

# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and filing and the agency decides to prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

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

##### PREAMBLE

1. **Register citation and date for the original Notice of Proposed Rulemaking:**

5 A.A.R. 4, January 4, 1999.

**Previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 1510, June 26, 1998.

2. **Sections Affected**

R4-39-401  
R4-39-402  
R4-39-403

**Rulemaking Action**

Amend  
Amend  
Amend

3. **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), 32-3003(A)(5), 32-3003(A)(7), 32-3003(A)(15)

Implementing Statute: A.R.S. §§ 32-3003(A)(8), 32-3021, 32-3022, 32-3051

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

Name: Teri Candelaria, Executive Director

Address: Arizona State Board for Private Postsecondary Education  
1400 West Washington, Room 260  
Phoenix, AZ 85007

Telephone: (602) 542-5709

Fax: (602) 542-1253

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

In the proposed rule, the Board added requirements for student records. These requirements were in R4-39-310. In the proposed rule, the proposed rulemaking for R4-39-401 and R4-39-402 was primarily technical in nature and to conform to rule writing style. In the proposed rule, the proposed rulemaking for R4-39-403 was to strike the requirement that complaints must be filed within 1 year of the student's last day of attendance.

6. **An explanation of the substantial change which resulted in this supplemental notice:**

Based upon public comment, the Board is proposing to make 2 substantial changes to the proposed rules. The Board is proposing to amend R4-39-401(A)(7), Financial Aid Records, to be consistent with record requirements of the U.S. Department of Education, 1998 Amendments to the Higher Education Act. The Board is also amending R4-39-403 regarding procedures and time limits for the filing of student complaints.

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.

8. **The preliminary summary of the economic, small business, and consumer impact statement:**

It is expected that the benefits of the rules will be greater than the costs. The repeal, renumbering, and amending of the rules will benefit the public by making the rules more clear, concise, and understandable. The Board will incur the costs associated with rule-making. Taxpayers are not expected to incur expenses.

Notices of Supplemental Proposed Rulemaking

**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 West Washington, Room 260  
Phoenix, AZ 85007  
Telephone: 602-542-5709  
Fax: 602-542-1253

**10. The time, place, and nature of the oral proceedings for the adoption, amendment, or repeal of rule:**

No oral proceedings are scheduled. The Board will schedule an oral proceeding on the proposed rules if a written request for the proceeding is submitted to the Board personnel listed in question #4 of the preamble by at least 5 persons. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement may be submitted to the person listed in question #9 no later than 5 p.m., October 29, 1999.

**11. 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.

**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**

Sections

- R4-39-401. Student Records 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; and
    - 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;

Notices of Supplemental Proposed Rulemaking

5. Counseling records;
  6. A transcript;
  7. Financial aid records for a length of time as required by the U. S. Department of Education; and
  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)~~ 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~~ 3 years 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 Board.
  2. Determine that the student complaint does not result in a violation of statute or rule and recommend to the 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.
- ~~**E.**~~ The complainant's failure to appear at the Board meeting may result in dismissal of the complaint.
- ~~**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 is 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.