

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

#### PREAMBLE

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|--|---|
| <p>1. <b><u>Sections Affected</u></b><br/>R2-5-902</p> | <p><b><u>Rulemaking Action</u></b><br/>Repeal</p> |
|--|---|
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. § 41-763  
Implementing statute: None
3. **The effective date of the rules:**  
November 2, 1999
4. **A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Docket Opening: 5 A.A.R. 2444, July 30, 1999.  
Notice of Proposed Rulemaking: 5 A.A.R. 2420, July 30, 1999.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
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|------------|--|
| Name:      | Gordon Carrigan, Human Resources Generalist                                    |
| Address:   | Department of Administration<br>1831 W. Jefferson, Rm 104<br>Phoenix, AZ 85007 |
| Telephone: | (602) 542-4784   |
| Fax:       | (602) 542-2796   |
6. **An explanation of the rule, including the agency's reason for initiating the rule:**  
The Reduction in Force rule was temporarily repealed effective April 13, 1998, by an exempt rule R2-5-902 promulgated under Laws 1997, Ch. 288, § 10. This rulemaking is a formality to permanently repeal the rule.
7. **A reference to any study that the agency relied on in its evaluation of or justification for the 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.
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:**  
There will be no economic, small business, or consumer impact from the repeal of this rule. The repeal is a house-keeping formality. The cost of the rulemaking has been minimal.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
No changes were made.
11. **A summary of the principal comments and the agency response to them:**  
No comments were received.
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.
15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION

ARTICLE 9. SEPARATIONS

Section

R2-5-902. Reduction in force Repealed

ARTICLE 9. SEPARATIONS

**R2-5-902. Reduction in force Repealed**

**A. General:**

1. An agency head shall request approval from the Director to conduct a reduction in force for any of the reasons set forth in A.R.S. § 41-783, paragraph (14), indicating the reason for the reduction, and the proposed geographic area and effective date of the reduction. Any personnel action which would have an effect on the reduction in force shall not be approved after the date of the agency head's request.
2. The request shall be submitted not less than 30 working days prior to the proposed effective date of the reduction in force. The Director shall respond within five working days. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.
3. If the reduction in force results from the abolition of a filled position, the agency may not re-establish the position for two years, unless the abolition of the position was due to fiscal constraints, legislative action, or court order.
4. When a program is abolished or an institution permanently terminates operation, so that the phasing out of operations occurs over a period of not less than three months, the Director, in consultation with the head of the agency, board, or commission considering reduction in force activity, shall develop and communicate to affected employees appropriate alternative reduction in force procedures to permit staggered phase-out and transfer, reduction, or separation of personnel as appropriate.
5. Subject to work requirements, each agency head shall allow employees affected by a reduction in force to be released from work with pay to attend state job interviews.

**B. Administration.** Except as provided in subsection (A), paragraph (4) above, a reduction in force shall be administered by the Director in the following manner:

1. Employees other than permanent status employees in the class series affected by the reduction in force shall be separated in the order listed below before any reduction in force action is taken affecting permanent status employees, providing the separation of these employees will accomplish, or assist in accomplishing, the purpose of the reduction in force:
  - a. Emergency employees.
  - b. Provisional employees.
  - c. Clerical pool employees.
  - d. Temporary employees.
  - e. Seasonal employees.
  - f. Original probationary employees.

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2. Retention points shall be used to identify permanent status employees for transfer, reduction, or separation based on the employee's relative standing on the retention list. Identification of employees to be considered first for transfer, reduction, or separation shall begin with the employee with the lowest number of retention points.
  3. Retention points will be based upon length of state service and performance, calculated in accordance with the instructions in subsections (C), (D) and (E). Service in positions which became covered in accordance with Chapter 4, Title 41, A.R.S. (formerly Chapter 6, Title 38, A.R.S.), shall be considered state service.
  4. Limited appointment employees shall compete for retention only against other limited appointment employees.
  5. Employees on promotional probation or detail to special duty shall compete for retention only in the class in which permanent status is held.
  6. A position which is undervalued shall be considered vacant at the allocated level.
  7. Permanent part time employees shall compete for retention only against other permanent part time employees.
- C.** Calculation of retention points for length of service.
1. Each permanent status employee shall be awarded one retention point for each month of state service, provided the employee has been in a pay status for at least one half of the employee's working days in that month.
  2. Periods of service as a state service employee prior to a separation shall not be counted except when the separation was of less than two years' duration, and the separation was not the result of disciplinary action.
  3. Periods of state service as a provisional, seasonal, temporary, limited, or clerical pool employee which are credited toward satisfying a subsequent original probationary requirement shall be counted.
  4. Periods of military leave with or without pay shall be counted.
  5. Periods of service on mobility assignment shall be counted.
  6. Prior service in a position which is transferred to state service by legislative action or otherwise from a budget unit of the state shall be counted.
- D.** Calculation of retention points for performance. The most recent performance evaluation, in the class permanently held by an employee, and concluded prior to the date of request for the reduction in force, shall be used in determining retention points. Any grievance on the most recent performance evaluation shall be resolved by the agency head prior to computing retention points. If an employee has not had a performance evaluation in the past 12 months, the employee shall be awarded 12 retention points. Retention points for performance shall be awarded as follows:
1. Each employee having a current overall performance evaluation of "Outstanding" shall be awarded 36 retention points.
  2. Each employee having a current overall performance evaluation of "Exceeded Results Expected" shall be awarded 24 retention points.
  3. Each employee having a current overall performance evaluation of "Achieved Results Expected" shall be awarded 12 retention points.
  4. Each employee having a current overall performance evaluation of "Needs Improvement" shall have twelve retention points subtracted from the total.
  5. Each employee having a current overall performance evaluation of "Unsatisfactory" shall not be awarded any retention points, and the employee shall be placed at the bottom of retention lists.
- E.** Resolution of ties. Ties in total retention points shall be broken in the following manner and order:
1. Employees shall be awarded one point for each full calendar month of state service in a pay status in the class affected by the reduction in force.
  2. If a tie continues to exist, the tie shall be broken by the employee with the highest overall performance evaluation in the class permanently held by the employee.
  3. If a tie continues to exist, the tie shall be broken by the employee with the earlier state service hire date.
  4. If a tie continues to exist, it shall be broken by lot.
- F.** Offer of position.
1. Provided the employee possesses the required minimum qualifications for the class, an employee who is identified for transfer or reduction shall be made the single best offer, in terms of pay grade, within the agency of:
    - a. A position at the same pay grade or lower in the same class series as the employee's present permanent status position; or
    - b. A position at the same pay grade or lower in a class series in which the employee has previously held permanent status. If that position is in a class which has been retitled or regraded without a major change in duties, that position may be offered to the employee.
    - c. If an employee can be made equal offers under the provisions of subparagraphs (a) and (b) above, the position covered by subparagraph (a) will be offered.
  2. In lieu of accepting a permanent position at a lower grade, an employee shall be given the option of accepting:
    - a. A vacant position at the employee's present pay grade for which the employee meets the minimum qualifications in a class series in which the employee has never held permanent status; or
    - b. A limited, seasonal, temporary, clerical pool, or part-time position at the employee's present pay grade for which the employee meets the minimum qualifications.

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3. ~~Employees must meet the required minimum qualifications and job-related selective requirements, if any, to be considered for a position. These selective requirements shall normally have been required when the position was last filled.~~
  4. ~~The agency shall give written notice at least 15 working days in advance to each employee to be transferred, reduced, or separated. If circumstances beyond the agency's control do not permit at least 15 working days' notice, the agency shall provide notice as soon as it is aware of the necessity to transfer, reduce, or separate the employee.~~
  5. ~~The notice shall include, as a minimum, the reason for and effective date of the action, the job offer, if any, to include the salary, location of the position, and supervisor's name, the availability of reduction in force procedures and records for review, the employee's right to request a review of the action, and the employee's reemployment rights, if applicable. Any job offer shall contain a time limitation of not less than five working days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time limitation, or failure to accept a job offer, shall constitute a resignation.~~
- G. Employee request for review.**
1. ~~Within five days of receipt of a reduction in force notice, an employee may submit in writing a request to the agency head for a review of the procedure resulting in the employee's transfer, reduction, or separation due to a reduction in force. The request must contain specific information concerning the error involved and a proposed resolution of the problem. The agency head shall review the request and respond to the employee within five working days after receipt of the request.~~
  2. ~~An employee who wishes further review may submit a written request to the Director within five working days after receipt of the agency head's response. The Director shall investigate and respond to the employee and the agency head with the final decision on the review within five working days of receipt of the employee's request.~~
  3. ~~The Director may postpone any portion of the reduction in force until the review requested by the employee has been completed.~~

**NOTICE OF FINAL RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 7. BOARD CHIROPRACTIC EXAMINERS**

**PREAMBLE**

1. **Sections Affected**

Article 13	<b><u>Rulemaking Action</u></b>
R4-7-1301	New Article
	New Section
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-904(B)(2)

Implementing statute: A.R.S. § 32-907
3. **The effective date of the rules:**

November 9, 1999
4. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 2060, June 25, 1999.

Notice of Proposed Rulemaking: 5 A.A.R. 2304, July 23, 1999.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Patrice A. Pritzl, Executive Director

Address: Board of Chiropractic Examiners  
5060 North 19th Avenue, Suite 416  
Phoenix, AZ 85015

Telephone: (602) 255-1444

Fax: (602) 255-4289
6. **An explanation of the rule, including the Agency's reasons for initiating the rule:**

The rule sets the fees associated with services which are requested from the Board.

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7. **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.

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 economic impact will be minor. The agency already provides and charges fees for the identified services.

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

Minor technical changes have been made based on suggestions from GRRC staff.

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

The agency did not receive written or oral comments.

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. **Incorporation by reference and their location in the rules:**

None.

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

No.

15. **The full text of the rules as follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

**ARTICLE 13. FEES**

Sections

R4-7-1301. Additional Fees

**ARTICLE 13. FEES**

**R4-7-1301. Additional Fees**

- A.** The Board shall collect fees for services as follows:

1. \$40.00 for directories, labels or lists of licensees, applicants, or other regulated parties.
2. \$40.00 for annual subscriptions for meeting minutes, agendas, or other agency documents published and provided on an ongoing basis for a period of 1 year.
3. \$10 for a jurisprudence booklet
4. \$5 for a duplicate renewal receipt.
5. \$20 for a duplicate ornamental license.
6. \$20 for a duplicate ornamental certificate
7. \$2.00 for a hard copy license or credential verification for each license or credential verification requested.

- B.** All fees are nonrefundable.