

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for 1 or 2 180-day periods if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA

ARTICLE 9. LANDS AND BUILDINGS

PREAMBLE

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|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R7-1-902 | New Section |
- 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. § 15-1424(B)(4)
- 3. The effective date of the rules:**
September 11, 2001
- 4. Is this rulemaking a renewal of a previous emergency rulemaking?**
No
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|-----------|--|
| Name: | Pete Gonzalez or Mary Jo Saiz |
| Address: | State Board of Directors for Community Colleges of Arizona
2020 N. Central Ave., Suite 570
Phoenix, AZ 85004 |
| Telephone | (602) 255-4037 |
| Fax: | (602) 279-3464 |
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
This rule will provide a process by which the community college districts may procure construction services.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the repeal of the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The summary of the economic, small business, and consumer impact statement:**
Not applicable
- 9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable

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

This rule incorporates A.R.S. §§ 41-2531 - 2534, 41-2536 -2537, 41-2539 -2540, 41-2544 and 41-2548 in R7-1-902 (A)(1); A.R.S. Title 41, Chapter 23, Article 5 in R7-1-902 (A)(1)(b);

Department of Administration Administrative Rules R2-7-301-303,305-306, 309-310, 313A&D, 314-319, 320A, 321, 326-337,354,365-366,369,410-411,501,503,506-515 in R7-1-902(A)(2);

State Board of Education Administrative Rules R7-2-1141-1146,1158-1159,1181-1182, 1184-1185 in R7-1-902(B).

11. An explanation of the situation justifying the rule's adoption as an emergency rule:

An emergency rule is justified in order to "preserve the public welfare" as set out in the letter of Karen Rizk, Chair of the State Board of Directors for Community Colleges of Arizona dated August 23, 2001, enclosed with this package.

12. The date of the Attorney General's approval of the emergency rule:

September 11, 2001

13. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA

ARTICLE 9. LANDS AND BUILDINGS

Section

R7-1-902. Renumbered Procurement of Construction and Construction Services for Community College Districts

ARTICLE 9. LANDS AND BUILDINGS

R7-1-902. Procurement of Construction and Construction Services for Community College Districts

A. Upon approval of construction projects by the State Board of Directors for Community Colleges of Arizona, pursuant to Arizona Administrative Code, Title 7, and Arizona Revised Statutes, Title 15, Chapter 12, the State Board of Directors for Community Colleges of Arizona hereby authorizes community college districts to procure construction and construction services. Community college districts that are seeking to procure construction or construction services, other than minor construction, remodeling and repair projects as defined in A.R.S. § 15-1424 M(1), shall comply with the following:

1. The following portions of the Arizona Procurement Code, A.R.S. Title 41, Chapter 23, which are incorporated by this reference and in effect as of the date of the adoption of this rule, but will not include any later amendments thereof:
 - a. A.R.S. Title 41, Chapter 23, Article 3, SOURCE SELECTION AND CONTRACT FORMATION as follows: A.R.S. §§ 41-2531 - 2534, 41-2536 - 2537, 41-2539 - 2540, 41-2544, and 41-2548.
 - b. A.R.S. Title 41, Chapter 23, Article 5, PROCUREMENT OF CONSTRUCTION AND SPECIFIED PROFESSIONAL SERVICES.
2. State Department of Administration Administrative Rules R2-7-301-303, 305-306, 309-310, 313A & D; 314-319, 320A, 321, 326-337, 354, 365-366, 369, 410-411, 501, 503, 506-515 which are incorporated by this reference and in effect as of the date of the adoption of this rule, but will not include any later amendments thereof.

B. Community college districts shall provide for the expeditious administrative review of all contract claims or controversies in a manner that is substantially equivalent to the procedures set forth in State Board of Education Administrative Rules R7-2-1141-1146, 1158-1159, 1181-1182, 1184-1185 which are incorporated by this reference and are in effect as of the date of the adoption of this rule, but will not include any later amendments thereof.

C. Minor construction, remodeling and repair projects as defined in A.R.S. § 15-1424 M(1) are not subject to this rule, except the reporting requirements of R7-1-903(D).

D. Definitions.

1. For purposes of interpreting the provisions of the State Procurement Code specified herein, the following definitions apply:
 - a. Designee means the duly authorized representative of a community college district.
 - b. Director means the chancellor/president of a community college district or his/her designee.
 - c. Procurement administrator or officer means the person so designated by a community college district.
 - d. Owner means a community college district or its designee.
 - e. Owner's agent means a community college district or its designee.
 - f. Purchasing agency means a community college district or its designee.
 - g. Head of a purchasing agency means a community college district or its designee.
 - h. State governmental unit means a community college district or its designee.
 - i. State means a community college district or its designee.

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2. For purposes of interpreting the provisions of the State Board of Education Administrative Rules regarding Bid Protests, the following definitions apply:
 - a. Executive Director of the State Board of Education means the chancellor/president of a community college district or his/her designee.
 - b. Governing board shall mean the governing board of a community college district.
 - c. School district shall mean a community college district.
 - d. Hearing officer is a person as defined in Rule R7-2-1185, except for purposes of this rule, a hearing officer must have a minimum of three years' experience in the practice of law or a minimum of three years' experience in procurement or facilities management for the State of Arizona or any political subdivision thereof.