

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

##### PREAMBLE

1. **Sections Affected**

R4-39-401	Amend
R4-39-402	Amend
R4-39-403	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute(general) and the statutes the rules are implementing (specific):**

Authorizing Statute: A.R.S. § 32-3003(A)(3), (5)  
Implementing Statute: A.R.S. §§ 32-3003(A)(8), 32-3021, 32-3022(C)(2), and 32-3051
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 1510, June 26, 1998.
4. **The name and address of agency personnel with whom person may communicate regarding the rulemaking:**

Name: Teri Candelaria, Executive Director  
Address: Arizona State Board for Private Postsecondary Education  
1400 West Washington, Room 260  
Phoenix, Arizona 85007  
Telephone: (602) 542-5709  
Fax: (602) 542-1253
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The board proposes to repeal R4-39-310 and move to R4-39-401 to make the rules more clear, concise and understandable.  
The proposed rulemaking for R4-39-401 and R4-39-402 is primarily technical and administrative in nature and to conform to rule drafting style.  
The proposed rulemaking for R4-39-403 is to comply with the 1992 Attorney General's opinion to strike the requirement that complaints must be filed within one year of the student's last day of attendance and to require that all student complaints be presented to the board for action. The board adopted this policy.
6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed 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:**

None.
7. **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.

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8. **The preliminary summary of the economic, small business, and consumer impact statement:**  
The proposed rulemaking is primarily technical and administrative in nature to conform to rule drafting style. The proposed rulemaking will make the rules more clear, concise and understandable. The Board and the institutions subject to licensure by the Board will benefit from this change.  
The Board does not anticipate additional costs to the Board or the institutions subject to licensure by the Board.
9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:**  
Name: Teri Candelaria, Executive Director  
Address: Arizona State Board for Private Postsecondary Education  
1400 W. Washington Street, Room 260  
Phoenix, Arizona 85007  
Telephone: (602) 542-5709  
Fax: (602) 542-1253
10. **The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**  
Date: February 25, 1999  
Time: 10 a.m. to 10:30 a.m.  
Location: State Board for Private Postsecondary Education  
1400 West Washington Street, 2<sup>nd</sup> Floor Conference Room  
Phoenix, Arizona 85007  
Nature: Oral Proceedings before the Arizona State Board for Private Postsecondary Education
11. **Any other matter 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.
12. **Incorporations by reference and their location in the rules:**  
Not applicable.
13. **The text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION**

**ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS**

Section

- R4-39-401. Student Record of Graduates  
R4-39-402. Preservation of Records  
R4-39-403. Student Complaint Procedures

**ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS**

**R4-39-401. Student Records of Graduates**

Each licensed institution shall maintain graduate records which shall contain all information as detailed in R4-39-310 of these rules. In addition, the graduate records shall indicate the following:

- A. Class rank upon graduating, where applicable.  
B. Job Placement provided, where applicable.  
C. Place of employment and beginning salary after graduation, where applicable.  
A. The institution shall maintain complete and accurate records for each student currently enrolled, including:  
1. An enrollment agreement containing, but not limited to the following information:  
a. Name and address of student.

- b. Signature of the student and an official of the institution.  
c. Commencement date of program.  
d. Title of the course or courses within the program.  
e. Total clock and credit hours of the program.  
f. Payment schedule and total cost to the student.  
g. Refund policy of the institution.  
h. A statement indicating that the individual signing the agreement has read and understands all aspects of the agreement.  
i. The holder in due course rule as defined in A.R.S. § 47-3302.  
j. A disclaimer by the institution that "job placement" is not guaranteed to graduates upon completion of this training or upon graduation.  
k. Student grievance procedures, if not printed in catalog, bulletin or other document provided each potential student.  
l. A cancellation notice in accordance with Federal Trade Commission (FTC) regulations.  
2. Grades received, where applicable.  
3. All obligations incurred and all funds paid by the student to the institution.  
4. Student attendance information.  
5. Counseling records.  
6. A transcript.

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7. Financial aid records.
  8. Copy of the entrance exam, if applicable.
- B.** Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the board.
- C.** An institution which gives credit toward a course based upon prior job experience, training, or life experience shall record each such credit in the institution's records relating to that student and in the student's official transcript and list the portion of the course for which the student is given credit. A copy of the transcript reflecting courses for which a student is given credit for prior job experience, training, or life experience shall be attached to the institution's official transcript and shall be retained as part of the student's permanent records.
- D.** Notwithstanding subsections A, B, and C, graduate records shall also include the following:
1. Class rank upon graduating, where applicable.
  2. Job placement provided, where applicable.
  3. Place of employment and beginning salary after graduation, where applicable.

**R4-39-402. Preservation of Records**

When an institution or program which is licensed by this board ceases operation, whether voluntarily or involuntarily, all educational records, or legible true copies of all educational records if originals are unavailable, shall be filed with the board within sixty (60) days of ceasing educational operations.

**R4-39-403. Student Complaint Procedures**

- A.** If a student has a complaint against a licensed institution or program and has exhausted all available grievance procedures established by the institution, that student may file a written complaint with the board. ~~All complaints must be filed within one (1) year of the student's last date of attendance.~~

- B.** ~~The board's staff shall investigate the complaint and attempt to resolve it. If the complaint cannot be resolved through the board's staff, the complaint may be placed on the agenda of the next board meeting for consideration by the board. The complainant and the institution or program shall receive written notice of the date, time and place at which the complaint will be heard by the board. Upon completion of board staff's investigation, the complaint will be referred to the Complaint Committee for a review and recommendation to the board.~~
- C.** After a review of the student complaint, the Complaint Committee will:
1. Determine that the student complaint needs further investigation and after further investigation is completed, the matter will be heard by the Complaint Committee or referred to the State Board.
  2. Determine that the student complaint does not result in a violation of statute or rule and recommend to the full State Board to dismiss the complaint.
  3. Determine that the complaint may result in a violation of statute or rule and send a report of its findings and its recommendation to the board.
- D.** Upon receipt of the Complaint Committee's findings and recommendation, the board shall affirm, reverse, adopt, modify, supplement, amend, or reject the report, in whole or in part, and make a final determination.
- C.E.** The complainant's failure to appear at the board meeting may result in dismissal of the complaint.
- D.F.** ~~If after hearing the complainant and the response of the institution, the~~ If the board determines there are reasonable grounds to believe that the institution complaint results in a violation of board statute or rules, the board shall set the matter for hearing pursuant to A.R.S. §§ 32-3051 and 32-3052.

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- 7. Financial aid records.
- 8. Copy of the entrance exam, if applicable.
- B. Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the board.
- C. An institution which gives credit toward a course based upon prior job experience, training, or life experience shall record each such credit in the institution's records relating to that student and in the student's official transcript and list the portion of the course for which the student is given credit. A copy of the transcript reflecting courses for which a student is given credit for prior job experience, training, or life experience shall be attached to the institution's official transcript and shall be retained as part of the student's permanent records.
- D. Notwithstanding subsections A, B, and C, graduate records shall also include the following:
  - 1. Class rank upon graduating, where applicable.
  - 2. Job placement provided, where applicable.
  - 3. Place of employment and beginning salary after graduation, where applicable.

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- B. ~~The board's staff shall investigate the complaint and attempt to resolve it. If the complaint cannot be resolved through the board's staff, the complaint may be placed on the agenda of the next board meeting for consideration by the board. The complainant and the institution or program shall receive written notice of the date, time and place at which the complaint will be heard by the board. Upon completion of board staff's investigation, the complaint will be referred to the Complaint Committee for a review and recommendation to the board.~~
- C. After a review of the student complaint, the Complaint Committee will:
  - 1. Determine that the student complaint needs further investigation and after further investigation is completed, the matter will be heard by the Complaint Committee or referred to the State Board.
  - 2. Determine that the student complaint does not result in a violation of statute or rule and recommend to the full State Board to dismiss the complaint.
  - 3. Determine that the complaint may result in a violation of statute or rule and send a report of its findings and its recommendation to the board.
- D. Upon receipt of the Complaint Committee's findings and recommendation, the board shall affirm, reverse, adopt, modify, supplement, amend, or reject the report, in whole or in part, and make a final determination.
- C.E. The complainant's failure to appear at the board meeting may result in dismissal of the complaint.
- D.F. ~~If after hearing the complainant and the response of the institution, the~~ If the board determines there are reasonable grounds to believe that the institution complaint results in a violation of board statute or rules, the board shall set the matter for hearing pursuant to A.R.S. §§ 32-3051 and 32-3052.