Application

- A. The rules in this Chapter apply to persons who apply for and are determined eligible for Arizona Works in the geographic area described in R6-15-103.
- B. The rules in this Chapter do not apply to an Arizona Works group who moves outside the geographic area listed in R6-15-103.

R6-15-103. Geographic Scope of Arizona Works

A. The Arizona Works pilot project operates in the following cities and zip codes:

1. Mesa - 85201, 85202, 85203, 85204, 85205, 85206, 85207, 85208, 85210, 85211, 85212, 85213, 85215 and 85240.
2. Phoenix - 85022, 85023, 85024, 85027, 85028, 85029, 85032, 85044, 85045, 85048 and 85254.
3. Scottsdale - 85250, 85251, 85252, 85255, 85256, 85257, 85258, 85259, 85260, 85268 and 85271.
4. Chandler - 85224, 85225, 85226, 85227, 85244, 85248, and 85249.
5. Tempe - 85281, 85282, 85283, 85284 and 85287.
6. Gilbert - 85233, 85234, 85296 and 85299.
7. Glendale - 85304 and 85306.
8. Carefree - 85377.
9. Cave Creek - 85331.
10. Fountain Hills - 85269.
11. Higley - 85236.
12. Paradise Valley - 85253.
13. Queen Creek - 85242.
14. Any new and successor zip code areas created to cover the same geographical areas covered by the zip codes listed above.

B. The Arizona Works pilot project shall not include any municipality having more than 35% of the residents who qualify for another federal Temporary Assistance for Needy Families program based on the residents' status as members of an Indian tribe. All residents of the municipality shall remain under the EMPOWER Redesign program.

R6-15-104. Eligibility for Pilot; Relocation Outside Pilot Area

To be eligible for Arizona Works assistance, an individual shall live in a zip code area listed in R6-15-103 and meet the eligibility requirements prescribed in this Chapter.

R6-15-105. AHCCCS Program

If the Health Care Financing Administration of the U.S. Department of Health and Human Services approves the Arizona Works waiver request, the Agency shall determine eligibility for the AHCCCS program in accordance with the laws, rules, policies, and practices prescribed and promulgated in accordance with A.R.S. Title 36, Chapter 29.

R6-15-106. Food Stamp Program

If the U.S. Department of Agriculture approves the Arizona Works waiver request, the Agency shall determine eligibility for the Food Stamp program in accordance with the laws, rules, policies and practices prescribed and promulgated in accordance with 7 U.S.C. §§ 2011-2029 and Title 8 of Public Law 104-193 as it applies to Arizona.

R6-15-107. Child Care Assistance Program

The Agency shall determine eligibility for the Child Care Assistance program in accordance with the laws, rules, policies and practices prescribed and promulgated in accordance with Laws 1997, Chapter 300 (SB 1357) as amended by Laws 1998, Chapter 211 (SB 1082) and 6 A.A.C. 5, Articles 49 and 51.

R6-15-108. General Assistance Program

The Agency shall determine eligibility for the State General Assistance program in accordance with the laws, rules, policies and practices prescribed and promulgated under A.R.S. Title 6, Chapter 13 and R6-13-701.

R6-15-109. EMPOWER Redesign Program

- A. Notwithstanding the rules, policies, and practices prescribed and promulgated in accordance with A.R.S. §§ 46-342, 46-346, 46-348, and this Chapter, an individual who is qualified for benefits in the Department's EMPOWER Redesign program, including income disregards, is automatically qualified for the Arizona Works pilot program.
- B. Adults or adult relatives, who apply on behalf of a child or children for a child only case in Arizona Works, shall have eligibility for the child only case determined under the same eligibility provisions as the Department's EMPOWER Redesign program.

R6-15-110. Nondiscrimination

The Arizona Works Agency shall administer the Arizona Works program in accordance with the nondiscrimination provisions of R6-1-501.

R6-15-111. Confidentiality

- A. Personally identifiable information.
 1. All personally identifiable information concerning an applicant or recipient in the possession of the Agency is confidential, and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
 2. Personally identifiable information includes:
 - a. Name, address, and telephone number;
 - b. Social security number and date of birth;
 - c. Unique identifying numbers such as a driver's license number;
 - d. Photographs;
 - e. Information related to social and economic conditions or circumstances;
 - f. Medical data, including diagnosis and past history of disease or disability; and
 - g. Any other information that is reasonably likely to permit another person to readily identify the subject of the information.
- B. Release of information to applicants and recipients.
 1. An applicant or recipient may review the contents of their own eligibility file at any time during the Agency's regular business hours. An Agency employee may be present during the review.
 2. A child may review a case file in which the child is included as a recipient, only with the written permission of the child's parent, or legal guardian or custodian.
 3. The Agency may withhold medical information which, if released, may cause physical or mental harm to the person requesting the information, until the Agency contacts the person's physician and obtains an opinion that the Agency can safely release the information.
- C. Release of information to authorized persons and representatives. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to

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another person or representative by executing a release form containing the following information:

1. The specific information the Agency is authorized to release;
 2. The name of the person to whom the Agency may release information;
 3. The duration of the release, if limited; and
 4. The applicant or recipient's signature and date.
- D. Release to persons and agencies for official purposes.**
1. An official purpose is a purpose directly related to the administration of a public assistance program and includes:
 - a. Establishing eligibility;
 - b. Determining the amount of an assistance grant;
 - c. Providing services to applicants and recipients, including child support enforcement services provided by Arizona or other states;
 - d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
 - e. Evaluating, analyzing, overseeing, and auditing program operations.
 2. The Agency may release confidential information to the following persons and agencies to the extent required for official purposes:
 - a. Agency and Department employees;
 - b. Employees of the Social Security Administration;
 - c. Public assistance agencies of any other state;
 - d. Persons who administer or perform child support enforcement activities;
 - e. Arizona Attorney General's Office;
 - f. United States, Arizona, or other appropriate court systems;
 - g. Persons connected with the administration of federal or federally assisted programs that provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
 - h. Government auditors when the audits are conducted in connection with the administration of any assistance program by a governmental entity that is authorized by law to conduct an audit;
 - i. AHCCCSA, for eligibility purposes;
 - j. Law enforcement officials for an investigation, prosecution, or civil or criminal proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program; and
 - k. The Internal Revenue Service for the purpose of identifying improperly claimed tax exemptions by the absent parent of a child supported by an Arizona Works cash grant.

ARTICLE 2. APPLICATION PROCESS

R6-15-201. Application

- A. A person may apply for Arizona Works either in person or by mail by submitting to the Agency, an application with the following information:**
1. The legible name and address of the person requesting assistance; and
 2. The signature, under penalty of perjury, of:
 - a. The applicant or the applicant's authorized representative; or
 - b. If the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.

- B. A person shall apply to the Agency office for the person's zip code area.**
- C. In addition to the information described in subsection (A), a completed application shall contain:**
 1. The names of all people living with the applicant and their relationship to the applicant; and
 2. All other financial and non-financial eligibility information requested on the application form and described in this Chapter, including a notarized affidavit of paternity.

R6-15-202. Initial Interview

- A. Upon receipt of an application with the information listed in R6-15-201(A), the Agency shall schedule an initial work assessment for the applicant. Upon request, the Agency shall conduct the interview at the residence of a person who is homebound.**
- B. The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.**
- C. During the interview, an Agency representative shall:**
 1. Help the applicant complete the application form;
 2. Witness the signature of the applicant or the applicant's authorized representative;
 3. Discuss how the applicant and the other group members previously met their needs, and why they now need assistance;
 4. Explain that the purpose of Arizona Works is to provide a temporary work assignment to prepare an individual for unsubsidized work;
 5. Provide the applicant with written information explaining:
 - a. The terms, conditions, and obligations of the Arizona Works program;
 - b. Any additional verification information as prescribed in R6-15-203(A) which the applicant needs to provide for the Agency to conclude the eligibility evaluation;
 - c. The Agency's practice of exchanging eligibility and income information through the State's Verification and Exchange System (SVES);
 - d. The coverage and scope of the Arizona Works program, and related services which may be available to the applicant;
 - e. The applicant's rights, including the right to appeal adverse action;
 - f. The AHCCCS enrollment process;
 - g. The requirement to report all changes within 10 calendar days from the date the change becomes known; and
 - h. The family planning services available through AHCCCS health plans;
 6. Review the penalties for perjury and fraud;
 7. Review any verification information already provided;
 8. Explain the applicant's duties to:
 - a. Cooperate with DCSE to establish paternity, and a current support order, and to enforce support obligations, unless the applicant can show good cause for not doing so;
 - b. Send DCSE any support payments the applicant receives after the date the applicant is approved to receive Arizona Works assistance;
 - c. Participate in the work requirements; and
 - d. Complete the paternity affidavit;
 9. Help the applicant complete the paternity affidavit;
 10. Photograph the applicant for identification purposes;

11. Inform the applicant of the requirements to cooperate in the Arizona Fingerprint Imaging Program as prescribed in A.R.S. §§ 46-217 and 46-218;
12. Review all ongoing reporting requirements, and the potential penalties for failure to make timely reports;
13. Inform the applicant of the opportunity to set aside funds in an individual development account as prescribed in R6-15-403 for educational or training purposes; and
14. Explain and review the diversion option for cash assistance for eligible applicants as prescribed in A.R.S. § 46-353.

R6-15-203. Verification of Information

- A. The Agency shall obtain independent verification or corroboration of information provided by the applicant or recipient when required by law, or when necessary to determine eligibility.
- B. The Agency may verify or corroborate information by any reasonable means including:
 1. Contacting 3rd parties such as employers;
 2. Making home visits as provided in R6-15-204;
 3. Asking the applicant or recipient to provide written documentation such as billing statements or pay stubs; and
 4. Conducting a computer data match through SVES.
- C. The applicant or recipient has the primary responsibility to provide all required verification and to explain why receipt of information may be delayed for a reason listed in subsection (D)(1). The Agency shall offer to help an applicant or recipient who has difficulty obtaining verification and advises the Agency of the difficulty.
- D. An applicant or recipient shall provide the Arizona Works Agency with all requested verification within 10 calendar days from the notice date of a written request for information.
 1. The Agency may extend the 10-day period when:
 - a. The requested information is coming from a source that is out of state and not readily available;
 - b. The requested information is available only from a source that requires a fee for the information, and payment of the fee would cause financial hardship to the applicant;
 - c. The source of information is a 3rd person, such as a landlord or employer, who is unavailable; or
 - d. The individual has tried to obtain the information, but has been unsuccessful for reasons beyond the individual's control.
 2. When an applicant does not timely comply with a request for information, the Agency shall deny the application as provided in R6-15-206(C).
- E. The application form shall contain a notice to advise the applicant that the Agency may contact 3rd parties for information. The applicant's signature on an application is deemed consent to the contact.

R6-15-204. Home Visits

- A. The Agency shall schedule a home visit:
 1. When a job counselor reasonably believes that a home visit will avoid an eligibility determination error; or
 2. To conduct an initial interview or an eligibility review when a homebound applicant or recipient so requests.
- B. The Agency shall mail the applicant or recipient written notice of a scheduled home visit at least 10 calendar days before the date of the visit.
- C. The Agency may deny or terminate assistance if the applicant or recipient misses a scheduled home visit for:

1. An initial interview and does not timely reschedule the visit; or
2. A 6-month review interview and does not timely reschedule the visit.

- D. The Agency may conduct unscheduled visits to gather information or to verify information previously provided by an applicant or recipient. The Agency shall not deny an application or terminate assistance if the applicant or recipient is not home for an unscheduled visit.

R6-15-205. Withdrawal of Application; Case Closure

- A. An applicant may withdraw an application at any time prior to its disposition by giving the Agency a written request for withdrawal, signed by the applicant.
- B. If an applicant makes an oral request to withdraw an application, the Agency shall:
 1. Accept the oral request.
 2. Provide the applicant with a written withdrawal form.
 3. Request that the applicant complete the form and return it to the Agency, and
 4. Tell the applicant what will happen if the applicant does not return the withdrawal form within 10 calendar days.
- C. If the applicant fails to return the completed withdrawal form, the Agency shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within 10 calendar days of the date the Agency gives the applicant a withdrawal form.
- D. A withdrawal is effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
- E. The Agency shall not reinstate an application that has been withdrawn. An applicant who withdraws an application shall reapply.

R6-15-206. Processing the Application; Denial, Approval

- A. The Agency shall complete the eligibility determination for Arizona Works assistance within 45 days and select the appropriate employment placement level for the participant within 60 days of the application file date.
- B. The Agency may terminate the application process and close the file when:
 1. The application is withdrawn;
 2. The application is rendered moot because the applicant has died or cannot be located; or
 3. There is a delay resulting from the Agency request for additional verification information as provided in R6-15-203(D).
- C. The Agency shall deny an application when the applicant fails to:
 1. Complete the application and an eligibility interview, as described in R6-15-202;
 2. Submit all required verification information, as prescribed in R6-15-203; or
 3. Cooperate during the application process as required by Article 2 of this Chapter.
- D. When an Arizona Works group satisfies all eligibility criteria, the Agency shall approve the application, and send the applicant an approval notice. The approval notice shall include the amount of assistance and an explanation of the assistance unit's appeal rights. The notice may also include assignment to an employment level.
- E. The Arizona Works Agency shall process an application for the purpose of determining medical assistance eligibility pursuant to R9-22-101 *et seq.*

R6-15-207. Periodic Review

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- A. The Agency shall periodically review all eligibility factors for each Arizona Works group and each participant's employment placement level. The review shall occur:
 - 1. At least once every 6 months from the date of application, and
 - 2. More often if the job counselor needs to reassess the participant's employment placement.
 - B. At least 30 days before the 6-month review date, the Agency shall schedule the recipient for a review interview.
 - C. The Agency shall conduct the review interview in the same manner as an initial interview.
 - D. The Agency shall verify the Arizona Works group's resources and income and any eligibility factors which have changed or are subject to change. The Agency may verify other factors if the Agency experience suggests the need for additional verification.
- 2. The sponsored non-citizen has 40 qualifying quarters of work.
 - E. Subject to Article 4 concerning treatment of resources, the Agency shall consider the total equity value of resources belonging to the sponsor and the sponsor's spouse as available to the sponsored non-citizen.
 - F. Subject to Article 5 concerning treatment of income, the Agency shall consider the full income of the sponsor and the sponsor's spouse available to the sponsored non-citizen.
 - G. When a person sponsors 2 or more non-citizens, the Agency shall not prorate the sponsor's income and resources, but shall count the sponsor's full income and resources as available to all sponsored non-citizens.
 - H. The sponsored non-citizen and the sponsor are jointly liable for any overpayment resulting from the sponsor's provision of incorrect or incomplete information, unless the sponsor had good cause, so as to make the non-citizen solely liable. Good cause includes:
 - 1. The Agency failed to inform the non-citizen or the sponsor that the information was necessary; or
 - 2. Extenuating personal circumstances prevented the sponsor from providing necessary information.

R6-15-208. Cooperation in Providing Information

The participant shall cooperate in providing all requested information within the time-frames specified by the Agency. When the participant refuses to cooperate in providing requested information, the Agency shall deny the application or close the case, after giving notice.

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

R6-15-301. Citizenship and Alien Status

- A. To qualify for Arizona Works, a person shall be a United States citizen or a lawful alien, as prescribed in A.R.S. § 46-346(A)(2).
- B. The Agency shall verify legal alien status by obtaining a person's alien registration documentation, or other proof of immigration registration, from the U.S. Immigration and Naturalization Service (INS), or by submitting a person's alien registration number and other related information to the INS.
- C. An ineligible alien may serve as payee for the eligible members of the Arizona Works group.

R6-15-302. Sponsored Non-Citizens

- A. The Agency shall determine eligibility of sponsored non-citizens based on whether they are classified as a 213A alien or a non-213A alien. The Agency shall determine the income and resources of a non-213A alien in accordance with limitations in 42 U.S.C. § 608(f) (August 22, 1996). This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona. The remaining provisions in this Section apply to 213A sponsored non-citizens.
- B. A sponsored non-citizen is ineligible for Arizona Works until the sponsored non-citizen:
 - 1. Attains United States citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; or
 - 2. Has 40 qualifying quarters of work.
- C. A sponsored non-citizen who seeks benefits shall obtain the cooperation of the sponsor as necessary to satisfy the eligibility criteria described in this Chapter.
- D. The Agency shall consider the full income and resources of a non-citizen sponsor and the sponsor's spouse as available to the sponsored non-citizen until:
 - 1. The sponsored non-citizen attains United States citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; or

R6-15-303. Residency

- A. To qualify for the Arizona Works program, a person shall be an Arizona resident.
- B. An Arizona resident is a person who:
 - 1. Voluntarily resides and intends to make a permanent home in Arizona.
 - 2. Lives in Arizona at the time of making application and while receiving an Arizona Works cash grant, and
 - 3. Is not receiving public assistance from another state.
- C. A person terminates Arizona residency by:
 - 1. Leaving Arizona for more than 30 consecutive days;
 - 2. Leaving Arizona with the intent to live elsewhere, or
 - 3. Accepting public assistance from another state.
- D. The dependent child of a caretaker relative who is an Arizona resident is deemed an Arizona resident.
- E. The Agency shall verify Arizona residency.

R6-15-304. Application for Other Potential Benefits

The members of the Arizona Works group shall cooperate in applying for other public assistance programs or resources that the Agency believes may be available to the members.

R6-15-305. Temporary Absence of a Dependent Child

- A. A dependent child who is temporarily not living with the child's custodial parent is eligible for Arizona Works when:
 - 1. At the initial application, the dependent child will return within 30 days from the date the Agency places the applicant in a work level;
 - 2. At the 6-month review appointment for an active case, the dependent child will return within 180 days from the date the custodial parent 1st notified the Agency of the temporary absence;
 - 3. The custodial parent continues to exercise responsibility for the care and control of the child; and
 - 4. The child is not absent because:
 - a. The child was removed by the state child protection agency; or
 - b. The child is in a penal institution that is meeting all of the child's basic needs.
- B. The child's custodial parent is ineligible for Arizona Works, if a dependent child will be or is absent from home for longer than a period specified in subsection (A).

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R6-15-306. Pregnant Women

- A. Upon compliance with all other eligibility criteria and procedures, a pregnant woman with no other dependent children may be eligible for the Arizona Works program, as though the child was already born.
- B. Following birth of the child, the mother shall inform the Agency of the child's birth and provide all necessary information regarding the birth within 10 calendar days after the birth of the child to maintain eligibility for the Arizona Works Program.
- C. Eligibility shall begin no earlier than 3 months before the predicted month of delivery.
- D. If the child is miscarried, stillborn, or born prematurely, and the woman reports such event to the Agency within 10 calendar days of the occurrence.
 - 1. The occurrence does not affect the woman's original eligibility, and
 - 2. No overpayment is owed.
- E. The pregnant woman shall cooperate with the work requirements based on her employment placement level, but may be excused from the work requirements as provided in A.R.S. § 46-350(B).

R6-15-307. Unwed Minor Parents

- A. For the purposes of this Section, a minor parent means a person who:
 - 1. Is under age 18;
 - 2. Has never married; and
 - 3. Is either the natural parent of a dependent child living in the same household, or is pregnant and eligible for assistance under R6-15-306.
- B. An Arizona Works group headed by a minor parent is not eligible for an Arizona Works cash grant, except as provided in subsection (C) below.
- C. A minor parent may receive a cash grant when the minor parent satisfies 1 of the tests listed in this subsection:
 - 1. The minor parent has no living or locatable:
 - a. Parent,
 - b. Legal custodian who is related to the minor parent, or
 - c. Legal guardian.
 - 2. The minor parent is legally emancipated.
 - a. A minor parent is emancipated if the minor parent's parent or legal guardian has relinquished all control and authority over the minor parent, and no longer provides financial support to the minor parent.
 - b. A minor parent is emancipated if the minor parent:
 - i. Has lived apart from the parent, adult specified relative, or legal guardian for at least 1 year before applying for Arizona Works;
 - ii. Has demonstrated financial independence from the parent, adult specified relative, or legal guardian for at least 1 year before applying for Arizona Works; and
 - iii. Has not received Arizona Works assistance, or Cash Assistance from the Department, for each of the 12 consecutive months immediately preceding the month the minor parent applies for Arizona Works.
 - c. The minor parent shall provide evidence to establish emancipation. Acceptable verification may include:
 - i. Rent receipts or other living arrangement statements which establish independent living apart from the parent, adult specified relative, or legal guardian;

- ii. Income statements or income tax records which establish financial independence from the parent, adult specified relative, or legal guardian; or
 - iii. Written statements from a parent, relative, or guardian which establish the independent status of the minor parent.
- 3. The physical or emotional health or safety of the minor parent, or the minor parent's child, would be at risk if the minor parent and the minor parent's child resided in the home of the minor parent's parent, legal custodian, or legal guardian.
 - a. The minor parent shall file a written statement of abuse or neglect with the Arizona Works Agency.
 - i. Abuse means any behavior defined in A.R.S. § 8-546(A)(2).
 - ii. Neglect means any behavior defined in A.R.S. § 8-546(A)(6).
 - b. The written statement shall include the following information regarding the allegations of abuse or neglect:
 - i. The name of the victim,
 - ii. The name of the perpetrator,
 - iii. The dates of the alleged abuse or neglect,
 - iv. The nature of the alleged abuse or neglect, and
 - v. Whether or not other children living in the home are subject to the abuse or neglect.
 - c. The Agency shall report all allegations of abuse or neglect to Child Protective Services.
 - d. Unless evidence to the contrary exists, the Agency shall accept the minor parent's written statement of abuse or neglect as sufficient evidence that the health or safety of the minor parent, or minor parent's child, would be at risk, pending the outcome of a Child Protective Services assessment.
 - e. If Child Protective Services substantiates the allegation of abuse or neglect, the minor parent and the minor parent's child may receive an Arizona Works cash grant if otherwise eligible under this Chapter.
 - f. If Child Protective Services is unable to confirm or refute the allegation of abuse or neglect, the minor parent shall remain eligible based on the minor parent's written statement.
 - g. If Child Protective Services determines the allegation of abuse or neglect is unsubstantiated:
 - i. The Agency shall inform the minor parent of the determination, and allow the minor parent 60 days to return to the home of the parent, custodian, or legal guardian;
 - ii. The Agency shall terminate the cash grant effective the 1st month following expiration of the 60-day period; and
 - iii. The Agency shall not create an overpayment for assistance paid based on the minor parent's written statement of alleged abuse or neglect.
- D. A minor parent, and the minor parent's child, who are ineligible for an Arizona Works cash grant solely due to the provisions of this section, may receive the following services, if otherwise eligible:
 - 1. AHCCCS medical services;
 - 2. Employment counseling, services, and placement;
 - 3. Child care assistance; and
 - 4. Any other program or service for which Arizona Works recipients categorically qualify.

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E. The provisions of this section do not apply to a parent who is under age 18 and who is married or has been married.

R6-15-308. Teen Parents: School Attendance

For purposes of this Section, a teen parent who is under age 20 and has not attained a high school diploma, or its equivalent, shall not be eligible for the Arizona Works Program unless the teen parent maintains:

1. Satisfactory attendance at a secondary school, or its equivalent; or
2. Satisfactory participation in education directly related to employment.

R6-15-309. Assignment of Child Support Rights

- A. To qualify for the Arizona Works program, an applicant shall assign to the state, all rights to any support obligation that may be held by any member of the Arizona Works group, including any unpaid support obligation or support debt which has accrued at the time of the assignment, and accrues while receiving assistance.
- B. A refusal to assign support rights to the state is a refusal to complete the application, and shall result in denial of the Arizona Works application.
- C. After being approved for the Arizona Works program, the recipient shall submit to the state all monetary support the recipient receives directly.
- D. When the Agency receives any monetary support that a recipient received directly from the obligor, the Agency shall accept the monetary support and forward the amount to the state.

R6-15-310. Cooperation with Child Support Enforcement

- A. At the time of the initial interview and at all review interviews, the Agency shall explain:
1. The applicant's duty of cooperation with the Agency and DCSE;
 2. Good cause for non-cooperation and how to establish it;
 3. The duty to send the state any support the Arizona Works group members receive; and
 4. The consequences for breach of the duties set forth in this section.
- B. An applicant or recipient shall cooperate with the Agency and DCSE to obtain support owed to the applicant or recipient, unless there is good cause for non-cooperation, as described in A.R.S. § 46-347 and R6-15-311.
- C. Cooperation shall include taking actions necessary for:
1. Identifying and locating the parent of a child, for whom aid is claimed;
 2. Establishing the paternity of a child born out-of-wedlock, for whom aid is claimed;
 3. Obtaining support payments, or other payments or property due the applicant or recipient for the benefit of the child; and
 4. The following actions, when relevant or necessary:
 - a. Appearing at a child support enforcement office to provide oral or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;
 - b. Submitting and having the child submit to genetic testing;
 - c. Signing authorizations for 3rd parties to release information concerning the applicant or the child, or both;
 - d. In cases in which parentage has not been established, providing a sworn statement alleging paternity and setting forth facts establishing a

reasonable possibility of the requisite sexual contact between the parties;

- e. Appearing as a witness at a judicial or administrative hearing or proceeding;
- f. Providing additional information, or attesting to the lack of information, under penalty of perjury; and
- g. Paying to the state any support payments received from the absent parent after signing the assignment of rights pursuant to R6-15-309(A).

- D. If the applicant or recipient fails to cooperate as required by subsection (B) without good cause the Agency shall sanction the Arizona Works group as specified in A.R.S. § 46-300.
1. In A.R.S. § 46-300, an "instance of noncompliance" means that a recipient does not cooperate as required by subsection (B) for the Arizona Works pilot project.
 2. When a recipient's noncompliance continues into the subsequent month, that month will be considered the next instance of noncompliance and result in the next level of graduated sanction.

R6-15-311. Good Cause for Non-Cooperation

- A. An applicant or recipient may establish good cause for non-cooperation with the Agency as provided in A.R.S. § 46-347(B).
- B. A person shall provide evidence to verify good cause within 20 days of filing a claim of good cause as prescribed in A.R.S. § 46-347(C).
- C. The applicant or recipient shall immediately notify DCSE if a court issues a protective order or an order against harassment involving the non-custodial parent or putative father.

R6-15-312. Compliance with Work Requirements

- A. As a condition of eligibility, an Arizona Works participant shall comply with the work requirements of the Arizona Works program.
- B. If a person fails or refuses to comply with the work requirements without good cause as prescribed in R6-15-611, the Agency shall sanction the Arizona Works group as described in Article 8 of this Chapter.

R6-15-313. Strikers

The Agency shall determine eligibility for Arizona Works cash benefits during a strike period using the striker's pre-strike monthly income.

ARTICLE 4. FINANCIAL ELIGIBILITY; RESOURCES

R6-15-401. Treatment of Resources

- A. In determining eligibility, the Arizona Works Agency shall include all resources available to the Arizona Works group, unless excluded by applicable law.
- B. An Arizona Works group is ineligible for assistance for any month in which the group's resources exceed \$2,000, after application of all available exclusions.

R6-15-402. Treatment of Resources by Ownership Status

- A. The Agency shall consider the resources belonging to the persons listed in this subsection, available to the Arizona Works group.
1. An Arizona Works group member; and
 2. The sponsor of an alien, as provided in Article 3.
- B. The Agency shall consider the resources of the persons listed in this section unavailable to the Arizona Works group.
1. A non-parent relative or adult, who is living in the home, who is not included in the Arizona Works group;
 2. An SSI recipient, as to resources held as sole and separate property, or counted in the determination of SSI eligibility; and

3. A dependent child who is not included in the assistance unit due to receipt of adoption assistance or foster care payments under Title IV-E of the Social Security Act.
- C.** The Agency shall consider ownership in determining whether a resource is available to the Arizona Works group.
1. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names, are deemed available when all owners can be located and consent to disposal of the resource, except that consent is not required if all owners are members of the Arizona Works group.
 2. Jointly owned resources, with ownership records containing the word "or" between the owners' names, are deemed available in full to each owner. When more than 1 owner is a member of an Arizona Works group, the Agency shall count the equity value of the resource only once.
- D.** The Agency shall consider the following resources unavailable to the Arizona Works group:
1. Property subject to a spendthrift restriction. Such property may include:
 - a. Irrevocable trust funds;
 - b. Accounts established by the Social Security Administration, Veteran's Administration, or some other entity, which mandate that the funds in the account be used for the benefit of a person not residing with the Arizona Works group.
 2. Resources being disputed in divorce proceedings or in probate matters.
 3. Real property situated on a Native American reservation.

R6-15-403. Excluded Resources

The Agency shall exclude the equity value of the resources listed below, as provided in this Section.

1. The usual residence that serves as the homestead of the Arizona Works group members.
2. 1 burial plot for each member of the Arizona Works group.
3. Household furnishings used by the Arizona Works group members in their usual place of residence and personal effects, essential to day-to-day living.
4. Up to \$1500 of the value of 1 bona fide funeral agreement, for each member of the Arizona Works group.
5. The equity value of all vehicles owned by the Arizona Works group, up to a total of \$4,500.
6. Individual development accounts which are designed to set aside funds for educational or training purposes.
7. Any other resource specifically excluded by law.

R6-15-404. Resource Transfer: Limits

- A.** An applicant or recipient shall not transfer a resource with the intent to qualify or attempt to qualify for the Arizona Works program within 1 year prior to application or while receiving assistance, unless fair consideration was received.
- B.** Except as otherwise provided in this section, when an applicant or recipient does not receive fair consideration for a transferred resource ("an improper transfer"), the Arizona Works group is ineligible for assistance.
1. The period of ineligibility begins in the month in which the transaction occurred.
 2. The Agency shall compute the duration of ineligibility by subtracting the consideration actually received, from the equity value of the transferred resource, and dividing that sum by 36% of the 1992 Federal Poverty Level for

the Arizona Works group. The resulting number is the number of months the group is ineligible.

- C.** The group is not ineligible because of an improper transfer if the equity value of the transferred resource, plus the value of the group's other available resources, does not exceed the resource limitation.
- D.** An improper transfer of homestead property shall not affect eligibility if the property was transferred because a member was unable to continue living in the home for health reasons, as determined by a licensed physician.
- E.** If an applicant or recipient disposes of homestead property, the Agency shall count, as a resource, all proceeds of the sale not reinvested in homestead property, when the applicant or recipient:
1. Invests the proceeds in a resource other than homestead property.
 2. Advises the Agency that the group will not reinvest the proceeds in other homestead property, or
 3. Fails to purchase new homestead property within 90 days of the date of sale.

ARTICLE 5. FINANCIAL ELIGIBILITY; INCOME

R6-15-501. Treatment of Income: Income Limits

- A.** The Agency shall treat all income of the Arizona Works group in accordance with the provisions of this Article.
- B.** As used in this Section, the term "income" shall include the following, when actually received by the Arizona Works group:
1. Gross earned income from public or private employment, including in-kind income, before any deductions;
 2. For self-employed persons, the sum of gross business receipts minus business expenses; and
 3. Unearned income, such as monetary benefits or assistance grants, minus any deductions to repay prior overpayments or attorneys' fees.
- C.** To qualify for Arizona Works, the Arizona Works group's gross income, minus the group's allowable earned income disregards under R6-15-506, shall be at or below 36% of the 1992 Federal Poverty Level.

R6-15-502. Income Exclusions

When determining income for an Arizona Works group, the Agency shall not count the following types of income:

1. Loans;
2. Educational grants or scholarships;
3. Income tax refunds, including any earned income tax credit;
4. Non-recurring cash gifts that do not exceed \$30 per person in any calendar quarter;
5. Cash contributions from other agencies or organizations which are meant to cover expenses for a recipient's needs other than for items in the following list:
 - a. Food;
 - b. Shelter, including only rent or mortgage payments;
 - c. Utilities;
 - d. Household supplies, including bedding, towels, laundry, cleaning, and paper supplies;
 - e. Public transportation fares for personal use;
 - f. Basic clothing or diapers; or
 - g. Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;
6. The face value of food stamp coupons;
7. The value of governmental rent and housing subsidies;
8. The value of energy assistance which is provided:
 - a. Either in cash or in-kind by a government agency or municipal utility; or

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- b. In-kind by a private, non-profit organization;
- 9. Vendor payments;
- 10. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments which are not intended as wages;
- 11. Earnings from high school, on-the-job training programs;
- 12. Reimbursements for Arizona Works Program training related expenses;
- 13. Agent Orange payments;
- 14. Burial benefits which are dispersed solely for burial expenses;
- 15. Disaster assistance provided by the Federal Disaster Relief Act, or comparable assistance provided by state or local governments, or disaster assistance organizations;
- 16. Foster care payments;
- 17. Radiation exposure compensation payments;
- 18. Income received from the Volunteers In Service To America (VISTA) program which does not exceed the state or federal minimum wage;
- 19. Benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- 20. Reimbursements for work-related expenses, which do not exceed the actual expense amount;
- 21. Earned income of dependent children who are students enrolled and attending school at least half-time as defined by the institution;
- 22. Income received from Americorp Network Program;
- 23. Any other income specifically excluded by applicable state or federal law; and
- 24. The amount of subsidized wages from Level 2 employment.

R6-15-503. Special Income Provisions: Child Support, Alimony or Spousal Maintenance

- A. The Agency shall count support payments received by a member of the Arizona Works group before the eligibility determination date as income in the month received.
- B. After the eligibility determination date, and if the application is approved, the Agency shall count current support payments that are received and retained by DCSE, on behalf of an Arizona Works group member, as unearned income in the month received for the purpose of determining continued eligibility. The Agency shall attribute the income to the Arizona Works group, and add it to the group's other income, to determine if the group meets the financial eligibility criteria.
- C. After the eligibility approval date, if DCSE notifies the Agency that an Arizona Works group member fails to turn over the support assigned to the Department, the Agency shall:
 - 1. Count the support received directly by an Arizona Works group member, as provided in subsection (A); and
 - 2. Sanction the grant as provided in R6-15-802.

R6-15-504. Special Income Provisions: Non-Recurring Lump Sum Income

When an Arizona Works group receives a non-recurring lump sum payment, the Agency shall treat the lump sum payment as a resource, in accordance with Article 4.

R6-15-505. Calculating Monthly Income

- A. The Agency shall calculate monthly income for an Arizona Works group using the methods described in this section.

- B. The projected income shall include income which the Arizona Works group has received and reasonably expects to receive in an assistance month, and shall be based on the Agency's reasonable expectation and knowledge of the Arizona Works group's current, past, and future circumstances.
- C. The Agency shall include in its calculation all gross income from every source available to the Arizona Works group unless the income is specifically excluded in this Article.
- D. The Agency shall convert income received more frequently than monthly into a monthly amount as follows:
 - 1. Multiply weekly amounts by 4.3.
 - 2. Multiply biweekly amounts by 2.15.
 - 3. Multiply semi-monthly amounts by 2.
- E. The Agency shall determine a new calculation of projected income:
 - 1. At each review, and
 - 2. When there is a change in countable income.
- E. The Agency shall determine projected monthly income for an Arizona Works group by the methods described below.
 - 1. Averaging income.
 - a. When using this method, the Agency shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
 - b. The Agency shall average income for an Arizona Works group which receives income:
 - i. Irregularly; or
 - ii. Regularly, but from sources or in amounts which vary.
 - 2. Prorating income.
 - a. When using this method, the Agency shall average income over the period of time the income is intended to cover.
 - b. The Agency shall prorate income for an Arizona Works group which receives income intended to cover a fixed period of time. When a person receives income pursuant to a fixed-term employment contract:
 - i. Income is counted in the month received, if received monthly or more often, throughout all months of the contract;
 - ii. Income is prorated over the number of months in the contract if payment is received before or during the time work is performed, but not as specified in subsection (F)(2)(b)(i) above; and
 - iii. Income is prorated over the number of months in the contract if payment is received upon completion of the work.
 - c. For Arizona Works cases under subsection (F)(2)(b)(iii) above, the Agency shall total the resulting amounts for each month and count the amount in the month received as a lump sum under R6-15-504.
 - 3. Actual income.
 - a. When using this method, the Agency shall use the actual amount of income received in a month and shall not convert the income to a monthly amount as indicated in subsection (D).
 - b. The Agency shall use actual income for an Arizona Works group which:
 - i. Receives or reasonably expects to receive less than a full month's income from a new source,
 - ii. Has lost a source of income, or
 - iii. Is paid daily.

R6-15-506. Earned Income Disregards

For the purpose of determining income eligibility for an initial applicant, as provided in R6-15-701(B)(3), the Agency shall disregard the following income:

1. Income of a dependent child, as described below:
 - a. All earned income derived from JTPA participation, for up to 6 months per calendar year;
 - b. All unearned income derived from JTPA participation; and
 - c. All income derived from the Summer Youth Employment and Training Program (SYETP);
2. A \$90 cost of employment disregard for each employed person included in the Arizona Works group;
3. The full amount of verified billed expenses for the care of each dependent child and incapacitated adult group member who is receiving an Arizona Works cash grant, up to \$200.00 a month for a child under 2 years of age and up to \$175.00 a month for each other dependent; and
4. For each wage earning member of the group, 30% of each member's earned income after 1st applying the disregards listed in subsections (1) through (3) above.

ARTICLE 6. WORK PARTICIPATION; EMPLOYMENT LEVELS

R6-15-601. Assessment

- A. Except in child only cases, an applicant shall meet with a job counselor to determine the most appropriate program for self-sufficiency and to develop an individual responsibility plan.
- B. The job counselor shall assess the participant's employability, based on the participant's:
 1. Educational and employment history;
 2. Skills, talents, and interests;
 3. Need for child care or other support services; and
 4. Family circumstances and other factors which may affect the participant's employability, including domestic violence as described at R6-15-604(A)(1).

R6-15-602. Assignment of Employment Levels

- A. The Agency shall assign the participant to the most appropriate level of employment based on the assessment conducted under R6-15-601.
- B. Arizona Works has the following 4 levels of employment listed below:
 1. A Level 1 placement means full time unsubsidized employment in which the job counselor shall assist the person in the employment search.
 2. A Level 2 placement means subsidized, paid employment in which the Agency pays an employer a subsidy to employ a participant in work that will give the participant training and experience designed to improve the participant's employability and help the participant move promptly to unsubsidized employment.
 3. A Level 3 placement means a trial job that is an unsubsidized, unpaid position the Agency has solicited from the community at large and is designed to improve the participant's employability by providing work experience and training to help the participant to move promptly to unsubsidized employment.
 4. A Level 4 placement means a community referral in which the participant chooses a work assignment from a variety of community and faith-based service providers under contract with the Agency.

R6-15-603. Work Requirement

- A. A recipient of Arizona Works shall participate in work activities except as provided in subsection (B).
- B. The Agency shall not require a recipient to participate in work activities if the recipient is:
 1. A dependent child under age 16, or, age 16 through 18 and attending school; or
 2. Temporarily excused from work participation under R6-15-604.
- C. The Agency shall assign all recipients not excused under subsection (B) to work activities for at least the minimum number of hours per week required to meet the work requirement.

R6-15-604. Participants Who are Temporarily Excused From Work Participation

- A. The Agency may temporarily excuse from participation in assigned work activities a recipient who is:
 1. A victim of domestic violence whose participation in work activities poses an immediate threat to the safety of the recipient or the recipient's child;
 2. Experiencing health problems as determined by a licensed physician, which prevent participation in work activities; or
 3. Experiencing a family emergency which prevents participation in work activities;
- B. If the Agency excuses a person for domestic violence under subsection (A)(1), the Agency shall limit the deferral to the time the recipient needs to make changes in circumstances which will enable the recipient to safely participate in work activities. The temporary deferral shall not exceed 6 months.
- C. The Agency shall temporarily excuse from participation in assigned work activities a recipient who is:
 1. In the last 2 weeks of pregnancy, or
 2. Caring for her newborn child for up to 12 weeks after the child's birth or for a length of time verified as medically necessary by a licensed physician.
- D. The Agency shall request, and the participant shall provide, verification to substantiate the reason the participant is being temporarily excused from work participation for a reason listed in this Section.
- E. The job counselor shall determine, based on verification provided by the participant:
 1. The appropriateness of a participant's request to be temporarily excused, and
 2. The length of time a participant is temporarily excused from work participation.

R6-15-605. Individual Responsibility Plan

Based on the assessment prescribed in R6-15-601, the job counselor, in consultation with the participant, shall develop an individual responsibility plan for the participant, which shall include:

1. The participant's responsibility to move toward self-sufficiency and to meet the work requirement,
2. The participant's employment goal,
3. The participant's understanding of the consequences for not cooperating with the requirements of Arizona Works,
4. How the Agency will assist the participant to move toward self-sufficiency, and
5. Signatures of the participant and job counselor.

R6-15-606. Job Counselor; Assisted Employment Plan

- A. If a participant uses the services of the job counselor to obtain employment and meets non-financial eligibility requirements prescribed in Article 3 and financial eligibility requirements prescribed in Articles 4 and 5, the job counselor shall, in consultation with the participant:

1. Develop the employment plan, and
2. Assign the participant to 1 of the 4 employment levels in R6-15-602.
- B. The employment plan shall include:
 1. The employment goal;
 2. Work activities, including begin and end dates;
 3. Support services the Agency will provide to the participant; and
 4. Signatures of the participant and job counselor.
- C. The signed employment plan shall serve as an agreement between the Agency and the participant.
- D. The job counselor, in consultation with the participant, may revise the employment plan as needed to ensure the participant continues to advance toward the employment goal.
- E. The Agency shall sanction the participant, as set forth in R6-15-802 and R6-15-803 for failure to comply with the terms of the agreement.
- F. When an applicant does not use the services of the job counselor, the application for Arizona Works will be denied.

R6-15-607. Education and Training Activities

- A. The job counselor may assign a participant to education and training activities, in addition to 1 of the employment placement levels, as part of the employment plan and as required to help a participant obtain employment.
- B. Total participation in the work placement level and education and training activities shall not exceed 40 hours per week.
- C. The Agency shall deem a teen custodial parent to meet the work requirement if the teen parent participates in educational activities as described in R6-15-609(A).
- D. The job counselor may assign a participant to the following education and training activities:
 1. Employment-related training and education activities, for up to 1 year, which may include:
 - a. Technical college courses,
 - b. Educational courses that provide an employment skill, and
 - c. Other employment-related education and training.
 2. Job readiness training in accordance with limitations as prescribed at R6-15-608;
 3. Secondary school or GED preparation;
 4. English for Speakers of Other Languages (ESOL);
 5. Adult basic education, which includes remedial reading and math; and
 6. Job skills training.

R6-15-608. Employment Search and Job Readiness Activities

- A. The job counselor may assign a participant to employment search and job readiness activities as part of the employment plan and as required to help a participant obtain employment.
- B. Employment search or job readiness activities, or any combination of the 2, shall count toward the work requirement in accordance with limitations in 42 U.S.C. § 607 (August 22, 1996). This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the Department's Authority Library, 1789 West Jefferson, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.

R6-15-609. Participation Deemed to Be Meeting the Work Requirement

- A. The Agency shall deem the following participants to be meeting the work requirement:

1. An individual who is participating in work activities for at least the minimum average number of hours per week as described in R6-15-603(C);
2. A single, teen custodial parent, or married teen parent under age 20 who:
 - a. Is head of household,
 - b. Has not obtained a high school diploma or GED, and
 - c. Maintains satisfactory attendance in high school or GED activities; and
3. A single, teen custodial parent, or a married teen parent under age 20 who:
 - a. Is head of household,
 - b. Has not obtained a high school diploma or GED, and
 - c. Satisfactorily participates in education directly related to employment for at least the minimum number of hours required to meet the work requirement.

- B. A participant who falls in 1 of the categories shown in subsection (A), who is deemed to be meeting the work requirement, may participate in additional work activities.

R6-15-610. Support Services

- A. The Agency shall ensure that child care is provided for all Arizona Works work activities, except, in 2-parent families, child care is provided only when both parents are meeting the work requirement.
- B. The Agency may provide other support services to enable the participant to engage in work activities and obtain employment.

R6-15-611. Noncompliance: Good Cause

- A. If a participant fails to appear for an interview as an assigned work activity, the job counselor shall determine whether good cause exists as described in subsection (C) or (D) below.
- B. To establish good cause, the participant shall notify the job counselor within 10 calendar days of the reasons for not complying with the work requirements.
- C. Good cause for noncompliance with work requirements shall include the following circumstances:
 1. The participant had a required court appearance;
 2. The participant needed child care to participate in or accept employment and verifies that child care for a child under the age of 13 was unavailable, unaffordable, or unsuitable;
 3. The participant was ill and unable to work;
 4. Inclement weather prevented the participant and others similarly situated from traveling to the employment site;
 5. Any absence due to a mandatory meeting, administrative hearing, or court appearance to comply with child support enforcement requirements; or
 6. Other comparable or similar circumstances beyond the participant's reasonable control.
- D. The job counselor may require the participant to provide written documentation of good cause, including:
 1. A court appointment notice, warrant, or subpoena;
 2. Information from the DES Child Care Administration;
 3. A physician statement;
 4. Public knowledge or newspaper article; or
 5. When no other verification is available, a signed participant statement containing all factors contributing to the failure to comply.

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- E. If a participant fails to participate without good cause, the Agency shall sanction the participant under R6-15-802 and R6-15-803.
- F. A participant who wishes to appeal Agency determinations regarding good cause or sanctions shall file a written request with the Agency.

ARTICLE 7. ELIGIBILITY AND PAYMENTS

R6-15-701. Determining Eligibility

- A. The Agency shall determine eligibility for a specific benefit month based on its best estimate of all non-financial, resource, and financial criteria that exist, and are expected to exist, for that month.
- B. An Arizona Works group is eligible for Arizona Works when the Agency finds that the group:
 - 1. Satisfies the non-financial eligibility criteria described in this Chapter;
 - 2. Does not exceed the resource limits described in Article 4 of this Chapter; and
 - 3. Does not have gross income, less earned income disregards allowed by R6-15-506, in excess of 36% of the 1992 Federal Poverty Level.

R6-15-702. Notice of Determination

- A. If the Arizona Works group satisfies all eligibility criteria as specified in this Chapter, the Agency shall send notice of approval to the applicant.
- B. If the Arizona Works group does not satisfy 1 or more of the eligibility criteria specified in this Chapter, the Agency shall send a denial notice to the applicant's last known address. The notice shall describe the action taken, the specific authority for the action, the applicant's right to request a hearing to challenge the action, and the procedures for obtaining a hearing.

R6-15-703. Benefits for Participants in Employment Positions

- A. An Arizona Works participant shall receive compensation listed in this section:
 - 1. For Level 1 employment: the unsubsidized amount paid by the employer.
 - 2. For Level 2 employment: the subsidized amount paid by the employer.
 - 3. For Level 3 employment: a maximum monthly grant of \$390.00.
 - 4. For Level 4 employment: a maximum monthly grant of \$350.00.
 - 5. For pregnant women or a custodial parent of a child who is 12 weeks old or younger: a maximum monthly grant of \$390.00 or the amount offered under the parent's employment placement, whichever is less.
 - 6. For child only cases: A maximum monthly grant of \$204.00 for the 1st child and \$72.00 per month for each additional child paid to the adult or adult relative who is caring for the child or children.
- B. The Agency shall pay benefits for the month of application only from the filing date of the application. The benefit amount is prorated based on the number of days remaining in the month after the date of application.

R6-15-704. Payment of Benefits for Participation in Levels 3 and 4

The Agency shall approve eligibility and the Department shall issue benefits to an eligible Arizona Works group only during a month for which the group is eligible for a payment.

R6-15-705. Non-Receipt of Payments

If a participant reports non-receipt of a payment once work has been completed, the Department shall replace the benefit within 3 work days from the date of the report.

R6-15-706. Protective Payee

- A. The Department shall issue benefits to a protective payee who is not a member of the Arizona Works group:
 - 1. On behalf of all group members when a state or tribal protective service agency notifies the Agency that the recipient is mismanaging or misappropriating benefits; and
 - 2. On behalf of all group members other than the designated recipient when the recipient has been disqualified as the result of an intentional program violation and the Agency determines that the recipient is ineligible to receive Arizona Works cash payments.
- B. The Agency, with the assistance of the recipient, shall select a protective payee, who may be any adult, other than the following:
 - 1. An employee in the Department's Office of Special Investigations,
 - 2. A Department or Agency employee who handles fiscal processes related to the cash assistance program,
 - 3. An Agency officer,
 - 4. An Agency interviewer,
 - 5. An Agency job counselor, or
 - 6. A vendor of goods or services who deals directly with the recipient.
- C. Protective payments shall terminate:
 - 1. In cases of mismanagement upon a determination by the protective services agency that protective payments are no longer required to avoid further mismanagement; and
 - 2. In IPV cases, when the recipient's period of disqualification for the related IPV determination ends.

ARTICLE 8. CHANGES; ADVERSE ACTION

R6-15-801. Reporting Changes

- A. As a condition of eligibility, the Arizona Works group shall advise the Agency of all changes in income, resources, employment, or other circumstances which may affect eligibility, within 10 calendar days from the date the change becomes known.
- B. A change report is timely if the mailing date is on or before the 10th day from the date the change becomes known.
- C. As a condition of eligibility, a custodial parent shall notify the Agency when a dependent child is absent from the home for a period longer than 30 days. The parent shall notify the Agency within 5 calendar days from the date that the parent determines that the dependent child will be absent.

R6-15-802. Sanctions: Applicable to Grant

- A. The Agency shall impose a series of graduated sanctions as described in subsection (C) for the following:
 - 1. Failure to comply with an interview with a prospective employer,
 - 2. Failure to comply with assigned educational or training activities, or
 - 3. Failure to comply with assigned work activities.
- B. Noncompliance with 1 or more of the requirements listed in subsection (A) during any calendar month is deemed a month of noncompliance and shall result in the sanctions prescribed in subsection (C).
- C. The Agency shall impose the following sanctions even if the months of noncompliance are consecutive:

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1. For the 1st sanction due to any noncompliance, the monthly grant is reduced by 25%;
 2. For the 2nd sanction due to any noncompliance, the monthly grant is reduced by 50%;
 3. For the 3rd or subsequent sanctions due to any noncompliance, the cash grant is terminated for at least 1 month and the termination continues until the participant meets with the job counselor and begins the assigned activities.
- D. The Agency shall terminate eligibility for a custodial parent who fails to give notice as prescribed in R6-15-801(C).

R6-15-803. Sanctions; Hourly

- A. If a participant is placed in level 3 or 4, the Agency shall reduce the grant amount by \$3.25 per hour for each hour the participant misses scheduled employment preparation activities or employment without good cause. The job counselor shall determine good cause under R6-15-611.
- B. The Agency shall apply the hourly sanctions to the 1st cash assistance payment possible.
- C. For placement under level 2, the employer shall pay the employee for only the number of hours worked, in accordance with the employer's regular policies for all similarly situated employees.

R6-15-804. Effective Date

Ineligibility for an individual member of an Arizona Works group begins on the 1st day of the 1st month in which the member or group did not meet the eligibility requirements.

R6-15-805. Notice of Adverse Action

- A. When the Agency plans to take adverse action against an Arizona Works group, the Agency shall provide the group with adequate and timely notice, except as provided in subsection (D) below.
- B. The Agency shall mail the timely notice, 1st class, postage prepaid, to the group's last known residential address, or other designated mailing address 10 days prior to the effective date of the adverse action.
- C. In addition to the information listed in R6-15-101(1), the notice shall contain the following information:
1. The date the adverse action is effective; and
 2. Any effect the intended action may have on the group members' other benefits.
- D. The Agency may dispense with timely notice, but shall provide adequate notice of adverse action when:
1. A participant or payee dies and no emergency payee is available;
 2. A participant makes a written request for termination;
 3. A participant is ineligible due to incarceration, hospitalization, or institutionalization in a skilled nursing care or intermediate care facility;
 4. The participant's address is unknown;
 5. The Agency has verified that the participant has been accepted for cash assistance outside the Arizona Works project area;
 6. A dependent child who is a member of an Arizona Works group, and is not a child only case, is legally removed from home, or voluntarily placed in foster care by the child's parent or legal guardian; or
 7. The participant furnishes information that results in reduction or termination of cash assistance and indicates in writing an understanding of the consequences that may result from furnishing the information.

- E. A recipient is presumed to have received the notice of adverse action on the 10th day following the mailing date of the notice when the Agency has mailed the notice to the persons last known address of record, unless the facts show otherwise.

ARTICLE 9. OVERPAYMENTS

R6-15-901. Collection

- A. Except as provided in subsection (D), the Department's Office of Accounts Receivable and Collections shall pursue collection of all overpayments.
- B. The Agency shall write an overpayment report within 90 days of determining that an overpayment exists.
- C. If the Agency suspects that an overpayment was caused by fraudulent activity, the Agency shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
- D. The Department shall not try to collect an overpayment from a person who is not a current recipient when the overpayment was not the result of an intentional program violation or fraud, and:
1. The total overpayment is less than \$35; or
 2. The Department has exhausted reasonable efforts to collect an overpayment of \$35 or more, and has determined that it is no longer cost-effective to pursue the claim.

R6-15-902. Notice

The Department shall issue a notice of overpayment to the Arizona Works group after the Department receives an overpayment report from the Agency.

R6-15-903. Persons Liable

- A. The Department shall pursue collection of an overpayment from:
1. The Arizona Works group that was overpaid;
 2. Any Arizona Works group of which a member of the overpaid group has subsequently become a member; or
 3. Any individual member of the overpaid group, even if that member is not currently receiving benefits.
- B. The Department shall try to collect 1st from the caretaker relative, or the caretaker relative's current Arizona Works group. If the caretaker relative is unavailable due to death or disappearance, or was not a member of the overpaid group, the Department shall try to collect from the other members of the overpaid group, or the other members' current Arizona Works groups.

R6-15-904. Recoupment

- A. When an overpaid Arizona Works group is currently receiving benefits, the Department shall permit the group to choose 1 of the following repayment methods:
1. Offset against any underpayment due the group;
 2. Cash payments;
 3. Reduction in current benefits for participation in employment positions, in an amount not to exceed 10% of the group's monthly payment, unless the group desires a larger reduction;
 4. A combination of the above methods.
- B. If the repayment reduces the group's cash assistance to zero, the group is still eligible for Arizona Works for all other purposes.
- C. If the Arizona Works group is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

ARTICLE 10. INTENTIONAL PROGRAM VIOLATIONS

R6-15-1001. Disqualification

- A. An intentional program violation (IPV) is an action by an individual, for the purpose of establishing or maintaining the family's eligibility for Arizona Works or for increasing or preventing a reduction in the amount of the benefit which is:
1. An intentionally false or misleading statement or misrepresentation, concealment, or withholding of facts; or
 2. Intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- B. For the purpose of imposing sanctions under R6-15-1002, a person is deemed to have committed an IPV if:
1. The person signs a waiver of an administrative disqualification hearing;
 2. The person is found to have committed an IPV by an administrative disqualification hearing; or
 3. The person is convicted of IPV or fraud in a court of law.

R6-15-1002. Disqualification Sanctions

- A. An Arizona Works group that contains a person found to have committed an IPV is disqualified from program participation for 1 year for the 1st violation; 2 years for the 2nd violation; and permanently for the 3rd violation.
- B. Upon a determination of IPV, the Agency shall notify the violator of the pending disqualification. The notice shall:
1. Inform the violator of the decision and the reasons for the decision;
 2. Provide the beginning date and duration of the disqualification, including an explanation of any deferment of disqualification; and
 3. Explain the consequences of the disqualification on group members other than the violator.

R6-15-1003. Recognizing Out of State IPV Determinations

The Agency shall honor sanctions imposed against an applicant or recipient by the Department or an agency of another state, and shall consider prior violations committed in another area or state when determining the appropriate sanction.

ARTICLE 11. SUBSIDIZED EMPLOYMENT PROGRAM

R6-15-1101. Subsidized Employment Program

- A. The job counselor may assign a participant to the Subsidized Employment Program after assessing the participant's skills and experience, as described in R6-15-601, and developing an employment plan, as described in R6-15-606.
- B. The Agency shall make referrals to employers by matching a participant's skills, experience, and employment goal with employer requirements.
- C. Participants shall work up to 40 hours per week. The minimum number of hours is determined by the work requirement.
- D. An employer shall pay at least the federal minimum hourly wage.
- E. The Agency shall schedule the participant for an interview with the prospective employer and notify the participant of the interview date, place, and time.
- F. The employer shall decide whether to hire the participant.
- G. A participant shall abide by an employer's regular requirements regarding:
1. Submitting an application for employment.
 2. Appearing for interviews.
 3. Providing necessary information such as citizenship verification.
 4. Hours of employment.

5. Attendance.
6. Job performance.
7. Conduct, and
8. Other similar conditions of the employment.

H. A participant shall:

1. Appear for any required assessment interview with the job counselor;
2. Accept and maintain subsidized employment;
3. Establish good cause for failing to participate, as described in R6-15-611;
4. Report changes to the job counselor which affect subsidized employment participation such as:
 - a. Accepting or refusing an offer of permanent employment.
 - b. Absence from or termination of employment.
 - c. Job position or function modifications, and
 - d. Other similar events.

I. At the end of each work week, a participant shall complete and sign the Agency form on which the participant shall indicate their name, days and hours worked, and pay received. The participant shall obtain the signature of their supervisor, or the supervisor's designee, on the form and send the form to the job counselor.

J. The job counselor shall reassess the person's employability after each 6 months of an individual's participation in subsidized employment.

K. Subsidized employment assignments may continue for up to 6 months with an option to renew the placement for an additional 3 months at the discretion of the job counselor if the employer and the participant agree to continue the employment.

1. If a participant's employer wishes to request an extension, the employer shall request the extension in writing and shall provide the following information on which the job counselor shall base the decision to extend:
 - a. Name of the participant for whom the extension is requested.
 - b. Position for which an extension is requested.
 - c. What additional experience or training is needed to achieve competency.
 - d. The employer's expectation for hiring the individual following the extension.
 - e. The length of the extension, and
 - f. Any information the employer has to show that extension is necessary.

2. A participant who receives an extension of the subsidized employment placement shall conduct a job search for up to 8 hours per week during the extension; and
3. The employer shall consider time the participant spends in the job search, up to 8 hours per week, as hours worked for the purpose of paying wages.

L. If the subsidized employer does not hire the participant for an unsubsidized position after 9 months in the placement, the job counselor, with the concurrence of the participant, shall terminate the placement and reassess the participant's employment needs.

M. Total subsidized employment time for a participant shall not extend past four 6-month assignments, for a total of 24 months.

N. The employer may terminate the assignment by contacting the job counselor.

O. Upon receipt of a termination request the job counselor shall review the placement to determine whether the employer or the participant violated work requirements. If no violation occurred, the job counselor shall:

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1. Reassess the needs and skills of the participant, and
 2. Assign the participant to:
 - a. Another subsidized employment placement, or
 - b. Placement in another employment level or work activity.
- P.** If the employer terminates the participant for willful misconduct during employment, or if the participant refuses to comply with work requirements, refuses to accept a subsidized employment assignment without good cause, or establishes a pattern of early self-termination from Program placements, the job counselor shall:
1. Place the participant in an appropriate employment level, and
 2. Sanction the participant under R6-15-802.

R6-15-1102. Subsidized Employer Program: Employer Participation

- A.** To qualify for participation in the subsidized employment program, an employer shall:
1. Agree to place a participant in a position for a number of hours that is not less than that required by the federal work requirement and not more than 40 hours per week;
 2. Reasonably expect to offer the participant an opportunity for full-time, unsubsidized employment;
 3. Not put the participant in a position that will displace a regular employee;
 4. Limit the number of subsidized employees to at least 1 employee but no more than 10% of the workforce, unless the Agency grants a waiver allowing more under A.R.S. § 46-352(B);
 5. Pay wages that are equal to wages paid for similar jobs, with like adjustments for experience and skills, but never less than federal minimum wage;
 6. Provide on-the-job training, including workplace mentoring, to the degree a participant needs to perform job duties;
 7. If a registered contractor, provide on-the-job training by enrolling the participant in a program approved by the Department of Labor, Bureau of Apprenticeship and Training;
 8. Maintain safety, health, and working conditions at or above levels generally acceptable in the industry and no less than that of comparable jobs offered by the employer;
 9. Provide health care coverage, sick leave, holiday and vacation leave, and other comparable benefits in conformance with the employer's rules for temporary employees;
 10. Provide Worker's Compensation coverage;
 11. Help the participant obtain any advance Earned Income Credit for which the participant may be eligible;
 12. Sign an agreement for each placement outlining the specific job offered to the participant and agreeing to abide by all requirements of the subsidized employment program.
- B.** If the employer satisfies the criteria listed in subsection (A), the employer may place a job order with the Agency. The order shall include the following information on the available position:
1. Days and hours of work,
 2. Wages,
 3. Description of responsibilities,
 4. Benefits,
 5. Opportunity for advancement, and
 6. Other pertinent job-related information.

- C.** An employer who wishes to hire a participant shall sign an agreement with the Agency.
1. The employer shall affirm that the employer satisfies all the criteria in this Section and shall continue to meet the criteria while participating in the Subsidized Employment Program.
 2. If the employer violates a Subsidized Employment Program requirement, the employer shall repay any reimbursements the employer receives after the date of the violation.
 3. The employer shall avoid conflicts of interest and the appearance of impropriety or favoritism in hiring practices, such as preferential hiring of relatives, friends, and business associates.
 4. The employer shall prepare and provide to the Agency the following reports:
 - a. Each week, the employer shall verify and sign a time sheet for each participant stating:
 - i. Gross wages,
 - ii. Participant net earnings,
 - iii. Number of paid hours of work (including paid hours of leave),
 - iv. Hours for which a participant was not paid because the participant had an unexcused absence, and
 - v. Hours for which the participant was not paid because the employer reduced available work hours.
 - b. For the 1st 3 months of a placement, the employer shall complete and provide to the Agency, no later than the 10th workday of each calendar month following a month of work, a 1-page report on each participant's performance with the following information:
 - i. Skills (competencies) gained as a result of employment;
 - ii. Ability to correctly and timely complete assignments;
 - iii. General work habits such as punctuality, absenteeism, and neatness of work area; and
 - iv. Development of effective and efficient working relationships with people, including supervisors, peers, and subordinates.
 5. An employer shall allow Agency staff to schedule and make visits to the work site to observe a participant's work activities and interview the participant.
- D.** The employer, an Agency representative, and the participant shall sign and date the agreement.
- E.** An employer who wishes to participate in the Subsidized Employment Program shall also provide the Agency with a signed, dated, and certified form. On the form, the employer shall certify that the information listed below is true, as to the employer, and its principal officers and directors.
1. The employer is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency, the State of Arizona, or any other state.
 2. The employer has not, within the preceding 3 years, been convicted of or had a civil judgment rendered against the employer for:
 - a. Fraud,
 - b. Antitrust,
 - c. Embezzlement,
 - d. Theft,
 - e. Forgery.

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- f. Bribery.
 - g. Falsification or destruction of records.
 - h. Making false statements, or
 - i. Receiving stolen property.
 - F. For each participant the Agency shall reimburse an employer in an amount not to exceed \$300 per month.
 - G. The Agency shall issue the reimbursement no later than the 25th day of the same calendar month in which the employer's
- report is timely received. Late receipt of the form may delay reimbursements.
 - H. An employer who disagrees with the amount of an unsubsidized payment, or who is subject to adverse action under subsection (I), may file a grievance with the Agency.
 - I. The Agency shall conduct grievance procedures according to R6-10-303, except that the Agency will substitute for the Department.