

# 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* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

##### PREAMBLE

**1. Sections Affected**

Article 1  
R2-8-123  
Table 3  
Table 3  
Table 4  
Table 4A  
Table 4B  
Table 4C  
Table 5  
Table 5  
Table 5  
Table 6  
Table 6  
Table 7

**Rulemaking Action**

Amend  
Amend  
Repeal  
Renumber  
Renumber  
New Table  
New Table  
New Table  
Repeal  
Renumber  
Amend  
Renumber  
Amend  
Renumber

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statute the rules are implementing (specific):**

Authorizing statute: A.R.S. § 38-714(F)(5)

Implementing statutes: A.R.S. §§ 38-711(2), 38-711(24), 38-714(G), and 38-737

**3. The effective date of the rules:**

December 6, 2003

**4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 4423, October 18, 2002

Notice of Emergency Rulemaking: 9 A.A.R. 1006, March 21, 2003

Notice of Recodification: 9 A.A.R. 1470, May 16, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 1450, May 16, 2003

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

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or

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Name: Nancy Johnson, Rules Coordinator  
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**6. An explanation of the rules, including the agency's reasons for initiating the rules:**

The heading for Article 1 is changed to more accurately reflect its contents.

R2-8-123 and all its tables constitute the Board's direction to the Actuary, the professional organization contracted by the ASRS to perform the actuarial analysis of the ASRS plan for financial reporting purposes and for determining the contribution rate necessary to pay future benefits of ASRS members. The Actuary must use these tables and assumptions to determine the present value of future benefits from the Fund, which is the amount ASRS needs in the Fund now in order to pay benefits to all ASRS members when they qualify for benefits. This is a critical rule. Explanations follow.

**Subsection (B)(1)(a):** This assumption is necessary to determine how much must be in the Fund at the present time in order to pay future retirees. Example: based on all of the other assumptions and tables in this rule, a retiree is expected to retire in 10 years and to need \$240,000 in benefits before he or she dies. The actuary would discount the \$240,000 by 8% per annum, compounded annually, to determine the amount necessary in the fund TODAY in order to meet that future obligation.

**Subsection (B)(1)(b):** Tables 1 and 2 show the rates of long-term disablement that are assumed to occur among members (meaning disabilities which last longer than six months).

**Subsection (B)(1)(c):** Existing Tables 3 and 4 prescribe the assumptions to be used in estimating how long members will live (and therefore receive benefits.) Table 3, which applies to non-disabled members, has been eliminated and replaced by "incorporation by reference" to the table published by the Society of Actuaries. The Board believes that there is less chance of error by incorporating a table rather than retyping or reproducing it in the rule. The remainder of the tables have been renumbered accordingly.

**Subsection (B)(1)(d):** Existing Table 5 (now renumbered 4A, 4B, and 4C) shows the rate at which people are assumed to retire in a given year. The probability of retirement generally increases with age and years of credited service. Minor changes have been made to this table to reformat it more clearly (dividing it by age group into A, B, and C.) There is no actual material impact from this change.

**Subsection (B)(1)(e):** The table in this subsection shows how much salaries are assumed to increase during a member's career.

**Subsection (B)(1)(f):** Existing Tables 6 and 7 (now renumbered 5 and 6) are assumptions regarding members' leaving ASRS employment for reasons other than death, disability or retirement and withdrawing their contributions.

**Subsection (B)(1)(g):** The assumptions to be used for determining how many members will be eligible to receive the health insurance premium supplement when they retire.

**Subsection (B)(1)(h):** This subsection addresses the assumed proportion of vested terminated members who will not withdraw their contributions. Changes to this subsection are made to bring the rule into conformity with 1999 Legislation that allows a portion of the employer's contributions to go to terminating members. (A.R.S. § 38-740.)

**Subsection (B)(1)(i):** This subsection is added to reflect an assumption regarding family structure that is already in use but was not reflected in rule.

**Subsection (B)(2):** The changes to this subsection will make permanent an emergency rule adopted by the Board which was approved by the Attorney General, and published by the Secretary of State on March 21, 2003. Before the emergency rule, this subsection established the actuarial value of the ASRS Plan's assets as the market value of assets less a five-year phase-in of the difference between expected and actual investment returns. The rule further restricted the resulting value to be not less than 80% nor more than 120% (a 20% corridor) of the market value of assets. Actuarial calculations show that using the five-year smoothing and 20% corridor would result in contribution rates jumping from 2.00% to 6.11%.

The amendment (which follows the emergency rule) eliminates the 20% corridor, causing the contribution rate to be 5.51%, rather than 6.11% as it would be under the current rule. Extending the "smoothing" period from five to ten years will cause the contribution rate to further decline from 5.51% to 5.20%.

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**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The ASRS did not review any study relevant to the rules.

**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:**

The changes to subsection (B)(2) of this rule make permanent the emergency rule adopted by the Board which was approved by the Attorney General, and published by the Secretary of State on March 21, 2003. Acting on the recommendation of its consulting actuaries, the Board adopted the emergency amendment in November of 2002, and it was approved by the Attorney General, filed with the Secretary of State, and published in the *Arizona Administrative Register* on March 21, 2003. Public announcements and notice were provided immediately upon adoption of the emergency rule to give ample notice to the member and employer participants in the program. The Board adopted the renewal of the emergency rule on August 15, 2003, and it has been presented to the Attorney General for renewal, in accordance with A.R.S. § 41-1026.

In the past two decades, state, county and municipal employees and their employers participating in the system have benefited from a decline in the contribution rate from a high of seven percent to the current two percent.

However, the past two years have seen a decline in the ASRS investment returns from previous years of excellent returns on system investments. Combined with increases in retirement benefits mandated by the Arizona legislature in 2001, the increase in contribution rates is required to maintain a viable retirement benefits program.

As with other financial institutions and markets across the country, the ASRS' previous high rates of return did not continue in 2001 and 2002. Along with the increase in benefits passed by the Arizona legislature last year, the pressure on the contribution rates dictated this increase.

The return for the ASRS investment fund for the past decade has averaged a healthy 10.2 percent per year. From 1995 to 2000, these returns have been from a high of 21.3 percent to 10 percent. In 2001, the rate of return dropped to -6.7 percent and declined to -8.2 percent in 2002.

Substantial portions of the Plan's assets are invested in securities. Even though the securities market may represent a sound long term investment, it is subject to more short-term, sudden and wide swings in value. Contribution amounts of employers and employees are calculated annually and are a function of actuarial assets (including recognized market gains and losses) and liabilities. Investment gains and losses have been recognized actuarially over a five-year period for the purpose of "smoothing" the annual changes in contribution rates resulting from market gains and losses. Actuarial calculations show that using the current five-year smoothing and 20% corridor would have resulted in contribution rates jumping from 2.00% to 6.11% as of July 1, 2003.

Eliminating the 20% corridor reduces the contribution rate from 6.11% to 5.51%. Extending the "smoothing" period from five to ten years causes the contribution rate to further decline from 5.51% to 5.20%.

Contributions to the ASRS plan are made by both public employers and employees. The difference between the 6.11% contribution rate required before the emergency rule, and 5.2% under the emergency/proposed rule, is .91% of the \$6.989 billion dollar payroll. This amounts to a reduction for FY 2004 of \$63.6 million for public employers and \$63.6 million for employees. The state's portion of this difference is about 24%, or about \$15.3 million for FY 2004.

When the market turns upward again, this longer smoothing method will keep the contribution rate higher for a longer period of time, thereby stabilizing the fund. The effect of market changes will be more gradual in the future. This will result in more stable contribution rates for employers and employees.

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

The following changes were made between the proposed rules and the final rules:

1. The title of the Article was revised to more accurately reflect the current contents of the Article.
2. Subsection (A): A new subsection (A) was added that lists definitions for 14 terms used in the Section. This was done to clarify the rule, and is not a substantial change.
3. Subsection (B): The date the Board adopted the actuarial assumptions is deleted as it is unnecessary.
4. Subsection (B)(1)(a) through (B)(1)(h): The headings are removed from these subsections and the language altered slightly, so that none of the subsections contain a heading. This is a technical change.

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- 5. Subsection (B)(1)(b): Subsection (1)(f) in the proposed rules regarding group long-term disability rates is moved to subsection (B)(1)(b) in the final rule for organizational purposes because the subsection cites to Table 1 and Table 2. In the proposed rules this subsection followed subsections that referred to Tables 3 and 4, which was confusing.
- 6. Subsections (B)(1)(c) through (B)(1)(e): Subsections (1)(b), (1)(c), (1)(d), and (1)(e) in the proposed rules were renumbered to (B)(1)(c), (B)(1)(d), (B)(1)(e), and (B)(1)(f) because subsection (1)(f) was moved to (B)(1)(b) as explained in number 4 above.
- 7. Subsection (B)(1)(d): The term “healthy member” is changed to “non-disabled member” and defined for clarification. The term “disabled rate” is changed to “disabled member rate” and the term “disabled member” is defined for clarification.
- 8. Subsection (B)(1)(e): The language, “...select and ultimate salary scale made up of a step rate/promotional component and general salary increase component...”, the middle column of the chart, and the information following the asterisk at the bottom of the first column of the chart are deleted because these are not needed to state the assumption. Additionally, deletion of this information makes this subsection consistent with the other subsections that state an assumption without adding actuarial information used by the actuary in determining the assumption. This is not a substantial change as it does not change the assumption.
- 9. Subsection (B)(1)(g): The language is changed slightly to clarify that the 60% of future retirees that will be eligible for family coverage means 60% of the 75% of future retirees that are assumed to be eligible for a post-retirement health insurance premium supplement, and not 60% of all future retirees.
- 10. Subsection (B)(1)(h): The language is changed to cite to the statute that describes the return contribution benefit. This change is made for clarification purposes.
- 11. Subsection (B)(1)(i): The language “We assume that...” is removed because it is redundant and does not conform to the Secretary of State’s requirements for form.
- 12. Throughout the rule the term “years of service” was amended to read “years of credited service” for clarification.
- 13. The title, “Years of Credited Service” was added to columns in Tables 4A, 4B, 4C, 5, and 6 for clarification.
- 14. Other technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

No comments were received on the proposed rules.

**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:**

1983 Group Annuity Mortality Table provided in volume XXXV of the *Transactions of the Society of Actuaries* published in 1985 by the Society of Actuaries.

Located in R2-8-123(1)(b)

**14. Were these rules previously made as emergency rules?**

Yes. Notice of Emergency Rulemaking: 9 A.A.R. 1006, March 21, 2003

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

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. SOCIAL SECURITY DIVISION; RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

Section

- R2-8-123. Actuarial Assumptions and Actuarial Value of Assets
- ~~Table 3.~~ ~~Non-disabled Member Mortality Rates~~
- ~~Table 4.~~ ~~Table 3.~~ Disabled Member Mortality Rates
- ~~Table 4A.~~ Rates of Decrement Due to Retirement - 0 to 23 Years of Credited Service
- ~~Table 4B.~~ Rates of Decrement Due to Retirement - 24 to 30 Years of Credited Service
- ~~Table 4C.~~ Rates of Decrement Due to Retirement - 31 to 33 or More Years of credited service
- ~~Table 5.~~ Rates of Decrement Due to Retirement
- ~~Table 6.~~ ~~Table 5.~~ Graduated Tabular Rates of Withdrawal - Active Male Members
- ~~Table 7.~~ ~~Table 6.~~ Graduated Tabular Rates of Withdrawal - Active Female Members
- ~~Table 7.~~ Renumbered

**ARTICLE 1. SOCIAL SECURITY DIVISION; RETIREMENT SYSTEM; DEFINED BENEFIT PLAN**

**R2-8-123. Actuarial Assumptions and Actuarial Value of Assets**

**A.** The following definitions apply to this Section unless otherwise specified:

1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities.
2. "Board" means the same as in A.R.S. § 38-711.
3. "Credited service" means the same as in A.R.S. § 38-711.
4. "Decrement" means a factor in the total likelihood a member will leave a retirement plan prior to retirement.
5. "Deferred benefit" means the monthly annuity a member would receive upon reaching normal retirement date.
6. "Disabled member" means a member who is receiving long-term disability payments.
7. "Investment yield rate" means a percentage of return on an asset.
8. "Market value" means an estimated monetary worth of an asset, based on the current demand for the asset, and the amount of that type of asset that is available for sale.
9. "Member" means the same as in A.R.S. § 38-711.
10. "Non-disabled member" means a member who is not receiving long-term disability payments.
11. "Normal retirement date" means the same as in A.R.S. § 38-711.
12. "Present value" means the amount of money needed on a specified date, such as the date of termination, to fund a future payment or series of payments based on the actuarial assumptions approved by the Board.
13. "Select rate" means a rate that is based on age and years of credited service.
14. "Ultimate rate" means a rate that depends only on age, and not on years of credited service.
15. "Vested" means the same as in A.R.S. § 38-711.

**B.** The Board adopts the following for actuarial valuations as of June 30, 1996, and thereafter:

1. Actuarial Assumptions:
  - a. ~~Interest and Investment Yield Rate~~ The interest and investment yield rate is 8% per annum, compounded annually.
  - b. Group long-term disability rates are based on Table 1 for male disability rates and Table 2 for female disability rates.
  - ~~b.c. Mortality — Healthy Non-disabled member mortality rates are based on the 1983 Group Annuity Mortality Table with margins, set back ± one year for males and not set back for females as provided in Table 3 of this rule volume XXXV of the Transactions of the Society of Actuaries published in 1985 by the Society of Actuaries, 475 N. Martingale Road, Suite 800, Schaumburg, IL 60173-3599. This table is incorporated by reference and on file with ASRS. This incorporation by reference contains no future editions or amendments. Disabled member mortality rates are based on the experience of other large public sector retirement systems through age 82, and healthy mortality rates thereafter, as provided in Table 4 Table 3 of this rule: Section.~~
  - ~~e.d. Retirement Age — Select age is based on select and ultimate retirement rates at age and years of credited service shown in Table 5 Tables 4A, 4B, and 4C of this rule Section.~~
  - ~~d.e. Salary Scales — A The salary scale is select and ultimate salary scale made up of a step rate/promotional component and general salary increase component as follows:~~

Years of <u>credited</u> Service	<u>Step Rate/Promotional Component</u>	Total Salary Increase <sup>*</sup>
(1)	(2)	(3)
1	5.00%	9.50%
2	4.00%	8.50%
3	2.50%	7.00%
4	1.80%	6.30%
5	1.40%	5.90%
6	1.25%	5.75%
7	1.00%	5.50%
8	0.80%	5.30%
9	0.75%	5.25%
10	0.50%	5.00%
11-19	0.25%	4.75%
20 +	0.00%	4.50%
* Total salary increase rate = inflation (or growth) rate (4.25%) + productivity increase rate (0.25%) + step rate/promotional component.		

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- e-f. Withdrawal Rates—(rates for causes other than death, disability, or retirement)—~~Select~~ are based on select and ultimate withdrawal rates as provided in Table 6 Table 5 for withdrawal rates for males and Table 7 Table 6 for withdrawal rates for females.
  - f. Disability Rates—~~Group long-term disability rates based on the Society of Actuaries 1987 Disability Incidence Study (with a 6-month elimination period) as provided in Table 1 for male disability rates and Table 2 for female disability rates.~~
  - g. Future Retirees Eligible for the Health Insurance Premium Supplement—~~75% Seventy-five percent of future retirees will be eligible to receive the a post-retirement health insurance premium supplement. Of the 75%, 40% of the retirees will be eligible for single coverage and 60% of those the retirees will be eligible for the dependent premium supplement family coverage.~~
  - h. Proportion of Vested Terminated Members Who Will Not Withdraw Their Contributions—~~25% of members who terminate vested will not withdraw their contributions but instead will receive a retirement benefit upon attaining retirement age. A member who terminates employment with five or more years of credited service, but before eligibility for retirement, will choose to receive the contributions under A.R.S. § 38-740 if the value of the contributions exceeds the present value of the deferred benefit. If the value of the contributions does not exceed the present value of the defined benefit, the member will elect the member's deferred benefits. A member who terminates employment with less than five years of credited service will withdraw that member's contributions with interest. A member who is eligible for early retirement when the member terminates employment will elect to begin receiving benefits immediately.~~
  - i. All members have beneficiaries of the opposite sex and the beneficiary of a male member is three years younger than the member and the beneficiary of a female member is three years older than the member.
2. Actuarial Value of Assets: ~~The actuarial value of assets is equal to the market value of assets less a 5-year phase-in of the excess (shortfall) between expected investment return and actual income with the resulting value not being less than 80% or more than 120% of the market value of assets. The actuarial value of assets is equal to the market value of assets minus a ten-year (five-year for fiscal years before fiscal year 2002) phase-in of the excess or shortfall of actual investment return over expected investment return.~~

**Table 3. Non-disabled Member Mortality Rates**

Age	Male	Female	Age	Male	Female
20	0.000365	0.000189	69	0.022229	0.010921
21	0.000377	0.000201	70	0.024817	0.012385
22	0.000392	0.000212	71	0.027530	0.014128
23	0.000408	0.000225	72	0.030354	0.016159
24	0.000424	0.000238	73	0.033370	0.018481
25	0.000444	0.000253	74	0.036680	0.021091
26	0.000464	0.000268	75	0.040388	0.023992
27	0.000488	0.000283	76	0.044597	0.027184
28	0.000513	0.000301	77	0.049388	0.030672
29	0.000542	0.000320	78	0.054758	0.034459
30	0.000572	0.000342	79	0.060678	0.038549
31	0.000607	0.000364	80	0.067125	0.042945
32	0.000645	0.000388	81	0.074070	0.047655
33	0.000687	0.000414	82	0.081484	0.052691
34	0.000734	0.000443	83	0.089320	0.058071
35	0.000785	0.000476	84	0.097525	0.063807
36	0.000860	0.000502	85	0.106047	0.069918
37	0.000907	0.000535	86	0.114836	0.076570
38	0.000966	0.000573	87	0.124170	0.084459
39	0.001039	0.000617	88	0.133870	0.091935
40	0.001128	0.000665	89	0.144073	0.101354
41	0.001238	0.000716	90	0.154859	0.111750

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42	0.001370	0.000775	91	0.166307	0.123076
43	0.001527	0.000841	92	0.178214	0.135630
44	0.001715	0.000919	93	0.190460	0.149577
45	0.001932	0.001010	94	0.203007	0.165103
46	0.002183	0.001117	95	0.217904	0.182419
47	0.002471	0.001237	96	0.234086	0.201757
48	0.002790	0.001366	97	0.248436	0.222043
49	0.003138	0.001505	98	0.263954	0.243899
50	0.003513	0.001647	99	0.280803	0.268185
51	0.003909	0.001793	100	0.299154	0.295187
52	0.004324	0.001948	101	0.319185	0.325225
53	0.004755	0.002119	102	0.341086	0.358897
54	0.005200	0.002315	103	0.365052	0.395842
55	0.005660	0.002541	104	0.393102	0.438360
56	0.006131	0.002803	105	0.427255	0.487816
57	0.006618	0.003103	106	0.469531	0.545886
58	0.007139	0.003442	107	0.521945	0.614309
59	0.007719	0.003821	108	0.586518	0.694884
60	0.008384	0.004241	109	0.665268	0.789474
61	0.009158	0.004702	110	0.760215	0.789474
62	0.010064	0.005210			
63	0.011133	0.005769			
64	0.012391	0.006385			
65	0.013868	0.007064			
66	0.015592	0.007817			
67	0.017579	0.008681			
68	0.019804	0.009702			

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**Table 4. Table 3. Disabled Member Mortality Rates**

Age	Male	Female	Age	Male	Female
20	0.069879	0.053877	66	0.061623	0.026840
21	0.069996	0.052371	67	0.061524	0.025983
22	0.070844	0.051719	68	0.061425	0.025358
23	0.072426	0.051921	69	0.061410	0.024949
24	0.074739	0.052977	70	0.067459	0.024778
25	0.077774	0.054887	71	0.074692	0.025103
26	0.081514	0.057649	72	0.081981	0.026205
27	0.085917	0.061249	73	0.088344	0.028186
28	0.090912	0.065656	74	0.093244	0.030948
29	0.096392	0.070808	75	0.096503	0.034291
30	0.102203	0.076604	76	0.098256	0.038087
31	0.108136	0.082892	77	0.098856	0.042217
32	0.113923	0.089460	78	0.098860	0.046540
33	0.119246	0.096034	79	0.098874	0.050814
34	0.123755	0.102284	80	0.098892	0.054859
35	0.127088	0.107853	81	0.099251	0.058639
36	0.128906	0.112409	82	0.100129	0.062150
37	0.128926	0.115626	83	0.108361	0.064523
38	0.126987	0.117135	84	0.117830	0.070897
39	0.123139	0.116642	85	0.127595	0.077687
40	0.117613	0.113967	86	0.137967	0.085078
41	0.110786	0.109054	87	0.148744	0.093189
42	0.103215	0.102042	88	0.160081	0.102150
43	0.095530	0.093478	89	0.172066	0.112616
44	0.088266	0.084216	90	0.184785	0.124167
45	0.081841	0.075172	91	0.198016	0.136751
46	0.076701	0.067198	92	0.211622	0.150700
47	0.073156	0.060788	93	0.225563	0.166197
48	0.071164	0.056136	94	0.242116	0.183448
49	0.070180	0.053121	95	0.260096	0.202688
50	0.069484	0.051392	96	0.276040	0.224174
51	0.068278	0.050436	97	0.293282	0.246715
52	0.066081	0.049707	98	0.312003	0.270999
53	0.062961	0.048730	99	0.332393	0.297983
54	0.062820	0.047328	100	0.354650	0.327986
55	0.062712	0.045671	101	0.378984	0.361361
56	0.062613	0.044033	102	0.405613	0.398774
57	0.062514	0.042368	103	0.436780	0.439825
58	0.062415	0.040421	104	0.474728	0.487067
59	0.062316	0.038255	105	0.521701	0.542018
60	0.062217	0.036058	106	0.579939	0.606540

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61	0.062118	0.033981	107	0.651687	0.682566
62	0.062019	0.032048	108	0.739187	0.772094
63	0.061920	0.030396	109	0.844683	0.877193
64	0.061821	0.029038	110	1.000000	1.000000
65	0.061722	0.027868			

**Table 4A. Rates of Decrement Due to Retirement - 0 to 23 Years of Credited Service**

<b>Age</b>	<b>Years of Credited Service</b>									
	<b>0-4</b>	<b>5-9</b>	<b>10-14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21-23</b>
50 & Younger	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
51	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
52	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
53	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
54	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
55	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0600	0.0600
56	0.000	0.0500	0.0550	0.0500	0.0500	0.0500	0.0500	0.0500	0.0800	0.0800
57	0.000	0.0500	0.0700	0.0500	0.0500	0.0500	0.0500	0.0500	0.1250	0.1250
58	0.000	0.0500	0.0750	0.0800	0.0800	0.0800	0.0800	0.0800	0.1625	0.1625
59	0.000	0.0500	0.0800	0.0900	0.0900	0.0900	0.0900	0.0900	0.2000	0.2000
60	0.000	0.0500	0.0900	0.1100	0.1100	0.1100	0.1100	0.1100	0.2625	0.2625
61	0.000	0.0500	0.1400	0.1500	0.1500	0.1500	0.1500	0.1500	0.2375	0.2375
62	0.000	0.0500	0.3400	0.3400	0.3400	0.3400	0.3400	0.3400	0.4200	0.4200
63	0.000	0.0500	0.4500	0.4500	0.4500	0.4500	0.4500	0.4500	0.5000	0.5000
64	0.000	0.0500	0.4800	0.4800	0.4800	0.4800	0.4800	0.4800	0.5300	0.5300
65	0.0250	0.0500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500
66 & Older	0.0250	0.1000	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.6000	0.6000

**Table 4B. Rates of Decrement Due to Retirement - 24 to 30 Years of Credited Service**

<b>Age</b>	<b>Years of Credited Service</b>					
	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28-29</b>	<b>30</b>
50 & Younger	0.0500	0.0500	0.0563	0.0563	0.0625	0.1000
51	0.0500	0.0500	0.0625	0.0625	0.0813	0.0938
52	0.0500	0.0625	0.0625	0.0625	0.1094	0.1000
53	0.0500	0.0625	0.1125	0.1125	0.1188	0.1125
54	0.0500	0.0625	0.1563	0.1563	0.1313	0.1375
55	0.0750	0.1625	0.1500	0.1500	0.1438	0.1875
56	0.1625	0.1500	0.1500	0.1500	0.1500	0.1500
57	0.1875	0.1875	0.1875	0.1875	0.1813	0.1750
58	0.2000	0.2000	0.2000	0.2000	0.2125	0.2125
59	0.2125	0.2125	0.2125	0.2125	0.2125	0.2500
60	0.2375	0.2500	0.2500	0.2500	0.2500	0.3000
61	0.4000	0.3000	0.3000	0.3000	0.3000	0.3125
62	0.4200	0.4400	0.4400	0.4400	0.4400	0.5000

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<u>63</u>	<u>0.5000</u>	<u>0.5300</u>	<u>0.5300</u>	<u>0.5300</u>	<u>0.5300</u>	<u>0.5500</u>
<u>64</u>	<u>0.5300</u>	<u>0.5500</u>	<u>0.5500</u>	<u>0.5500</u>	<u>0.5500</u>	<u>0.5500</u>
<u>65</u>	<u>0.5500</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>
<u>66 &amp; Older</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>	<u>0.6000</u>

**Table 4C. Rates of Decrement Due to Retirement - 31 to 33 or More Years of Credited Service**

<u>Age</u>	<u>Years of Credited Service</u>	
	<u>31-32</u>	<u>33 or more</u>
<u>50 &amp; Younger</u>	<u>0.0781</u>	<u>0.1250</u>
<u>51</u>	<u>0.1031</u>	<u>0.1375</u>
<u>52</u>	<u>0.1156</u>	<u>0.0750</u>
<u>53</u>	<u>0.1188</u>	<u>0.0750</u>
<u>54</u>	<u>0.1313</u>	<u>0.1250</u>
<u>55</u>	<u>0.1250</u>	<u>0.1250</u>
<u>56</u>	<u>0.1500</u>	<u>0.1500</u>
<u>57</u>	<u>0.1750</u>	<u>0.1750</u>
<u>58</u>	<u>0.2125</u>	<u>0.2125</u>
<u>59</u>	<u>0.2500</u>	<u>0.2500</u>
<u>60</u>	<u>0.3000</u>	<u>0.3000</u>
<u>61</u>	<u>0.3125</u>	<u>0.3125</u>
<u>62</u>	<u>0.5000</u>	<u>0.5000</u>
<u>63</u>	<u>0.5500</u>	<u>0.5500</u>
<u>64</u>	<u>0.5500</u>	<u>0.5500</u>
<u>65</u>	<u>0.6000</u>	<u>0.6000</u>
<u>66 &amp; Older</u>	<u>0.6000</u>	<u>0.6000</u>

**Table 5. Rates of Decrement Due to Retirement**

<u>Age</u>	<u>Years of Service</u>									
	<u>0-4</u>	<u>5-9</u>	<u>10-14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>
<b>50 &amp; Under</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
<b>51</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
<b>52</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
<b>53</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
<b>54</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
<b>55</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0600	0.0600
<b>56</b>	0.000	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0800	0.1000
<b>57</b>	0.000	0.0500	0.0700	0.0500	0.0500	0.0500	0.0500	0.0500	0.1250	0.1250
<b>58</b>	0.000	0.0500	0.0750	0.0800	0.0800	0.0800	0.0800	0.1000	0.1625	0.1625
<b>59</b>	0.000	0.0500	0.0800	0.0900	0.0900	0.0900	0.1125	0.1125	0.2000	0.2250
<b>60</b>	0.000	0.0500	0.0900	0.1100	0.1100	0.1375	0.1375	0.1375	0.2625	0.2375
<b>61</b>	0.000	0.0500	0.1400	0.1500	0.1875	0.1875	0.1875	0.1875	0.2375	0.2375
<b>62</b>	0.000	0.0500	0.3400	0.3400	0.3400	0.3400	0.3400	0.3400	0.4200	0.4200
<b>63</b>	0.000	0.1000	0.4500	0.4500	0.4500	0.4500	0.4500	0.4500	0.5000	0.5000
<b>64</b>	0.000	0.0500	0.4800	0.4800	0.4800	0.4800	0.4800	0.4800	0.5300	0.5300
<b>65</b>	0.0250	0.0500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500
<b>66 &amp; Older</b>	0.0250	0.1000	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.6000	0.6000

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Age	Years of Service									
	22	23	24	25	26	27	28	29	30	31
<b>50 &amp; Under</b>	0.0500	0.0500	0.0500	0.0500	0.0500	0.0625	0.0625	0.0625	0.1000	0.0750
<b>51</b>	0.0500	0.0500	0.0500	0.0500	0.0625	0.0625	0.0625	0.1000	0.0938	0.1000
<b>52</b>	0.0500	0.0500	0.0500	0.0625	0.0625	0.0625	0.1250	0.0938	0.1000	0.1062
<b>53</b>	0.0500	0.0500	0.0500	0.0625	0.0625	0.1625	0.1250	0.1125	0.1125	0.1125
<b>54</b>	0.0500	0.0500	0.0500	0.0625	0.1625	0.1500	0.1250	0.1375	0.1375	0.1375
<b>55</b>	0.0750	0.0750	0.0750	0.1625	0.1500	0.1500	0.1375	0.1500	0.1875	0.1250
<b>56</b>	0.1000	0.1000	0.1625	0.1500	0.1500	0.1500	0.1500	0.1500	0.1500	0.1500
<b>57</b>	0.1250	0.2250	0.1875	0.1875	0.1875	0.1875	0.1875	0.1750	0.1750	0.1750
<b>58</b>	0.2250	0.2000	0.2000	0.2000	0.2000	0.2000	0.2125	0.2125	0.2125	0.2125
<b>59</b>	0.2125	0.2125	0.2125	0.2125	0.2125	0.2125	0.2125	0.2125	0.2500	0.2500
<b>60</b>	0.2375	0.2375	0.2375	0.2500	0.2500	0.2500	0.2500	0.2500	0.3000	0.3000
<b>61</b>	0.2375	0.2375	0.4000	0.3000	0.3000	0.3000	0.3000	0.3000	0.3125	0.3125
<b>62</b>	0.4200	0.4200	0.4200	0.4400	0.4400	0.4400	0.4400	0.4400	0.5000	0.5000
<b>63</b>	0.5000	0.5000	0.5000	0.5300	0.5300	0.5300	0.5300	0.5300	0.5500	0.5500
<b>64</b>	0.5300	0.5300	0.5300	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500	0.5500
<b>65</b>	0.5500	0.5500	0.5500	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000
<b>66 &amp; Older</b>	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000	0.6000

Age	Years of Service			
	32	33	34	35 or more
<b>50 &amp; Under</b>	0.0812	0.0938	0.1250	0.1250
<b>51</b>	0.1062	0.1250	0.1375	0.1375
<b>52</b>	0.1250	0.1375	0.0750	0.0750
<b>53</b>	0.1250	0.750	0.0750	0.0750
<b>54</b>	0.1250	0.1250	0.1250	0.1250
<b>55</b>	0.1250	0.1250	0.1250	0.1250
<b>56</b>	0.1500	0.1500	0.1500	0.1500
<b>57</b>	0.1750	0.1750	0.1750	0.1750
<b>58</b>	0.2125	0.2125	0.2125	0.2125
<b>59</b>	0.2500	0.2500	0.2500	0.2500
<b>60</b>	0.3000	0.3000	0.3000	0.3000
<b>61</b>	0.3125	0.3125	0.3125	0.3125
<b>62</b>	0.5000	0.5000	0.5000	0.5000
<b>63</b>	0.5500	0.5500	0.5500	0.5500
<b>64</b>	0.5500	0.5500	0.5500	0.5500
<b>65</b>	0.6000	0.6000	0.6000	0.6000
<b>66 &amp; Older</b>	0.6000	0.6000	0.6000	0.6000

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**Table 6. Table 5. Graduated Tabular Rates of Withdrawal - Active Male Members**

Age	Male Withdrawal Rates Years of <u>Credited</u> Service										
	0	1	2	3	4	5	6	7	8	9	10+
15	0.3888	0.3797	0.3087	0.2632	0.1580	0.1413	0.0931	0.0860	0.0735	0.0794	0.1365
16	0.3888	0.3797	0.3087	0.2632	0.1580	0.1413	0.0931	0.0860	0.0735	0.0794	0.1365
17	0.3888	0.3797	0.3087	0.2632	0.1580	0.1413	0.0931	0.0860	0.0735	0.0794	0.1365
18	0.3888	0.3797	0.3087	0.2632	0.1580	0.1413	0.0931	0.0860	0.0735	0.0794	0.1365
19	0.3809	0.3719	0.2991	0.2588	0.1544	0.1389	0.0920	0.0851	0.0723	0.0778	0.1321
20	0.3731	0.3642	0.2895	0.2545	0.1508	0.1364	0.0910	0.0843	0.0711	0.0763	0.1277
21	0.3573	0.3487	0.2703	0.2458	0.1436	0.1316	0.0889	0.0825	0.0688	0.0733	0.1189
22	0.3412	0.3324	0.2531	0.2365	0.1367	0.1268	0.0868	0.0808	0.0665	0.0704	0.1104
23	0.3250	0.3154	0.2376	0.2265	0.1300	0.1222	0.0848	0.0791	0.0643	0.0676	0.1024
24	0.3088	0.2981	0.2237	0.2162	0.1237	0.1178	0.0828	0.0775	0.0622	0.0649	0.0947
25	0.2930	0.2809	0.2111	0.2057	0.1177	0.1135	0.0808	0.0759	0.0602	0.0624	0.0874
26	0.2776	0.2638	0.1999	0.1949	0.1119	0.1094	0.0789	0.0743	0.0582	0.0599	0.0804
27	0.2628	0.2471	0.1897	0.1842	0.1064	0.1054	0.0770	0.0728	0.0564	0.0576	0.0739
28	0.2491	0.2315	0.1802	0.1738	0.1012	0.1015	0.0751	0.0712	0.0547	0.0554	0.0677
29	0.2369	0.2175	0.1708	0.1639	0.0963	0.0978	0.0733	0.0697	0.0530	0.0533	0.0619
30	0.2267	0.2055	0.1612	0.1547	0.0917	0.0943	0.0714	0.0682	0.0514	0.0514	0.0565
31	0.2187	0.1960	0.1509	0.1465	0.0874	0.0909	0.0696	0.0668	0.0499	0.0495	0.0514
32	0.2128	0.1887	0.1403	0.1392	0.0834	0.0876	0.0679	0.0653	0.0485	0.0478	0.0467
33	0.2083	0.1832	0.1301	0.1326	0.0796	0.0845	0.0661	0.0639	0.0472	0.0462	0.0424
34	0.2050	0.1792	0.1210	0.1267	0.0762	0.0815	0.0645	0.0625	0.0460	0.0447	0.0385
35	0.2021	0.1760	0.1137	0.1214	0.0729	0.0787	0.0628	0.0611	0.0448	0.0434	0.0349
36	0.1996	0.1736	0.1087	0.1165	0.0699	0.0760	0.0612	0.0597	0.0438	0.0421	0.0318
37	0.1974	0.1719	0.1055	0.1121	0.0672	0.0734	0.0596	0.0584	0.0427	0.0410	0.0290
38	0.1956	0.1708	0.1036	0.1082	0.0646	0.0710	0.0581	0.0571	0.0418	0.0400	0.0266
39	0.1942	0.1702	0.1023	0.1047	0.0623	0.0687	0.0566	0.0558	0.0409	0.0391	0.0245
40	0.1931	0.1698	0.1011	0.1015	0.0601	0.0665	0.0551	0.0546	0.0400	0.0383	0.0227
41	0.1924	0.1695	0.0996	0.0985	0.0580	0.0644	0.0535	0.0534	0.0392	0.0376	0.0213
42	0.1919	0.1693	0.0982	0.0958	0.0562	0.0624	0.0519	0.0523	0.0383	0.0369	0.0201
43	0.1915	0.1691	0.0967	0.0934	0.0544	0.0605	0.0504	0.0511	0.0375	0.0362	0.0192
44	0.1912	0.1690	0.0954	0.0912	0.0529	0.0588	0.0491	0.0496	0.0368	0.0356	0.0185
45	0.1909	0.1692	0.0944	0.0893	0.0515	0.0572	0.0482	0.0477	0.0363	0.0350	0.0179
46	0.1907	0.1698	0.0937	0.0878	0.0503	0.0559	0.0479	0.0453	0.0359	0.0345	0.0174
47	0.1905	0.1705	0.0932	0.0866	0.0492	0.0549	0.0479	0.0424	0.0358	0.0341	0.0169
48	0.1903	0.1710	0.0927	0.0853	0.0482	0.0537	0.0480	0.0396	0.0356	0.0335	0.0165
49	0.1899	0.1707	0.0918	0.0839	0.0471	0.0522	0.0476	0.0370	0.0352	0.0328	0.0161
50	0.1892	0.1692	0.0904	0.0820	0.0458	0.0502	0.0466	0.0351	0.0345	0.0319	0.0155
51	0.1881	0.1660	0.0882	0.0795	0.0441	0.0475	0.0446	0.0340	0.0332	0.0306	0.0147
52	0.1867	0.1618	0.0854	0.0766	0.0422	0.0443	0.0418	0.0336	0.0316	0.0291	0.0138
53	0.1859	0.1576	0.0829	0.0739	0.0405	0.0410	0.0389	0.0336	0.0299	0.0276	0.0128
54	0.1863	0.1547	0.0811	0.0719	0.0392	0.0381	0.0361	0.0339	0.0284	0.0263	0.0120
55	0.1887	0.1543	0.0807	0.0713	0.0386	0.0361	0.0341	0.0340	0.0272	0.0252	0.0113
56	0.1935	0.1572	0.0821	0.0724	0.0392	0.0352	0.0331	0.0340	0.0266	0.0247	0.0109

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57	0.2003	0.1625	0.0850	0.0749	0.0406	0.0352	0.0328	0.0339	0.0263	0.0245	0.0107
58	0.2080	0.1693	0.0887	0.0781	0.0422	0.0358	0.0330	0.0337	0.0263	0.0245	0.0107
59	0.2155	0.1763	0.0927	0.0817	0.0437	0.0365	0.0335	0.0335	0.0263	0.0246	0.0107
60	0.2219	0.1824	0.0963	0.0848	0.0445	0.0371	0.0339	0.0333	0.0261	0.0246	0.0108
61	0.2266	0.1869	0.0993	0.0874	0.0442	0.0373	0.0342	0.0331	0.0258	0.0243	0.0109
62	0.2301	0.1905	0.1018	0.0895	0.0433	0.0373	0.0345	0.0330	0.0253	0.0240	0.0110
63	0.2328	0.1937	0.1043	0.0917	0.0423	0.0374	0.0348	0.0328	0.0248	0.0235	0.0113
64	0.2355	0.1969	0.1069	0.0942	0.0418	0.0380	0.0350	0.0326	0.0242	0.0230	0.0117
65	0.2386	0.2008	0.1101	0.0975	0.0426	0.0393	0.0353	0.0324	0.0237	0.0226	0.0123
66	0.2424	0.2056	0.1139	0.1017	0.0449	0.0415	0.0357	0.0322	0.0233	0.0221	0.0132
67	0.2467	0.2109	0.1182	0.1066	0.0484	0.0445	0.0360	0.0320	0.0230	0.0217	0.0143
68	0.2512	0.2166	0.1227	0.1120	0.0527	0.0479	0.0363	0.0318	0.0227	0.0213	0.0155
69	0.2558	0.2225	0.1274	0.1175	0.0572	0.0514	0.0366	0.0315	0.0223	0.0208	0.0167
70	0.2604	0.2282	0.1320	0.1229	0.0616	0.0549	0.0369	0.0313	0.0220	0.0204	0.0180
71	0.2626	0.2311	0.1342	0.1257	0.0638	0.0567	0.0371	0.0312	0.0219	0.0202	0.0186
72	0.2649	0.2340	0.1365	0.1284	0.0661	0.0584	0.0373	0.0311	0.0217	0.0200	0.0192
73	0.2672	0.2369	0.1388	0.1311	0.0684	0.0601	0.0375	0.0310	0.0215	0.0198	0.0198
74	0.2672	0.2369	0.1388	0.1311	0.0684	0.0601	0.0375	0.0310	0.0215	0.0198	0.0198

**Table 7- Table 6. Graduated Tabular Rates of Withdrawal - Active Female Members**

Age	Female Withdrawal Rates Years of Credited Service										
	0	1	2	3	4	5	6	7	8	9	10+
15	0.3324	0.3249	0.2787	0.2761	0.2244	0.2216	0.1785	0.1486	0.1457	0.1356	0.2326
16	0.3324	0.3249	0.2787	0.2761	0.2244	0.2216	0.1785	0.1486	0.1457	0.1356	0.2326
17	0.3324	0.3249	0.2787	0.2761	0.2244	0.2216	0.1785	0.1486	0.1457	0.1356	0.2326
18	0.3324	0.3249	0.2787	0.2761	0.2244	0.2216	0.1785	0.1486	0.1457	0.1356	0.2326
19	0.3220	0.3151	0.2714	0.2678	0.2172	0.2146	0.1733	0.1445	0.1419	0.1320	0.2237
20	0.3116	0.3053	0.2640	0.2596	0.2101	0.2077	0.1680	0.1405	0.1380	0.1285	0.2148
21	0.2908	0.2858	0.2492	0.2432	0.1958	0.1937	0.1575	0.1323	0.1303	0.1215	0.1970
22	0.2726	0.2686	0.2358	0.2281	0.1826	0.1808	0.1479	0.1248	0.1231	0.1150	0.1804
23	0.2569	0.2536	0.2237	0.2143	0.1705	0.1690	0.1389	0.1179	0.1165	0.1089	0.1648
24	0.2434	0.2405	0.2127	0.2017	0.1593	0.1580	0.1307	0.1114	0.1104	0.1033	0.1503
25	0.2321	0.2293	0.2027	0.1902	0.1491	0.1480	0.1231	0.1055	0.1047	0.0980	0.1368
26	0.2227	0.2197	0.1937	0.1796	0.1397	0.1388	0.1161	0.1000	0.0994	0.0931	0.1242
27	0.2149	0.2116	0.1856	0.1700	0.1311	0.1304	0.1097	0.0949	0.0945	0.0886	0.1126
28	0.2088	0.2048	0.1782	0.1612	0.1233	0.1226	0.1037	0.0901	0.0898	0.0842	0.1017
29	0.2044	0.1989	0.1714	0.1531	0.1161	0.1155	0.0982	0.0856	0.0854	0.0801	0.0916
30	0.2015	0.1937	0.1652	0.1456	0.1094	0.1089	0.0930	0.0813	0.0811	0.0760	0.0821
31	0.2003	0.1892	0.1593	0.1385	0.1032	0.1027	0.0880	0.0772	0.0770	0.0721	0.0731
32	0.2003	0.1851	0.1539	0.1320	0.0974	0.0969	0.0833	0.0732	0.0730	0.0682	0.0647
33	0.2007	0.1815	0.1487	0.1258	0.0921	0.0916	0.0789	0.0694	0.0691	0.0645	0.0569
34	0.2003	0.1785	0.1438	0.1201	0.0873	0.0867	0.0748	0.0658	0.0653	0.0608	0.0498
35	0.1984	0.1762	0.1390	0.1147	0.0829	0.0823	0.0710	0.0624	0.0617	0.0573	0.0436
36	0.1943	0.1745	0.1344	0.1097	0.0789	0.0783	0.0675	0.0591	0.0582	0.0539	0.0382
37	0.1885	0.1732	0.1298	0.1050	0.0753	0.0747	0.0643	0.0561	0.0549	0.0506	0.0335

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38	0.1821	0.1722	0.1255	0.1006	0.0721	0.0714	0.0613	0.0532	0.0518	0.0475	0.0296
39	0.1762	0.1709	0.1213	0.0966	0.0692	0.0686	0.0587	0.0506	0.0488	0.0445	0.0264
40	0.1720	0.1693	0.1174	0.0930	0.0666	0.0661	0.0563	0.0482	0.0461	0.0417	0.0239
41	0.1701	0.1671	0.1138	0.0897	0.0644	0.0639	0.0543	0.0461	0.0437	0.0391	0.0220
42	0.1699	0.1644	0.1105	0.0868	0.0625	0.0620	0.0524	0.0441	0.0414	0.0367	0.0208
43	0.1707	0.1614	0.1074	0.0842	0.0608	0.0603	0.0508	0.0424	0.0393	0.0345	0.0199
44	0.1718	0.1584	0.1046	0.0818	0.0593	0.0589	0.0494	0.0408	0.0374	0.0324	0.0194
45	0.1725	0.1557	0.1020	0.0797	0.0579	0.0575	0.0480	0.0394	0.0356	0.0305	0.0189
46	0.1726	0.1532	0.0996	0.0778	0.0567	0.0563	0.0468	0.0380	0.0340	0.0287	0.0185
47	0.1723	0.1510	0.0975	0.0761	0.0556	0.0552	0.0456	0.0367	0.0325	0.0270	0.0181
48	0.1717	0.1490	0.0957	0.0746	0.0546	0.0541	0.0445	0.0356	0.0311	0.0254	0.0177
49	0.1708	0.1472	0.0941	0.0733	0.0536	0.0531	0.0435	0.0345	0.0298	0.0240	0.0173
50	0.1698	0.1457	0.0927	0.0722	0.0528	0.0522	0.0426	0.0335	0.0287	0.0227	0.0167
51	0.1684	0.1443	0.0917	0.0713	0.0521	0.0513	0.0417	0.0326	0.0277	0.0216	0.0160
52	0.1669	0.1431	0.0909	0.0707	0.0515	0.0505	0.0408	0.0317	0.0268	0.0206	0.0152
53	0.1656	0.1422	0.0904	0.0702	0.0510	0.0497	0.0399	0.0309	0.0260	0.0197	0.0143
54	0.1650	0.1416	0.0901	0.0700	0.0505	0.0490	0.0391	0.0302	0.0253	0.0191	0.0134
55	0.1655	0.1412	0.0901	0.0700	0.0503	0.0484	0.0384	0.0296	0.0248	0.0186	0.0125
56	0.1674	0.1410	0.0903	0.0702	0.0501	0.0478	0.0377	0.0290	0.0243	0.0183	0.0116
57	0.1704	0.1412	0.0908	0.0706	0.0501	0.0474	0.0371	0.0286	0.0240	0.0182	0.0107
58	0.1739	0.1416	0.0916	0.0712	0.0502	0.0470	0.0366	0.0281	0.0237	0.0182	0.0100
59	0.1775	0.1422	0.0926	0.0720	0.0504	0.0468	0.0361	0.0278	0.0236	0.0185	0.0093
60	0.1805	0.1432	0.0939	0.0731	0.0508	0.0466	0.0357	0.0275	0.0237	0.0190	0.0088
61	0.1827	0.1443	0.0954	0.0743	0.0513	0.0465	0.0354	0.0273	0.0238	0.0197	0.0085
62	0.1842	0.1457	0.0971	0.0758	0.0519	0.0465	0.0352	0.0272	0.0241	0.0206	0.0083
63	0.1854	0.1473	0.0990	0.0775	0.0527	0.0467	0.0350	0.0272	0.0245	0.0217	0.0084
64	0.1863	0.1493	0.1013	0.0794	0.0536	0.0469	0.0349	0.0272	0.0250	0.0231	0.0087
65	0.1872	0.1516	0.1039	0.0816	0.0547	0.0473	0.0349	0.0274	0.0257	0.0247	0.0092
66	0.1881	0.1542	0.1067	0.0841	0.0560	0.0479	0.0351	0.0276	0.0266	0.0266	0.0100
67	0.1890	0.1571	0.1099	0.0868	0.0575	0.0485	0.0353	0.0280	0.0277	0.0288	0.0109
68	0.1899	0.1603	0.1132	0.0897	0.0590	0.0493	0.0357	0.0284	0.0288	0.0311	0.0121
69	0.1907	0.1634	0.1165	0.0926	0.0606	0.0500	0.0360	0.0289	0.0299	0.0335	0.0132
70	0.1916	0.1666	0.1199	0.0955	0.0622	0.0508	0.0363	0.0293	0.0311	0.0358	0.0144
71	0.1920	0.1682	0.1215	0.0969	0.0630	0.0512	0.0365	0.0295	0.0317	0.0370	0.0150
72	0.1924	0.1698	0.1232	0.0984	0.0638	0.0516	0.0367	0.0298	0.0322	0.0382	0.0156
73	0.1714	0.1698	0.1249	0.0999	0.0646	0.0520	0.0369	0.0301	0.0327	0.0394	0.0162
74	0.1714	0.1698	0.1249	0.0999	0.0646	0.0520	0.0369	0.0301	0.0327	0.0394	0.0162

**Table 7.      Renumbered**



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**11. A summary of the comments made regarding the rule and the agency response to them:**

No written comments were received. The Citrus, Fruit, and Vegetable Advisory Council supports the rulemaking. The Arizona Department of Agriculture's Advisory Council supported the amendment by motion during a meeting held on July 15, 2003. The Department thanks the Council for its support of this rulemaking.

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

None

**13. Incorporations by reference and their location in the rule:**

United States Standards for Grades of Apples, 7 CFR 51.300 et seq., revised as of January 1, 2003, R3-4-701

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

No

**15. The full text of the rule follows:**

**TITLE 3. AGRICULTURE**

**CHAPTER 4. DEPARTMENT OF AGRICULTURE  
PLANT SERVICES DIVISION**

**ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION**

R3-4-701. Apple Standards

**ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION**

**R3-4-701. Apple Standards**

**A. Definitions:**

1. "Carefully hand-picked" means that the apples do not show evidence of rough handling or of having been on the ground.
2. "Clean" means that the apples are free from dirt, dust, spray residue, and other foreign material which affects the edible or shipping quality.
3. "Diameter". When measuring for minimum size, "diameter" means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. When measuring for maximum size, "diameter" means the smallest dimension of the apple determined by passing the apple through a round opening in any position.
4. "Fairly tight" means that apples are of the proper size for molds or cell compartments in which they are packed and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. The top layer of apples, or any pad or space filler over the top layer of apples, shall be not more than 3/4 inch below the top edge of the carton.
5. "Fairly well filled" means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 37 pounds for Cortland, Gravenstein, Jonathan, McIntosh and Golden Delicious varieties, and not less than 40 pounds for all other varieties.
6. "Fairly well formed" means that the apple may be slightly abnormal in shape but not to an extent which detracts from its appearance.
7. "Mature" means that the apples have reached the stage of development which will ensure the proper completion of the ripening process. Before a mature apple becomes overripe, it will show varying degrees of firmness, depending upon the stage of the ripening process, as described by the following terms:
  - a. "Hard" means apples with a tenacious flesh and starchy flavor.
  - b. "Firm" means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.
  - c. "Firm ripe" means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy.
  - d. "Ripe" means apples with mealy flesh and soon to become soft for the variety.
8. "Overripe" means apples which are dead ripe, with flesh very mealy or soft and past commercial utility.
9. "Serious damage" means any one of the following defects or an equally objectionable variation or combination of these defects:
  - a. Smooth solid russeting, when more than 1/2 of the surface in the aggregate area is covered including any russeting in the stem cavity or calyx basin; slightly rough, or excessively rough or bark-like russeting which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted; provided that any amount of russeting shall be permitted on Roxbury Russet and other similar varieties;
  - b. Sunburn or sprayburn which detracts from the appearance of the fruit;
  - c. Limb rubs which affect more than 1/10 of the surface in the aggregate area;

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- d. Hail marks, drought spots, or sears, if they materially deform or disfigure the fruit or if such defects affect more than 1/10 of the surface in the aggregate; provided that no hail marks which are unhealed shall be permitted and not more than an aggregate area of 1/2 inch shall be allowed for well-healed hail marks where the skin has been broken;
- e. Stem or calyx cracks which are not well-healed, or well-healed stem or calyx cracks which exceed an aggregate length of 1/2 inch;
- f. Visible water core which affects an area of more than 1/2 inch in diameter;
- g. Disease:
  - i. Scab spots which affect a total area of more than 3/4 inch in diameter;
  - ii. Cedar rust infection which affects a total area of more than 3/4 inch in diameter;
  - iii. Sooty blotch or fly speck which affects more than 1/3 of the surface;
  - iv. Red skin spots which affect more than 1/3 of the surface;
  - v. Bitter pit or Jonathan spot which is thinly scattered over more than 1/10 of the surface and does not materially deform or disfigure the fruit.
- h. Insects:
  - i. Healed stings which affect a total area of more than 1/4 inch in diameter including any encircling discolored rings;
  - ii. Worm holes.

10. "Seriously deformed" means that the apple is badly misshapen.

**B.** Pursuant to A.R.S. § 3-487(B)(1), the following standards, which are equivalent to U.S. No. 1 Grade, shall apply to all apples produced in the state:

- 1. U.S. No. 1 consists of apples of one variety which are mature but not overripe, carefully hand-picked, clean, fairly well formed, free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald-freezing injury, visible water core, and broken skins and bruises, except those which are incident to proper handling and packing:
  - a. Apples of this grade are free from serious damage caused by russetting.
  - b. Not more than 25% of the aggregate area of a U.S. No. 1 grade apple shall be covered by smooth net-like russetting.
  - c. Not more than 10% of the aggregate area of an apple shall be covered by smooth solid russetting; and in the case of the Yellow Newtown or similar varieties not more than 20% of the aggregate area of an apple shall be covered with smooth solid russetting.
  - d. Each U.S. No. 1 apple shall have the amount of color specified in subsection (C).
  - e. U.S. No. 1 grade has no requirement pertaining to invisible water core.
- 2. U.S. No. 1 Early consists of apples which meet the requirements of U.S. No. 1 grade, except as to color and maturity, and meet a minimum size requirement. Apples of this grade have no color requirements, need not be mature, and are not less than 2 inches in diameter. This grade is provided for varieties such as Duchess, Gravenstein, Red June, Twenty Ounce, Wealthy, Williams, Yellow Transparent and Lodi, or other varieties which are normally marketed during the summer months.
- 3. U.S. No. 1 Hail consists of apples which meet the requirements of U.S. No. 1 grade, except that hail marks where the skin has not been broken and well-healed hail marks where the skin has been broken are permitted, provided the apples are fairly well formed.

**C.** The following standards shall be considered as U.S. Condition Standards for Export and shall be applied to domestic shipments of apples as well as export lots:

- 1. Not more than 5% of the apples in any lot shall be further advanced in maturity than firm ripe.
- 2. Not more than 5% of the apples in any lot shall be damaged by storage scab.
- 3. Not more than a total of 5% of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, decay, damage by water core, bitter pit, Jonathan spot, or other condition factors and not more than 2% shall be allowed for apples affected by decay, soft scald, slight scald or internal breakdown.
- 4. Container packs shall comply with the packing requirements, as specified in subsection (J), and which are equivalent to the United States Standards for Grades of Apples.
- 5. Any lot of apples shall be considered as meeting the U.S. Condition Standards for Export if the entire lot averages within the requirements specified in this Section. No package in any lot shall have more than double the percentages specified, except for packages which contain 10 pounds or less. Individual packages in any lot may have not more than three times the tolerance or one apple (whichever is the greater amount).

**D.** Color Requirements. All apples shall have the percentage of color specified for the variety listed in Table 1.

- 1. For the solid red varieties, the percentage stated refers to the area of the surface which is covered with a good shade of solid red characteristic of the variety; provided that the apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade.

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2. For the striped-red varieties, the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with minimum percentage of stripes of a good red characteristic of the variety required for the grade.
  3. Faded brown stripes shall not be considered as color except in the case of the Gray Baldwin variety.
- E.** Color standards USDA Visual Aid APL-L-1 (including plates A, B, C, D, E, and F) consist of a folder containing the color requirements for apples, as set forth in this subsection; five plates illustrating minimum good shade of solid red or striped red color, minimum compensating color and a shade not considered color, for Red Delicious, Winesap, Delicious, McIntosh, and Jonathan varieties; and one plate illustrating minimum white or light green color and characteristic color for the Golden Delicious variety. The color standard plates A, B, C, D, E, and F as set forth in U.S. Standards for Grades of Apples, 51.300 to 51.323, amended July 25, 1972, are incorporated herein by reference and do not include any later amendments or editions of the incorporated matter. The color standards are on file with the Office of the Secretary of State and may also be examined in the Fruit and Vegetable Standardization Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D. C. 20250.

TABLE 1 - COLOR REQUIREMENTS FOR SPECIFIED  
U.S. GRADES OF APPLES BY VARIETY

VARIETY	U.S. EXTRA-FANCY Percent	U.S. FANCY Percent	U.S. NO. 1 Percent
<b>Solid Red:</b>			
Other Similar Varieties (1)	66	40	25
Red Sport Varieties (2)	66	40	25
<b>Striped or partially red:</b>			
Jonathan	66	33	25
McIntosh	50	33	25
Rome Beauty	50	33	15
Delicious	50	25	15
<b>Red checked or blushed:</b>			
Fuji	(7)	(8)	(8)
Gala	(7)	(8)	(8)
Other similar varieties	(7)	(8)	(8)
Green varieties	(9)	(9)	(9)
Yellow varieties	(9)	(9)	(9)
Golden Delicious	(10)	(10)	(9)

(1) Arkansas Black, Beacon, Detroit Red, Esopus Spitzenburg, King David, Lowry, Minjon.

(2) When Red Sport varieties are specified as such, they shall meet the color requirements specified for Red Sport varieties.

- F.** Tolerance Requirements. U.S. No. 1 Grades shall meet the following tolerances:
1. Not more than 5% of the apples in any lot shall be seriously damaged, including not more than 1% affected by decay or internal breakdown. Not more than 10% of the apples in any lot may fail to meet the total requirements prescribed in this Section.
  2. When size is designated by the numerical count for a container, not more than 5% of the apples in the lot may vary more than 1/4 inch in diameter.
  3. When size is designated by minimum or maximum diameter, not more than 5% of the apples in any lot may be smaller than the designated minimum and not more than 10% may be larger than the designated maximum.
- G.** Tolerance Applications. The contents of individual packages in the lot are subject to the following limitations, provided that the averages for the entire lot are within the tolerances specified for the grade:
1. Packages containing more than 10 pounds shall have not more than 1 1/2 times a specified tolerance specified for the grade. Not more than double a tolerance for apples affected by decay, as set forth in subsection (E)(1), shall be permitted; except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.
  2. Not more than 10% of packages containing 10 pounds or less may have more than three times the tolerance specified for the grade, except that at least one defective apple may be permitted in any package. Provided that not more than one apple or more than 6% (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

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- ~~H.~~ Percentages shall be calculated on the basis of count when the numerical count is marked on the container. When the minimum diameter, or minimum and maximum diameters, is marked on a container, or when the apples are jumbled in a container or in bulk, percentages shall be calculated on the basis of weight or an equivalent basis.
- ~~I.~~ Decay, seald, or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting the condition and not the grade.
- ~~J.~~ **Packing Requirements:**
  - 1. Apples which are tray packed, or cell packed in cartons, shall be at least fairly tight or fairly well filled.
  - 2. Closed cartons containing apples, not tray or cell packed, shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.
  - 3. Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper.
  - 4. Apples on the shown face of any container shall be representative in size, color, and quality of the contents.
  - 5. In order to allow for variations incident to proper packing, not more than 10% of the containers in any lot may fail to meet the requirements in this subsection.
- ~~K.~~ **Marking Requirements.** The numerical count, or the minimum diameter of the apples packed in a closed container, shall be indicated on the container and the following shall apply:
  - 1. When the numerical count is not shown, the minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches; or whole inches and not less than 1/8-inch fractions thereof.
  - 2. The word "minimum" or its abbreviation when following a diameter size marking, means that the apples are of the size marked or larger.
- ~~L.~~ The following controlled atmosphere standards shall apply only to rooms or storage buildings containing apples:
  - 1. Any person owning or operating a controlled atmosphere room or storage building, or packers or repackers of apples coming under the provisions of this Section, shall register with the Director and shall provide the following information on a form furnished by the Department:
    - a. The name, company name, address, and telephone number of the applicant;
    - b. The name of each member, or partner, if operating as a partnership or firm;
    - c. The name of each officer if operating as a corporation or association;
    - d. The location of the controlled atmosphere storage facilities;
    - e. The number of rooms available for storage;
    - f. The total capacity, in bushels;
    - g. The types of fruit provided for.
  - 2. The registration period is from July 1 to June 30.
  - 3. Each owner or operator of such a room or storage building shall register with the Department on or before July 1 of each year.
  - 4. The Director shall assign each approved registrant a registration number preceded by the letters CA. This number shall be marked on all containers coming under the provisions of this Section and shall be in accordance with all provisions pertaining to markings, as set forth in R3-4-737.
  - 5. Each owner or operator shall make the required air constituents determination on a daily basis. Within 20 days after the date of sealing, the percent of oxygen shall be reduced to a maximum of 5%.
  - 6. Each owner or operator shall maintain a record for each room and provide the following information on a form furnished by the Department:
    - a. The owner or operator's name, address, and room number;
    - b. The date of sealing and the date of opening;
    - c. The room capacity in bushels;
    - d. The lot identification and number of bushels within each lot;
    - e. The daily air constituents determination recordings showing date of test, time of test, percentage of carbon dioxide, percentage of carbon dioxide and oxygen, percentage of oxygen, temperature, and comments.
  - 7. Under provisions of this Section, any person selling, offering or transporting apples for sale within the state, shall furnish the following information on an invoice covering the sale of such apples:
    - a. The CA registration number, as prescribed in subsection (L)(4), assigned to the owner or owners of the controlled atmosphere room or storage building in which each lot or lots of apples was kept.
    - b. The CA registration number, as prescribed in subsection (L)(4), assigned to the owner or owners of the apples, and which is required to be marked on each container within each lot or lots of apples included thereon.
  - 8. Within 20 days after the date of sealing, each owner or operator shall provide the Department with a written report for each room containing the following information:
    - a. The room number;
    - b. The date of sealing;
    - c. The number of bushels contained therein.

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9. Upon complying with the filling, sealing, and atmosphere requirements of this subsection, all controlled atmosphere rooms shall be sealed with a Department seal by an authorized Department representative. Any such sealed room may not be entered during the required 90-day storage period, except under the following conditions:
- a. In order to make repairs necessary to maintain proper storage conditions, the applicant shall notify the Director, or the Director's authorized representative, within 48 hours of such entry; and
  - b. For the purpose of removing apples, such entry shall be subject to the following requirements:
    - i. The Director, or authorized representative, shall be notified of the amount of apples to be removed 24 hours prior to opening the rooms; and
    - ii. No apples shall be added during the time the room is open; and
    - iii. While open, the temperature of rooms containing hard varieties, such as Delicious, Rome, and Stayman Winesap, shall not exceed 36° F; and
    - iv. The oxygen content of the room shall be reduced to 5% or less within six days (144 hours) after the time the room is opened; and
    - v. No room shall be entered more than once during the required 90-day period for the purpose of removing apples.
  - e. Any room which has been entered, pursuant to subsection (L)(9)(b), shall be resealed by an authorized Department representative. The total amount of time the room has been above 5% oxygen shall be added to the original 90-day period thereby assuring a minimum of 90 days at, or below, 5% oxygen, except in the case of Gala, Fuji, or Braeburn varieties which shall be a minimum of 60 days at, or below, 5% oxygen.

The standards for apples in Arizona are the standards prescribed for U.S. No. 1 apples in the United States Standards for Grades of Apples, 7 CFR 51.300 et seq., revised as of January 1, 2003. The material is incorporated by reference and on file with the Department. This incorporation by reference contains no future additions or amendments.

**NOTICE OF FINAL RULEMAKING**

**TITLE 7. EDUCATION**

**CHAPTER 2. STATE BOARD OF EDUCATION**

**PREAMBLE**

**1. Sections Affected**

R7-2-401  
R7-2-402  
R7-2-403  
R7-2-404  
R7-2-408

**Rulemaking Action**

Amend  
Amend  
Repeal  
Amend  
Amend

**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. § 15-203(A)  
Implementing statute: A.R.S. § 15-203(A)(14)

**3. The effective date of the rules:**

December 8, 2003

**4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 535, February 21, 2003  
Notice of Proposed Rulemaking: 9 A.A.R. 902, March 21, 2003

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

Name: Christy Farley  
Executive Director, State Board of Education  
  
Address: 1535 W. Jefferson, Room 418  
Phoenix, AZ 85007  
  
Telephone: (602) 542-5057  
Fax: (602) 542-3046  
E-mail: cfarley@ade.az.gov

Notices of Final Rulemaking

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

In January 2002, Exceptional Student Services (ESS) and the Arizona Special Education Advisory Panel (SEAP) began a yearlong study of the *Arizona Administrative Code*, R7-2-401, R7-2-402, R7-2-403, R7-2-404, R7-2-405, and R7-2-408. This study was prompted by: (1) deficiencies noted in the U.S. Department of Education, Office of Special Education Programs (OSEP) review of the Arizona documentation for eligibility for funding under the Individuals with Disabilities Education Act, and (2) changes needed after two years of experience under the rules certified in March of 2001.

The proposed rules include modifications required by the Federal "No Child Left Behind" Act and changes to comply with statutory changes that have been adopted by the Arizona Legislature as well as clarifications to existing processes. Specific areas addressed include: (1) timelines for schools establishing extended school year program eligibility for students on an Individualized Education Plan (IEP) and the addition that extended year programs must be an available option, (2) extends the K-12 screening requirement to preschool programs operated by public schools to comply with the federal Office of Special Education Programs requirement, (3) includes re-evaluations of students with disabilities to be on the same timeline requirement as initial evaluations, (4) the special education voucher program rules (R7-2-404) were modified to align with current interagency protocols and to remove the highly specific language that inhibits simplification and improvements to the system (i.e. specific form names and identifying numbers rather than descriptions), (5) eliminates the out-of-state private special education schools language (R7-2-403) because it is unnecessary with the existing state voucher program (R7-2-404), (6) makes certain modifications to the requirements for private schools who accept students on an IEP, and (7) clarifies the requirement that each child with an IEP have some level of specialized instruction by a certified special education teacher or related services provider. Additional detail on the proposed changes under these rules is included in the attached summary chart.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each 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:**

The proposed rules will not diminish any previous grant of authority of a political subdivision of this state.

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

The proposed rules are not expected to have significant, if any, economic impact. The purpose of this rules package is to clarify, update, and align processes relating to special education programs for children with disabilities including the process of developing, reviewing, and implementing individualized education programs for these students. There is the possibility of a reduction in costs for consumers (schools and school districts) by including the ability to use optometrists as well as ophthalmologists in performing diagnostic assessments for students suspected of being visually impaired in establishing their eligibility to receive special education services. While the rule (R7-2-401(D)(5)) adds the requirement that preschool programs for non-disabled students provided by public schools must conduct screening of students for possible disabilities, this is not expected to have any increased costs to the consumers as these services would have to otherwise be conducted at the kindergarten level.

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

The State Board of Education approved two changes to the proposed rules. First, R7-2-401(M)(3) was amended to reflect that, while public education agencies have a right to a hearing if the Department determines an agency is ineligible for funding, those hearings will not be held before an independent review panel of the Department, as stated in the proposed rules. Second, the Board removed extraneous language from R7-2-404(B)(1)(d)(i) that, as written in the proposed rules, listed examples of agencies that are not authorized to place students in private residential treatment facilities for purposes of determining eligibility for voucher funding. These final rules also contain additional technical and conforming changes.

**11. A summary of the comments made regarding the rules and the agency response to them:**

Three individuals appeared to provide public comment during the oral proceeding held Tuesday, May 13, 2003.

*(Public Comment):* Opportunity for input was provided prior to the Notice of Proposed Rulemaking and appreciated by those involved. Inquiry was made as to whether additional changes to these rules would be required due to the federal No Child Left Behind Act and the additional guidance that was coming out from the U.S. Department of Education on that legislation.

*(Agency Response):* These rules incorporate several changes needed to be consistent with the No Child Left Behind Act, but after the Individuals With Disabilities Education Act (IDEA) Reauthorization it will be necessary to review the rules contained in this package again and further modifications will likely have to be made.

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

Not applicable

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

None

**14. Were these rules previously made as emergency rules?**

No

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

**TITLE 7. EDUCATION**

**CHAPTER 2. STATE BOARD OF EDUCATION**

**ARTICLE 4. SPECIAL EDUCATION**

Section

- R7-2-401. Special Education Standards for Public Agencies Providing Educational Services
- R7-2-402. Standards for Approval of Special Education Programs in Private ~~Special Education~~ Schools
- R7-2-403. ~~Out-of-state private special education schools~~ Repealed
- R7-2-404. Special education voucher program policies and procedures
- R7-2-408. Extended School Year Programs for Children with Disabilities

**ARTICLE 4. SPECIAL EDUCATION**

**R7-2-401. Special Education Standards for Public Agencies Providing Educational Services**

- A.** For the purposes of this Article, the Individuals with Disabilities Education Act Amendments of 1997 (IDEA), 20 USC 1400 et seq. as reauthorized on June 4, 1997, and the IDEA 1997 regulations, 34 CFR ~~parts~~ 300.4 through 300.756 effective March 1999, are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA 15250 or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson, Phoenix, Arizona 85007. This Article does not include any later amendments or additions to IDEA or IDEA regulations.
- B.** Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR ~~Parts~~ 300.4 through 300.30, and 300.504) and A.R.S. § 15-761 are applicable, with the following additions:
  - 1. “Accommodations” means the provisions made to allow a student to access and demonstrate learning. Accommodations do not substantially change the instructional level, the content or the performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the student within the context of the test.
  - 2. “Adaptations” means changes made to the environment, curriculum, and instruction or assessment practices in order for a student to be a successful learner. Adaptations include accommodations and modifications. Adaptations are based on an individual student’s strengths and needs.
  - 3. “Administrator” means the chief administrative official or designee (responsible for special education services) of a public education agency.
  - 4. “Audiologist” means a person who specializes in the identification and prevention of hearing problems and in the non-medical rehabilitation of those who have hearing impairments and who is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4.
  - 5. “Boundaries of responsibility” means for:
    - a. A school district, the geographical area within the legally designated boundaries.
    - b. A public agency other than a school district, the population of students enrolled in a charter school or receiving educational services from a public agency.
  - 6. “Certified school psychologist” means a person holding a certificate from the Arizona state board of education issued pursuant to 7 A.A.C. 2, Article 6, in the area of school psychology.
  - 7. “Certified speech/language therapist” means a person holding a certificate from the Arizona state board of education issued pursuant to 7 A.A.C. 2, Article 6, and a license from the Arizona Department of Health Services as a speech/language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.
  - 8. “Department” means the Arizona Department of Education.
  - 9. “Doctor of medicine” means a person holding a license to practice medicine pursuant to Chapter 13 (medical doctor) or Chapter 17 (doctor of osteopathy) of Title 32, Arizona Revised Statutes.

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10. “Exceptional Student Services Division” or “ESS” means the Exceptional Student Services Division of the Arizona Department of Education.
- ~~10-11.~~ “Evaluator” means a qualified person in a field relevant to the child’s disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.
- ~~11-12.~~ “Full and individual evaluation” means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
- A review of existing information about the child; and
  - A decision regarding the need for additional information; and
  - If necessary, the collection of additional information; and
  - A review of all information about the child and a determination of eligibility for special education services and needs of the child.
- ~~12-13.~~ “Independent educational evaluation” means an evaluation conducted by a qualified evaluator who is not employed by the public education agency responsible for the education of the child in question.
- ~~13-14.~~ “Interpreter” means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of FAPE, or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student’s IEP team determines the level of interpreter skill necessary for the provision of FAPE.
- ~~14-15.~~ “Language in which the student is proficient” means all languages including sign language systems.
- ~~15-16.~~ “Licensed psychologist” means a person holding a license from the state of Arizona board of psychologist examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article 2.
- ~~16-17.~~ “Modifications” means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
18. “Paraeducator” means a person employed to assist with the education of students but who is not certified to teach by the Arizona Department of Education. Alternate terms may include paraprofessional, teacher aide, instructional assistant or other similar titles.
- ~~17-19.~~ “Private school” means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public education agency. ~~“Private school” does not include home schools.~~
- ~~18-20.~~ “Private special education school” means a private school that is established to serve primarily students with disabilities. The school may also serve students without disabilities.
- ~~19-21.~~ “Psychiatrist” means a doctor of medicine who specializes in the study, diagnosis, treatment and prevention of mental disorders.
- ~~20-22.~~ “Public education agency” or “PEA” means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.
23. “Screening” means an informal or formal process of determining the status of a child with respect to appropriate developmental and academic norms. Screening may include observations, family interviews, review of medical, developmental, or education records, or the administration of specific instruments identified by the test publisher as appropriate for use as screening tools.
24. “Special education teacher” means a teacher holding a special education certificate from the Arizona Department of Education.
25. “Suspension” means a disciplinary removal from a child’s current placement that results in a failure to provide services to the extent necessary to enable the child to progress appropriately in the general curriculum and advance toward achieving the goals set out in the child’s IEP. The term does not include disciplinary actions or changes in placement through the IEP process if the child continues to receive the services described above. The term does include actions such as “in-school” and “going home for the rest of the day” removals if the child does not receive the services described above.

C. Public Awareness.

- Each public education agency shall inform the general public and all parents, within the public education agency’s boundaries of responsibility, of the availability of special education services for students aged three through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
- Each public education agency is responsible for public awareness within their enrolled population (including the families of enrolled students).
- School districts are responsible for public awareness in private schools located within their geographical boundaries.

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D. Child Identification and Referral.

1. Each public education agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.
2. Each public education agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of staff review.
3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.
4. The public education agency responsible for child identification activities is the school district in which the parents reside unless:
  - a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
  - b. The student is enrolled in a private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
  - a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
  - b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged three years through 21 years.
6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
7. For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
8. If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student's needs.
9. Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (~~E D~~)(5)(~~b~~), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. If the parent of an identified student enrolled in a private school does not reside within the school district boundaries, the parent, with the assistance of the school district, shall notify the district in which the parents reside of the needs of the student and the residence school district will assume responsibility for follow-up.
11. If, after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide ~~Prior Written Notice~~ prior written notice and ~~Procedural Safeguards Notice~~ procedural safeguards notice to the parent ~~within 60 calendar days~~ in a timely manner.

E. Evaluation/re-evaluation.

1. Each public education agency shall establish, implement, disseminate to its school-based personnel, and make available to parents within its boundaries of responsibility, written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.
2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and regulations, and state statutes and state board of education rules.
3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be completed as soon as possible, but shall not exceed 60 calendar days from receipt of informed written consent. If the public education agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility. If the parent requests the evaluation and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public education agency and shall conclude with the date of the MET determination of eligibility.

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4. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the parents and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the timelines for a re-evaluation within three years of the previous evaluation.
  - 4.5. The public education agency may accept current information about the student from another state, public agency, public education agency, or independent evaluator. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (~~Ⓓ~~ E)(1) through (~~Ⓕ~~ 7).
  - 5.6. For the following disabilities, the full and individual initial evaluation shall include:
    - a. Emotional disability: verification of a disorder by a psychiatrist, licensed psychologist, or a certified school psychologist.
    - b. Hearing impairment:
      - i. An audiological evaluation by an audiologist; and
      - ii. An evaluation of communication/language proficiency.
    - c. Other health impairment: verification of a health impairment by a doctor of medicine.
    - d. Specific learning disability: a determination of whether the discrepancy between achievement and ability meet the public education agency criteria.
    - e. Orthopedic impairment: verification of the physical disability by a doctor of medicine.
    - f. Speech/language impairment: an evaluation by a certified speech/language therapist.
    - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
      - i. An audiometric screening within the past calendar year;
      - ii. A review of academic history and classroom functioning;
      - iii. An assessment of the speech problem by a speech therapist; or
      - iv. An assessment of the student's functional communication skills.
    - h. Traumatic brain injury: verification of the injury by a doctor of medicine.
    - i. Visual impairment: verification of a visual impairment by an ophthalmologist or optometrist.
  - 6.7. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of (~~Ⓓ~~ E)(6)(a) through (i) are required for a student's re-evaluation.
- F. Individualized Education Program (IEP).**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures for the development, implementation, review, and revision of IEPs.
  2. Procedures for IEPs shall meet the requirements of the IDEA and regulations, and state statutes and state board of education rules.
  3. Procedures shall include the incorporation of Arizona Academic Standards into the development of each IEP. IEP goals aligned with the Arizona Academic Standards shall identify the specific level within the Standard that is being addressed.
  4. Each IEP of a student with a disability shall stipulate the provision of instructional or support services by a special education teacher, certified speech/language therapist, and/or ancillary service provider(s), as appropriate.
  - 4.5. Each student with a disability shall participate in the Arizona Student Assessment Program. The level at which a student will be assessed shall be documented on the student's IEP and shall be at least at the student's instructional level. The IEP shall also document instructional and assessment adaptations required by the student.
  - 5.6. A meeting shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public education agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting.
  - 6.7. A parent or public education agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the receipt of the request or at a mutually agreed upon time but not to exceed 30 school days.
- G. Least Restrictive Environment.**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and regulations, and state statutes and state board of education rules.
  2. A continuum of services and supports for students with disabilities shall be available through each public education agency.
- H. Procedural Safeguards.**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public education agency's and state's dispute resolution options.

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2. In accordance with the prior written notice requirements of IDEA, prior written notice must be issued in a timely manner following a decision by a PEA to propose to initiate or change, or refuse to initiate or change, the identification, evaluation, educational placement or the provision of FAPE to the child.

**I. Confidentiality.**

1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA, the Family Education Rights ~~to~~ and Privacy Act (FERPA) and regulations, and state statutes.
2. Parents shall be fully informed about the requirements of IDEA 300.127, including an annual notice of the policies and procedures that the PEA must follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.
- 2-3. Upon receiving a written request, each public education agency shall forward special education records to any other public education agency in which a student is attempting to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.

**J. Preschool Programs.** Each public education agency responsible for serving preschool children with disabilities shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for:

1. The operation of the preschool program in accordance with federal statute and regulation, and state statute;
2. The smooth and effective transition from the Arizona Early Intervention Program (AzEIP) to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
3. The provision of a minimum of 360 minutes of instruction in a program that operates at least three days a week.

**K. Children in Private Schools.**

Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures regarding the access to special education services to students enrolled in private schools as identified by the IDEA and regulations, and state statutes and state board of education rules.

**L. State Education Agency Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.**

1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public education agency.
2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive a free appropriate public education in conformance with the IDEA ~~and~~ regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.

**M. Procedural Requirements Relating to Public Education Agency Eligibility.**

1. Each public education agency shall establish eligibility for funding with the Arizona Department in accordance with the IDEA and regulations, and state statutes and with schedule and method prescribed by the Department.
2. In the event the Department determines that a public education agency does not meet eligibility for funding requirements, the public education agency has a right to a hearing ~~before the state board of education~~ before such funding is withheld.
3. The Department may temporarily interrupt payments during any time period when a public education agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
4. Each public education agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public education agency who have been placed by their parents in private schools or who are home schooled.

**N. Public Participation.**

1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are:
  - a. Public hearings,
  - b. Notice of the hearings, and
  - c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.
2. This requirement does not pertain to day-to-day operating procedures.

**O. Suspension and Expulsion.**

1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for the suspension and expulsion of students with disabilities.
2. Each public education agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.

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3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and regulations, and state statutes.

**R7-2-402. Standards for Approval of ~~Special Education~~ Programs in Private ~~Special Education~~ Schools**

- A. Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR ~~parts~~ 300.4 through 300.30), A.R.S. § 15-761, and ~~state board of education~~ State Board of Education R7-2-401 are applicable.
- B. No student may be placed by a public education agency in a private school special education school program unless the facility has been approved as meeting the standards as outlined in this rule, and the public education agency is unable to provide satisfactory education and services through its own facilities and personnel.
- C. In order for a private special education school to be approved by the Department for the purpose of contracting with a public education agency, the private facility shall:
  1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
  2. Provide the following documentation:
    - a. Policies and procedures based on IDEA and state statutes;
    - b. Curriculum that is aligned with the Arizona Academic Standards;
    - c. A completed application;
    - d. Copies of all teacher and related service personnel certifications and licenses; and
    - e. If applicable, a copy of North Central Accreditation.
  3. Provide ~~certified~~ certificated special education teachers in each classroom to implement the IEPs of those students assigned to that classroom.
  4. Provide related services to meet the needs of the students as indicated on their IEPs.
  5. Provide administration personnel such as head teacher, principal, or other administrator ~~certificated~~ in an administrative area or experienced and ~~certified~~ certificated in the appropriate area of special education.
  6. Provide an education that meets the standards that apply to education provided by the public education agency.
  7. Maintain student records in accordance with the statutory requirements.
  8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public education agency contracting for the students' education.
  9. Administer all required statewide assessments to those students placed in the private facility by a PEA or through the educational voucher system.
  - ~~9~~10. Maintain adequate liability insurance.
  - ~~10~~11. Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request.
  - ~~11~~12. Maintain an attendance reporting system that provides public education agencies and the Department with required information.
  - ~~12~~13. Provide notification to contracting public education agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.
  14. Provide notification to the contracting PEA of any intent to discontinue, suspend, or terminate services to a student for longer than 10 days. Services to the student must be continued by the private school until an IEP meeting with the PEA is convened to determine an appropriate alternative placement. The PEA must be given up to 10 school days to arrange for the transition of the student after the IEP determination.
  - ~~13~~15. Permit onsite evaluation of the program by the Department or its designees, and the representatives of the public education agencies.
  - ~~14~~16. Request approval to contract with public education agencies from the Department in accordance with the prescribed procedures.

**R7-2-403. ~~Out of state private special education schools~~ Repealed**

~~In order for a public school district ("LEA") in Arizona to contract with an out of state private special education school, the following steps must be completed:~~

- ~~1. The LEA must submit to the Division of Special Education a request for approval (Form ADE 35-301) stating:~~
  - ~~a. The name of private out of state facility.~~
  - ~~b. The name of child for whom out of state special education placement is contemplated and area of exceptionality.~~
  - ~~c. An affidavit signed by the LEA authorized agent verifying that:~~
    - ~~i. The child for whom out of state placement is requested is diagnosed as qualifying for physically handicapped, visually handicapped, hearing handicapped, trainable mentally handicapped, seriously emotionally handicapped or multihandicapped pursuant to A.R.S. § 15-761.~~
    - ~~ii. No program exists within the LEA for the exceptionality of the specific child in the request.~~
    - ~~iii. No program can feasibly be instituted and the reason.~~

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- iv. The out-of-state placement is the least expensive adequate alternative.
- d. Subject to R7-2-401(A)(2), the Division of Special Education shall approve all out-of-state special education placements after verification that:
  - i. No special education services exist in the state which are appropriate for the specific handicapped child.
  - ii. The out-of-state placement is the least expensive adequate alternative available to the LEA.
- 2. Records in the Division of Special Education must indicate that the out-of-state private special education school is approved by the State Department of Education in the state in which it is located to educate handicapped children in the category requested.
- 3. Approval by the Division of Special Education is issued only for individual children and for one school year if the conditions in this Section have been met.

**R7-2-404. Special education voucher program policies and procedures**

A. Institutional vouchers. An educational evaluation will determine the eligibility for special education institutional voucher funding for students residing in and attending special education programs in 1 of the SSI's, or those residing in an SSI and attending an LEA special education program. Students residing and attending special education programs at the Arizona Schools for the Deaf and the Blind (ASDB) or the Arizona State Hospital (ASH) or students attending special education day programs provided by ASDB may be eligible for special education institutional voucher funding.

1. Eligibility criteria
  - a. Those eligible for a special education institutional voucher are
    - i. Students, ages 5-21, who reside in, and attend special education programs at 1 of the Arizona training programs for the mentally retarded at Coolidge, Phoenix, and Tucson, or Arizona State School for the Deaf and the Blind, or who attends day school programs within 1 of the 4 institutions (institution submits voucher application).
    - ii. Students, ages 5-21, who reside in 1 of the 4 SSI's and attend an LEA special education program (LEA submits voucher application).
  - b. Those not eligible for a special education institutional voucher are:
    - i. Students who do not reside in 1 of the training programs or Arizona State School for the Deaf and the Blind, or who do not attend a day school program within these institutions.
    - ii. Students placed in group homes by the Department of Economic Security/Bureau of Mental Retardation. These students are eligible for certificates of educational convenience if the child's parents are not legal residents of the LEA in which the group home is located.
  - a. Student shall be between the ages of 3 and 22 years.
  - b. Student shall have a recognized disability as documented by a current educational evaluation. Evaluations shall be completed by the institution or the student's home school district (HSD), as determined by a multidisciplinary evaluation team (MET).
  - c. Student shall have a current individualized education program (IEP) identifying the placement as the most appropriate and least restrictive educational environment.
2. Evaluations. All educational evaluations are to be conducted by the SSI of residence or the LEA making application for the institutional voucher. The evaluation must be submitted with the application for special education institutional voucher. No voucher application can be processed without accompanying evaluative materials.
3. Institutional voucher application/approval
  - a. The application for special education institutional voucher (ADE 35-108) is completed by the SSI or the LEA and is forwarded, along with the educational evaluation, to the Division of Special Education, Department of Education. The SSI or LEA must provide all student information requested on the institutional voucher application.
  - b. Following receipt of the application and evaluative material by the Division of Special Education, the materials are reviewed. After approval/disapproval of the institutional voucher application has been determined, the application is signed by the Director of Program Services, Division of Special Education, and notification is sent to the SSI or LEA providing the special education program. Institutional voucher payment will not be made for attendance prior to voucher approval date.
  - e. A student identification number is assigned by the Division of Special Education to each approved institutional voucher student and this number will be used by the SSI or LEA when completing the claim for payment form (ADE 35-109) and the special education census form (ADE 35-102).
  - d. The institutional voucher application procedure must be repeated each school year. If a student is transferred from 1 SSI educational program to another during any school year, or if a student transfers from an SSI program to a special education program in an LEA, a 2nd institutional voucher must be submitted to the Division of Special Education.
  - e. Evaluations and reevaluations to determine continued placement of children receiving institutional voucher funds will be conducted by the SSI or the LEA making application for the institutional voucher.

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- a. Applications for special education institutional vouchers shall be completed by the institution and submitted to the Exceptional Student Services Division of the Department of Education. The institution shall provide all student information requested on the institutional voucher application.
  - b. Institutions shall sign a Statement of Assurance guaranteeing their maintenance of and ability to produce all supporting documentation for each application.
  - c. Institutional voucher applications shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Institutional voucher payments will not be made for student attendance prior to voucher approval date.
  - d. Voucher identification numbers shall be assigned for each new student approval, and shall be used by the institution to complete claims for payment and the special education census form.
  - e. Institutional vouchers are approved for the current year only; therefore the application process shall be repeated each school year for each student.
  - f. Institutions shall report any changes in student status, including withdrawals, transfers, current evaluation dates and changes in disability categories to the Exceptional Student Services Division of the Department of Education. Changes shall be submitted within ten days of the occurrence.
- 5.3. Institutional voucher claim for payment
- a. The special education institutional voucher claim for payment form (ADE 35-109) is completed at the end of each calendar month by the SSI or LEA providing special education services, showing names of approved institutional voucher students, assigned student identification numbers, entry dates, withdrawal dates when applicable, and monthly charges.
  - b. The claim for payment forms are signed by the SSI or LEA administrator and returned to the Division of Special Education for processing by the Division of Business and Finance.
  - a. The special education institutional voucher claim for payment form shall be completed by the institution at the end of each calendar month. The claim shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
  - b. Claims for payment shall be submitted to the School Finance Division of the Department of Education.
4. Student withdrawal
- a. ~~When an approved special education institutional voucher student is withdrawn or terminated from the SSI or LEA named on the approved institutional voucher application, a notice of student withdrawal (ADE 35-110) must be completed by the facility and forwarded to the Division of Special Education so the withdrawal/termination may be recorded.~~
  - b. ~~This withdrawal procedure pertains to students withdrawn from programs and to those transferred from the SSI special education program to another SSI or to an LEA special education program.~~
- 6.4. Special education census
- All institutional voucher students shall be reported on the special education census form in accordance with procedures established by the School Finance Division of the Department of Education. ~~(ADE 35-102). Instructions found on the back of the form shall be followed, with the following exceptions:~~
- i. ~~The student number to be used for institutional voucher students when entering their names on the census form is the student identification number assigned to approved voucher applications.~~
  - ii. ~~SSI's will leave column 9 (district of residence) blank.~~
  - iii. ~~LEA's will place in column 9 (district of residence) the following county type district number assigned to the state institution where the student resides:~~
    - ~~Arizona State School for the Deaf and the Blind: 00-12-03~~
    - ~~Arizona Training Program at Coolidge: 00-12-04~~
    - ~~Arizona Training Program at Tucson: 00-12-05~~
    - ~~Arizona Training Program at Phoenix: 00-12-06~~
- 7.5. Review of placement
- a. ~~The application process must be implemented in the summer for each student expected to continue in approved educational placement at the beginning of the next school year. Just as submission of an institutional voucher application is an annual event, so too is review of placement to determine continued eligibility for the institutional voucher. In most cases this will not involve actual testing, but rather a record review, supplementary testing, or review of educational progress. The responsibility for the summer review of placement rests with the SSI or LEA making application for the institutional voucher. Voucher students must have their progress reviewed at least once each semester by LEA staff.~~
  - a. It is the responsibility of the HSD to review student progress at least once a semester.
  - b. The IEP may be completed by the institution but is ultimately the responsibility of the student's HSD to ensure that it is reviewed and revised annually.
  - c. It is the responsibility of the HSD to ensure that re-evaluations are conducted on a tri-annual basis or more frequently as needed.

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- B. ~~Permanent vouchers. Children placed by the Department of Economic Security, the Juvenile Courts, or the Department of Corrections in private residential treatment facilities for purposes of special education must be educationally evaluated to determine their eligibility for a permanent special education voucher in the facility in which he/she is to be placed.~~

Residential vouchers: Students placed in private residential treatment facilities (PRF) may be eligible for residential voucher funding for the educational portion of the placement.

~~1. Eligibility~~

- ~~a. Those eligible for permanent special education vouchers are:~~

- ~~i. Children, ages 5-21, who are to be placed in private residential facilities by the Department of Economic Security, the Juvenile Courts, or Department of Corrections.~~  
~~ii. Children suspected of or having been confirmed to have a handicapping condition requiring special education and related services.~~  
~~iii. Children anticipated to be attending special education programs in such facilities as are approved by the Division of Special Education and licensed as a residential treatment facility by the DES.~~

- ~~b. Those not eligible for permanent special education vouchers are:~~

- ~~i. Children placed by the Bureau of Indian Affairs in private residential facilities approved as a private special education school.~~  
~~ii. Children placed and funded by Champus.~~  
~~iii. Children privately placed in private special education facilities.~~  
~~iv. Children who reside in private residential treatment facilities but attend any type of public school program.~~  
~~v. Children attending special education programs in private facilities which are not approved by the Division of Special Education.~~  
~~vi. Children attending a regular education program in private or public schools.~~

- ~~e. All children must be evaluated by the placing agency as provided in these rules.~~

~~1. Eligibility Criteria~~

- ~~a. Students shall be enrolled in and eligible for educational services from a Public Education Agency (PEA).~~

- ~~b. Placement shall be made by one of the State Placing Agencies. They are the Department of Economic Security (DES), the Department of Health Services (DHS), the Administrative Office of the Courts (AOC), or the Department of Juvenile Corrections (ADJC).~~

- ~~c. Residential facilities shall be licensed by the Department of Health Services or Department of Economic Security and approved by the Department of Education for the specific educational needs of each student placed there.~~

- ~~d. The following conditions invalidate eligibility:~~

- ~~i. Placement by any agency other than those noted in (1)(b).~~  
~~ii. Placement in facilities not appropriately licensed by DHS or DES or approved by the Department of Education.~~  
~~iii. Student attendance at a PEA while residing in a residential facility.~~

- ~~e. Eligible students are divided into three categories:~~

- ~~i. Non-special education (NSE): Students not eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.~~  
~~ii. Care special education (CSE): Students eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.~~  
~~iii. Residential special education (RSE): Students requiring residential placement to benefit from educational programming who are placed by an IEP team.~~

~~2. Voucher application/approval~~

- ~~a. Upon receipt of the educational evaluation report, the referral agent (Department of Economic Security, Juvenile Courts or Department of Corrections) determines from the educational diagnosis the most appropriate special education and residential placement for the child. The private facility must be approved by the Division of Special Education. Twice annually each placing agency is sent an updated list of these approved private facilities.~~

- ~~b. An application for permanent special education voucher (ADE 35-103) is completed by the placing agent and forwarded to the Division of Special Education. The placing agent must provide all student information required by this form.~~

- ~~c. Upon receipt of the 4 components contained in each child's voucher application packet (referral form, evaluation, evaluation summary sheet, and voucher application), a review is conducted by the Division of Special Education to determine if the designated special education placement is appropriate.~~

- ~~d. After approval/disapproval of the voucher application has been determined, the application is signed by the Director of Program Services, Division of Special Education, and notification is sent to the placing agent and to the private facility. Voucher payment will not be made for attendance prior to voucher approval date.~~

- ~~e. A student identification number is assigned by the Division of Special Education to each approved voucher student and this number will be used by the private facility when completing the special education census form (ADE 35-102) and the claim for payment form (ADE 35-105).~~

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- f. ~~The voucher application procedure must be repeated each school year. If a student is transferred from 1 approved private facility to another during any school year, a 2nd voucher application must be submitted to the Division of Special Education.~~
  - g. ~~As special education vouchers are approved by the Division of Special Education, a copy of the approval memo will be sent to the student's school district of residence. The district of residence for children placed by state agencies is the district in which the private school is located.~~
  - h. ~~Voucher students must have their progress reviewed at least once each semester by LEA staff to see which are eligible to attend LEA educational programs. Evaluations and reevaluations to determine continued placement will be conducted by evaluators approved by the Department of Economic Security, and the LEA is responsible only for the reviews of progress.~~
2. Voucher application/approval process. The process differs depending on category.
- a. NSE and CSE options:
    - i. When a placement decision is reached, the State Placing Agency (SPA) shall complete a SPA Application for Voucher Funding, and forward a copy to the student's Home School District (HSD) for appropriate signatures within five days of placement.
    - ii. Upon placement, copies of the completed voucher shall be provided to the PRF and the Exceptional Student Services of the Department of Education (ESS).
    - iii. Upon receipt and review of the application and verification of facility approval, the SPA application will be approved for the initial 60 days of placement. An approval memo is sent to the PRF and the HSD. The Exceptional Student Services shall assign a student identification number to each approved voucher student. This number shall be used by the private facility when completing the special education census form and the claim for payment form.
    - iv. The HSD shall submit the HSD Application for Education Voucher Funding packet and submit it to the Exceptional Student Services of the Department of Education. Appropriate documentation of eligibility for special education and provision of services, if applicable, shall be included.
    - v. The HSD voucher application packet shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Approvals are granted from the date of receipt through the end of the school year. An approval memo is sent to the PRF and the HSD.
    - vi. If the HSD cannot complete the requirements for the HSD application packet within the initial 60-day approval period, they shall submit an Application For Extension Of Education Voucher Funding.
  - b. RSE option:

The HSD shall follow statutory requirements and procedures agreed upon by the ADE, DHS, and DES when considering placement in a PRF for educational reasons. If a need for such a placement is determined, the HSD shall complete and submit the HSD Application for Education Voucher Funding packet to the ESS. Documentation of the necessity for PRF placement, measurable exit criteria, and a reintegration plan shall be required.
3. Student withdrawal
- a. ~~Whenever an approved special education voucher student is withdrawn from the facility named on the approved voucher application, a notice of student withdrawal (ADE 35-106) must be completed by the private facility and forwarded to the placing agent for signature verifying entry and withdrawal dates.~~
  - b. ~~The placing agent will return the withdrawal form to the Division of Special Education so the withdrawal may be recorded. These withdrawal procedures pertain to students dropped from programs and to those transferred from 1 approved private facility to another by the placing agency.~~
3. Changes in placement/Discharge:
- a. If a student is discharged or is absent without leave for more than ten days from the PRF, the facility shall notify the State Placing Agency, Home School District and the Exceptional Student Services Division of the Department of Education in writing within five days.
  - b. Students returning to a facility after a discharge or students transferred from one facility to another require a new SPA voucher application.
  - c. Students placed under the RSE option shall not be discharged without the consent of the IEP team.
4. Voucher claim for payment
- a. ~~The special education voucher claim for payment form (ADE 35-105) is completed at the end of each calendar month by the private facility, showing the names of approved voucher students, assigned I.D. numbers, entry dates, withdrawal dates when applicable, and tuition amounts. A special education voucher claim for payment shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.~~
  - b. ~~These claim forms are signed by the school administrator and returned to the Division of Special Education for processing by the Division of Business and Finance. Claim for payment shall be submitted to the School Finance Division of the Department of Education.~~

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5. Special education census

- a. A special education census form (~~ADE 35-102~~) shall be completed for all voucher students in accordance with procedures established by the School Finance Division of the Department of Education. ~~Instructions are found on the back of the census form, but there are 2 exceptions pertaining to voucher students:~~
  - i. ~~The student number to be used on the census form is the student I.D. number that appears on the approved voucher application.~~
  - ii. ~~Do not use the county type district numbers of the LEA in which you are located for column 9 (district of residence). Use the following information in completing column 9:~~

<del>If the first two digits of student I.D. number are</del>	<del>Place these numbers in column 9 (district of residence): city/type/dist</del>
<del>10</del>	<del>00-31-10</del>
<del>20</del>	<del>00-31-20</del>
<del>30</del>	<del>00-31-30</del>

- 6. Reevaluation. The process outlined in (B)(1) and (2) must be implemented in the summer for each child expected to continue in his/her approved educational placement at the beginning of the next school year. Just as submission of a voucher application is an annual event, so too is reevaluation to determine continued eligibility for the voucher. In most cases this will not involve actual testing but rather a record review, interview, or supplementary assessment.
- 6. Review and continuation of placement:
  - a. The Home School District (HSD) shall regularly monitor the progress of students, ensure the annual review and revision of IEPs, and complete three-year re-evaluations as applicable.
  - b. Voucher approval is for one school year only. Students remaining in an PRF from the end of one school year to the beginning of the next year require new voucher applications. Prior to the beginning of the new school year, the PRF shall submit an Application for Continuing Voucher funding, signed by both the SPA and the HSD. For a student who is eligible for special education services, a current IEP shall accompany the continuing application if the IEP has been reviewed or revised after the original voucher was approved.

**R7-2-408. Extended School Year Programs for Children with Disabilities**

- A. "Extended school year" (ESY) shall be as defined in A.R.S. § 15-881.
- ~~B.~~ Eligibility. Eligibility shall be determined by the Individualized Education Program (IEP) Team. Criteria for determining eligibility in an extended school year program shall be:
  - ~~1. Regression-recoupment factors;~~
  - ~~2. Critical learning stages;~~
  - ~~3. Least restrictive environment considerations;~~
  - ~~4. Teacher and parent interviews and recommendations;~~
  - ~~5. Data-based observations of the pupil;~~
  - ~~6. Considerations of the pupils' previous history; and~~
  - ~~7. Parental skills and abilities.~~
- ~~C.~~ Eligibility. Eligibility shall be determined by the Individualized Education Program (IEP) Team. Criteria for determining eligibility in an extended school year program shall be as defined in A.R.S. § 15-881.
- ~~C.~~ The extended school year program is not compulsory and is not required for all students with a disability.
- ~~C.~~ For a student with a disability currently enrolled in special education, eligibility for ESY services shall be determined no later than 45 calendar days prior to the last day of the school year.
- ~~D.~~ The availability of an extended school year program is required for all students for whom the IEP team has determined that it is necessary in order to ensure a free appropriate public education. Student participation in an ESY program is not compulsory. ESY services are not required for all students with a disability.
- ~~D.E.~~ Factors that are inappropriate for consideration. Eligibility for participation shall not be based on need or desire for any of the following:
  - 1. A day care or respite care service for students with a disability;
  - 2. A program to maximize the academic potential of a student with a disability; and
  - 3. A summer recreation program for students with a disability.

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NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 5. STATE LAND DEPARTMENT

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**  
R12-5-413 Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 37-132(A)(1)  
Implementing statute: A.R.S. § 37-132(B)(2)
- 3. The effective date of the rules:**  
December 7, 2003
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Emergency Rulemaking: 8 A.A.R. 5151, December 20, 2002  
Notice of Emergency Rulemaking: 9 A.A.R. 1963, June 20, 2003  
Notice of Rulemaking Docket Opening: 9 A.A.R. 1430, May 9, 2003  
Notice of Proposed Rulemaking: 9 A.A.R. 1926, June 20, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Richard B. Oxford, Director Land Information, Title & Transfer Division
Address:	Arizona State Land Department 1616 W. Adams Phoenix, AZ 85007
Telephone:	(602) 542-4602
Fax:	(602) 542-5223
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
A.R.S. § 37-132(B)(2) authorizes the State Land Commissioner to use private real estate brokers to assist in any sale or long-term lease of state land. The Department is authorized to pay a commission to licensed real estate brokers or their agents for their services associated with the successful selling or long-term commercial leasing of state properties at public auction. The commission is to be paid from fees collected for sale or long-term lease of state land under A.R.S. § 37-108(A)(10)(a).  
  
Under R12-5-413(B), "...the commission paid shall be the amount collected pursuant to A.R.S. § 37-108(A)(10)(a)" (emphasis added). Under the amended rule, "...the commission shall be paid from the fees collected under A.R.S. § 37-108(A)(10)(a)" (emphasis added).  
  
R12-5-413(B), as written, restricts the Commissioner's ability to provide appropriate commissions to brokers in keeping with economic trends in the real estate business and consistent with the services provided in a transaction.  
  
To provide fair and equitable broker fees, the Commissioner needs to be able to assess the amount of work required of a broker relating to a proposed sale or long-term lease and offer a broker a commission commensurate to the proposed leasing or sales transaction.  
  
Other amendments clarify text and bring the rule up to Secretary of State's rulewriting standards.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
The Land Department did not review any study relevant to the rule.
- 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

Notices of Final Rulemaking

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

In 1993, the Arizona Legislature enacted A.R.S. § 37-132(B)(2), which (1) authorized the State Land Commissioner to use private real estate brokers to assist in any sale or long-term lease of state land, and (2) authorized the Department to pay a broker's commission, within certain parameters, for their services. The broker's commission fee is authorized to be paid from selling fees collected pursuant to A.R.S. § 37-108(A)(10)(a).

The current rule requires the commission paid to be the amount collected pursuant to A.R.S. § 37-108(A)(10)(a). This inflexibility does not allow the State Land Commissioner to establish a broker's commission commensurate to the amount of work by a broker for the sale or long-term lease being offered. The broker's role in securing a successful bidder in a sale is different than securing a successful lessee for a long-term lease. In its simplest form, the broker's role in a sale is to notify a potential client of the Department's proposed sale, provide information, and have the client be the successful bidder. In a long-term lease, the broker must be familiar with the lease and the terms being offered, secure an interested lessee, negotiate lease terms where possible, and have the client be the successful bidder at the lease auction.

The impact of the rule amendment will be primarily on the licensed real estate brokers in the state whose commissions will be tailored to fit the proposed sale or lease. The impact may also be felt by the Department as brokers may not consider the commissions on smaller sales as lucrative enough to warrant their time, and thus, the Department would not be able to capitalize on the services of the brokers to market its properties on these sales.

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

Minor technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

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

No comments were received by the agency.

**12. Any other matters prescribed by statute that are applicable to the specific agency or 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?**

The Department implemented the adopted rule as an emergency rule amendment in November 2002, pursuant to A.R.S. § 41-1026 (8 A.A.R. 5151, December 20, 2002). The emergency rule was renewed by the state's Attorney General in May 2003, and will expire in November 2003 (9 A.A.R. 1963, June 20, 2003).

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

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 5. STATE LAND DEPARTMENT**

**ARTICLE 4. SALES**

Section

R12-5-413. Real Estate Broker Commissions

**ARTICLE 4. SALES**

**R12-5-413. Real Estate Broker Commissions**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- B. If a commission is offered for the sale or long-term commercial lease of state land at public auction, the Department shall pay the commission shall be the amount paid from the fees collected pursuant to under A.R.S. § 37-108(A)(10)(a).
- C. The Department shall publish the decision of the Commissioner to pay or not to pay a commission for the sale or long-term commercial lease of state land and the amount and terms of the commission offered, if any, in the public notice of the auction.
- D. Upon determination by the Commissioner that a commission ~~shall~~ will be offered on a sale or long-term commercial lease, a person holding an active ~~Arizona~~ real estate broker license in this state is eligible to receive the commission, from the Department, by registering with the Department the successful purchaser or lessee at public auction. ~~The A~~ A broker shall register himself or herself and the potential purchaser or lessee with the Department no later than three business days

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before the auction. ~~Registration~~ The broker shall register ~~be~~ in writing and include the following:

1. Name and address of the brokerage;
  2. Name and real estate license number of the broker and any real estate salesperson acting as an agent for the broker at the public auction;
  3. Name and address of the potential purchaser or lessee;
  4. Auction number, location, and parcel number of the land to be auctioned for sale or lease; and
  5. Signature of the broker or salesperson and the potential purchaser or lessee verifying that the broker or salesperson represents the potential purchaser or lessee and that together they have inspected the land to be auctioned for sale or lease.
- E. A broker shall submit registration meeting the requirements of subsection (D) by mail or hand-delivery to the Department's public counter, ~~located at 1616 West Adams~~, Phoenix, Arizona 85007. ~~Registration shall be deemed~~ The Department deems registration received by the Department on the date postmarked if mailed or time-stamped if hand-delivered. A broker shall not register the following:
1. A potential purchaser or lessee who is registered with another broker for the same auction, or
  2. A governmental agency.
- F. The Department shall pay the commission to the broker representing the successful purchaser or long-term commercial lessee at the time of delivery of the certificate of purchase or patent, or lease, or after final disposition of any protests or appeals resulting from the auction, whichever occurs later.
- G. The Department shall not pay a commission to a broker if the Commissioner determines that the broker has violated this ~~rule~~ Section.
- H. For the purpose of this Section, the following definitions apply:
1. "Long-term commercial lease" means a lease granted on state land for commercial purposes to the highest and best bidder at public auction for a term in excess of 10 years, but not more than 99 years ~~for commercial purposes to the highest and best bidder at public auction~~.
  2. No change

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TITLE 17. TRANSPORTATION

CHAPTER 6. DEPARTMENT OF TRANSPORTATION  
OVERDIMENSIONAL PERMITS

PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R17-6-413                          | New Section                     |
| Table 5                            | New Table                       |
- 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. § 28-366  
Implementing statutes: A.R.S. §§ 28-1091 through 28-1100, 28-1103 through 28-1107, and 28-7045
- 3. The effective date of the rules:**  
October 8, 2003. The Arizona Department of Transportation requests an immediate effective date for this rulemaking under the provisions of A.R.S. § 41-1032(A)(4). This rulemaking provides a benefit to the public and no prescribed penalty for violation. This rulemaking will allow transporters of houseboats in the Page – Lake Powell area to transport under permit on weekends and holidays, a necessity for the tourist-based economy of that area.
- 4. A list of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 9 A.A.R. 2120, June 27, 2003  
Notice of Proposed Rulemaking: 9 A.A.R. 2271, July 3, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Wendy S. LeStarge, Rules Analyst  
Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5079

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Telephone: (602) 712-6007  
Fax: (602) 241-1624  
E-mail: wlestarge@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).

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

The Arizona Department of Transportation ("ADOT") is creating R17-6-413 to provide specific permitting procedures and a special exception for weekend and holiday movement of houseboats in the Page – Lake Powell area. The creation of the new Section is based on stakeholder request followed by a traffic engineering study performed in January 2003. Most overdimensional vehicle transport is prohibited on weekends and holidays under R17-6-405 and R17-6-406. The issue for stakeholders is that houseboats launched from Lake Powell are on federal land. A federal concessionaire controls houseboat storage and maintenance at Lake Powell. Some houseboat owners prefer to store and maintain their houseboats in the City of Page. However, they must be able to transport the houseboats on various state highways, which provide the only access to the entrance of Lake Powell in Arizona. Much of the transport is seasonal, with many launches on weekends and holidays during the summer.

The escort restrictions are enforced on a permit-by-permit basis. By codifying necessary safety restrictions in rule, applicants will not have to seek separate class C approval as required under R17-6-104.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

ADOT's Northern Traffic Region of the Intermodal Transportation Division's (ITD) Flagstaff District conducted a study on portions of US 89. The study examines the highway area to make conclusions and recommendations on the feasibility of permit issuance for houseboat transport on weekends and holidays and the need for escort vehicles. An interested person may obtain a copy of the study and access to any existing supporting material from the following ADOT official:

Mr. Charles P. Gillick, Jr., Traffic Engineer  
Northern Traffic Region  
1801 S. Milton Road  
Flagstaff, AZ 86001-6387  
(928) 779-7545

**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:**

Dry houseboat storage, maintenance merchants, and local transporters in the Page – Lake Powell area will directly benefit because they will be able to transport oversize houseboats on weekends and holidays. Also they will be able to request permits locally without the additional procedures for a separate class C approval under R17-6-104. R17-6-413 benefits transporters by providing clear, convenient instructions of where to obtain a permit locally. Their costs should be minimal to moderate for the permits and arrangement for escort vehicles according to the recommendations of the study referenced in preamble item #6 of the Notice of Proposed Rulemaking. This Section may result in delay costs to the motoring public in the area.

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

Subsection (G) was deleted because it contained references to a version of R17-6-407 that was not adopted. Other grammatical and organizational changes were made at the suggestion of the Governor's Regulatory Review Council's staff.

**11. A summary of the comments made regarding the rules 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. Were these rules previously adopted as emergency rules?**

Not applicable

**Notices of Final Rulemaking**

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

**TITLE 17. TRANSPORTATION**

**CHAPTER 6. DEPARTMENT OF TRANSPORTATION  
OVERDIMENSIONAL PERMITS**

**ARTICLE 4. TRANSPORT RESTRICTIONS**

Section

R17-6-413. Page-Lake Powell Area Houseboat Transport Provisions

Table 5. Page-Lake Powell Area Highways

**ARTICLE 4. TRANSPORT RESTRICTIONS**

**R17-6-413. Page-Lake Powell Area Houseboat Transport Provisions**

- A.** A permit applicant shall use the procedures in this Section to apply for a permit to transport a houseboat of the dimensions specified in subsection (C) for a highway listed in Table 5.
- B.** A permit applicant shall apply for a permit under this Section at the following Department field office:  
Page Port of Entry  
US 89 MP 551  
P.O. Box 1807  
Page, AZ 86040  
Telephone: (928) 645-3269  
Fax: (928) 645-9360
- C.** A permitted load with at least one front and one rear escort vehicle may operate during daylight hours as prescribed under R17-6-401(1) including any weekday, weekend, or holiday, if it does not exceed dimensions as follows:
  1. 16 feet 6 inches wide,
  2. 25 feet high,
  3. 120 feet long,
  4. 150,000 pounds, and
  5. Axle weight limits listed in Tables 3.01 through 3.09.
- D.** A permitted load that exceeds 17 feet high shall have a front escort with a height pole.
- E.** For a permitted load that exceeds 14 feet wide, a permittee shall ensure for appropriate traffic control at the Glen Canyon Bridge on US 89 by closing access to the bridge at each end and at the visitor center driveway.
- F.** If a permit applicant seeks to transport outside the requirements of this Section, the permit applicant shall apply for a class C permit according to the procedures under R17-6-104.

**Table 5. Page-Lake Powell Area Highways**

<b><u>Highway</u></b>	<b><u>From</u></b>	<b><u>To</u></b>
<u>State Route 98</u>	<u>Copper Mine Road</u>	<u>Haul Road</u>
<u>US 89</u>	<u>Haul Road</u>	<u>Lake Shore Drive</u>
<u>US 89</u>	<u>Lake Shore Drive</u>	<u>Haul Road</u>
<u>State Route 98</u>	<u>Haul Road</u>	<u>Copper Mine Road</u>
<u>US 89</u>	<u>Lake Powell Blvd.</u>	<u>Lake Shore Drive</u>
<u>US 89</u>	<u>Lake Shore Drive</u>	<u>Lake Powell Blvd.</u>
<u>US 89</u>	<u>Haul Road</u>	<u>Lake Shore Drive</u>
<u>US 89</u>	<u>Lake Shore Drive</u>	<u>Haul Road</u>
<u>US 89</u>	<u>State line</u>	<u>Lake Shore Drive</u>
<u>US 89</u>	<u>Lake Shore Drive</u>	<u>State line</u>
<u>State Route 98</u>	<u>Navajo Plant (approximately post marker 299)</u>	<u>US 89 to Lake Shore Drive</u>
<u>US 89</u>	<u>Lake Shore Drive to SR 98</u>	<u>Navajo Plant (approximately post marker 299)</u>
<u>State Route 98</u>	<u>Copper Mine Road</u>	<u>Navajo Plant (approximately post marker 299)</u>
<u>State Route 98</u>	<u>Navajo Plant (approximately post marker 299)</u>	<u>Copper Mine Road</u>

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<u>State Route 98</u>	<u>Copper Mine Road</u>	<u>US 89 to Lake Shore Drive</u>
<u>US 89</u>	<u>Lake Shore Drive</u>	<u>State Route 98 to Copper Mine Road</u>

**NOTICE OF FINAL RULEMAKING**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 2. ARIZONA RACING COMMISSION**

**PREAMBLE**

- 1. Sections Affected**  
R19-2-107
- Rulemaking Action**  
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 5-104(A)(2) and (T)  
Implementing statutes: A.R.S. §§ 5-104(B) and 5-107.01
- 3. The effective date of the rule:**  
December 6, 2003
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: 9 A.A.R. 1244, April 18, 2003  
Notice of Proposed Rulemaking: 9 A.A.R. 3014, July 11, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: William J. Walsh  
Address: Arizona Department of Racing  
1110 W. Washington, Suite 260  
Phoenix, AZ 85007  
Telephone: (602) 364-1700  
Fax: (602) 364-1703
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The rulemaking repeals subsections that prevent licensed owners of racehorses from having more than one stable name or from using a stable name and a legal name for racing. The amendments are intended to eliminate restrictions on the ownership of racehorses and will permit a horse owner to be part of a multi-owner stable as well as own horses alone. Other changes are made to modernize the rule's language.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
The agency did not rely on any study in this rulemaking.
- 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:**  
None
- 9. The summary of the economic, small business, and consumer impact:**  
The rule may increase ownership in the horse racing industry which may mean more horses, more sales of horses, and an increase in the amount of wagering in races. If wagering increases, this would increase purse structure for horse owners as well as increase revenue to the state and racetracks.
- 10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):**  
None

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

The agency did not receive any written comments to the rule.

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

None

**13. Incorporations by reference and their location in the rule:**

None

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

No

**15. The full text of the rule follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 2. ARIZONA RACING COMMISSION**

**ARTICLE 1. HORSE RACING**

Section

R19-2-107. Stable Names

**ARTICLE 1. HORSE RACING**

**R19-2-107. Stable Names**

- ~~**A.** A licensed owner wishing to race under a stable name shall register with the Department and shall pay the fee set forth in these rules.~~
- ~~1. Only owners shall register or secure a license under a stable name.~~
  - ~~2. A name other than the legal name of the owner shall be deemed to be a stable name.~~
- ~~**B.** The registration referred to in subsection (A) of this Section must include the identity of the individual(s), partnership(s), or corporation(s) represented by the stable name.~~
- ~~1. All persons represented by a stable name shall have owners' licenses.~~
  - ~~2. All persons represented by a stable name shall sign an authorized agent's application which appoints 1 person to act as the agent for the stable name.~~
  - ~~3. If the stable name represents a corporation:~~
    - ~~a. The corporation shall register to do business according to the laws of the state of Arizona.~~
    - ~~b. The corporation shall submit a complete list of stockholders whose ownership exceeds 10% and the number of shares owned by each.~~
    - ~~c. The corporation shall notify the Department immediately if any change of stock ownership exceeding 10% occurs.~~
    - ~~d. The corporate name under which the corporation does business in Arizona shall be considered a stable name for the purposes of these rules.~~
- ~~**C.** A stable name other than a corporate stable name may be changed at any time by registering a new stable name and by paying the fee set forth in these rules.~~
- ~~**D.** A registered stable name may be abandoned by a licensed owner after written notice of such abandonment has been given to the Department.~~
- ~~**E.** A stable name shall be plainly distinguishable from any other registered stable name.~~
- ~~**F.** A licensed owner shall not register such owner's stable name:~~
- ~~1. One which the Department determines to be misleading to the public;~~
  - ~~2. One which the Department determines to be unbecoming to the sport.~~
- ~~**G.** A licensed owner shall not be a party to more than 1 stable name at 1 time.~~
- ~~**H.** A licensed owner shall not use such owner's legal name for racing purposes if such owner has a registered stable name within the state of Arizona.~~
- ~~**I.** Only 1 stable shall be registered under a stable name.~~
- ~~**J.** All persons represented by or operating under a stable name shall be liable for all entry fees and penalties against the stable.~~
- ~~**K.** The stable name shall be carried on the official program as the name of the owner.~~
- A.** A licensed owner wishing to race under a stable name shall register with the Department and pay the fee in these rules.
1. Only an owner shall register or secure a license under a stable name.
  2. A name other than the legal name of the owner is deemed to be a stable name.

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- B.** The licensed owner shall provide the identity of any individual or business entity operating under the stable name.
  - 1. A person operating under a stable name shall possess and be able to produce the owner's license upon request by a racing official.
  - 2. A person operating under a stable name shall sign the authorized agent's application.
  - 3. A corporation operating under a stable name shall:
    - a. Register to do business according to the laws of the state of Arizona;
    - b. Submit a list that identifies each stockholder who owns more than 10% of the existing shares and the number of shares owned by each;
    - c. Notify the Department immediately of any change in stock ownership that would change the list in subsection (b); and
    - d. Use the name under which the corporation does business in Arizona as its stable name.
- C.** If consistent with other laws, a licensed owner may change a stable name by registering the new stable name and paying the applicable fee in R19-2-106.
- D.** A licensed owner may abandon a registered stable name by providing written notice of abandonment to the Department.
- E.** A licensed owner shall select a stable name that is plainly distinguishable from other registered stable names.
- F.** Upon registration, the Department shall determine whether a prospective stable name will be:
  - 1. Misleading to the public,
  - 2. Unbecoming to the sport, or
  - 3. Both misleading to the public and unbecoming to the sport.
- G.** Registration of a stable name that is misleading to the public, unbecoming to the sport, or both, is prohibited.
- H.** A licensed owner shall register a separate name for each of the owner's stables.
- I.** A licensed owner operating under a stable name shall pay all entry fees for and penalties against the stable.
- J.** A licensed owner shall furnish the applicable stable name for the official program.

**NOTICE OF FINAL RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R20-4-1401                         | Amend                           |
| R20-4-1402                         | Repeal                          |
| R20-4-1403                         | Amend                           |
| R20-4-1405                         | 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. § 6-123(2)
    - Implementing statutes: A.R.S. §§ 6-123.01, 6-124, and 12-2212
  - 3. The effective date of the rules:**
    - December 6, 2003
  - 4. A list of all previous notices appearing in the Register addressing the final rules:**
    - Notice of Rulemaking Docket Opening: 8 A.A.R. 2057, May 3, 2002
    - Notice of Proposed Rulemaking: 9 A.A.R. 1121, April 4, 2003
  - 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	John P. Hudock
Address:	Banking Department 2910 N. 44th Street, Suite 310 Phoenix, AZ 85018
Telephone:	(602) 255-4421, ext. 167
Fax:	(602) 381-1225
E-mail:	jhudock@azbanking.com

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

In a five-year rule review report approved by the Council on November 7, 2000, the Department promised to overhaul each Section of Article 14 to modernize the writing style, repeal dated language and statutory references, and bring the Sections up to modern rulewriting standards. The Department conducts this rulemaking to fulfill that promise.

In particular, the revision of the definitions in R20-4-1401 clarifies those provisions and puts them into modern plain English. The repeal of the definition of "formal interview" shortens this Section by removing a term that is no longer used in Article 14.

The repeal of R20-4-1402 removes a superfluous Section. The intended legal effect of this Section is preserved by language added to R20-4-1403.

R20-4-1403 is amended to allow service of a subpoena by facsimile transmission, clarify its meaning, and put it in modern plain English.

R20-4-1405 is amended to clarify its meaning and put it in modern plain English.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not rely on any study as an evaluator or justification for the rules.

**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:**

**A. The Banking Department**

Income and expenses to this Agency are negligible. The Department will incur the costs of completing this rulemaking and of putting the revised Sections into effect. It expects to receive the offsetting benefits of a more modern set of rules that accurately describe the Department's current best practices and a resultant ease of communication with all licensees.

**B. Other Public Agencies**

The state will incur normal publishing costs incident to rulemaking.

**C. Private Persons and Businesses Directly Affected**

Costs of services will not increase to any measurable degree; nor should these revisions increase any licensee's cost of doing business in compliance with these rules.

**D. Consumers**

The Department does not expect a measurable effect on consumers.

**E. Private and Public Employment**

The Department expects no measurable effect on private and public employment.

**F. State Revenues**

This rulemaking will not change state revenues.

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

The Council's staff has recommended a punctuation change to the originally proposed text of the Sections. The change improved the precision of the text and has been implemented.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The public was invited to comment in the Notice of Proposed Rulemaking. That invitation contained an agency contact name, address, telephone number, and fax number. In addition, the Department invited comment from trade associations whose members are bound by these Sections. However, no written comments were received and no arguments against adoption of the Sections in this Final Rulemaking have been raised.

**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:**

There is no material incorporated by reference in these final rules.

**14. Were these rules previously adopted as emergency rules?**

No

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

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**ARTICLE 14. INVESTIGATIONS**

Section

R20-4-1401. Definitions

R20-4-1402. ~~Exercise of Other Powers Repealed~~

R20-4-1403. ~~Subpoenas; Service; Amendment; Investigation or Examination not a Condition of the Superintendent's Subpoena Power~~

R20-4-1405. Fingerprints; Background Information

**ARTICLE 14. INVESTIGATIONS**

**R20-4-1401. Definitions**

In this Article, unless the context otherwise requires:

1. "Examination" means ~~a reviewing review of an applicant's or licensee's the operations, books, and records of a licensee, or an applicant for a license or permit from the Superintendent for any lawful purpose, including, among other things, those one or more of the purposes listed set forth in A.R.S. § 6-124(A).~~
2. "Formal interview" means the examination under oath of an individual compelled or requested to testify.
3. "Investigation" means an inquiry, other than an examination, into the affairs of a licensed or unlicensed entity including a review of the entity's operations, books, and records, conducted by the Superintendent for any lawful purpose, including those one or more of the purposes listed set forth in A.R.S. § 6-124(A).
4. "Licensee" means a financial institution or enterprise.

**R20-4-1402. ~~Exercise of Other Powers Repealed~~**

~~The Superintendent may, at any time, exercise any other power or authority provided by statute or rule without regard to whether an investigation has been commenced or completed, and conducting an investigation shall not be a prerequisite to any such exercise of powers by the Superintendent.~~

**R20-4-1403. ~~Subpoenas; Service; Amendment; Investigation or Examination not a Condition of the Superintendent's Subpoena Power~~**

~~The Superintendent may serve a subpoena Subpoenas issued in investigations may be served either by personal delivery or by first class, certified, or express mail, or by facsimile transmission. A as in civil actions or may be served by an Department employee, of the Department or an attorney or agent of the Attorney General's office, may accomplish service for the Superintendent or may be mailed by certified mail to the person to be served. The Superintendent may amend a subpoena Subpoenas may be amended at any time, and may serve the amended subpoena may be served as provided in this Section herein. Under A.R.S. §§ 6-123(3), 6-124(B), and 12-2212, the Superintendent may compel testimony or document production, by subpoena or other means, regardless of whether an examination or investigation is in progress. Nothing in this rule shall be construed to limit the authority of the Superintendent to compel testimony or the production of documents to only those cases in which an investigation has been commenced.~~

**R20-4-1405. Fingerprints; Background Information**

- A.** In connection with an examination or ~~any~~ investigation, the Superintendent may investigate the following persons' ~~background of any of the following:~~
1. An applicant or a licensee, or a person whom the Superintendent reasonably believes may be violating any statute or rule provision of the laws and rules administered by the Superintendent; and
  2. An Any officer, director, agent, employee, ~~or partner of, and any joint venturer, or affiliate, or other person associated with;~~ a person described in subsection (A)(1) paragraph (1), if the such other person has or had any involvement in or control over the activities of the person described in subsection (A)(1) paragraph (1).
- B.** In connection with As part of an examination or investigation, the Superintendent may require a person described in A.R.S. § 6-123.01(A) or (E) to submit the submission of a statement of personal history and fingerprints to the Department from any of the persons described in subsection (A).