

# 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

[R05-136]

#### PREAMBLE

- 1. Sections Affected**

R2-8-115	<b><u>Rulemaking Action</u></b>
R2-8-118	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. § 38-714(F)(5)  
Implementing statutes: A.R.S. §§ 38-740, 38-762, 38-773, and 38-922
- 3. The effective date of the rules:**

April 5, 2005

This rule becomes effective upon filing with the Secretary of State. This immediate effective date is allowed under A.R.S. § 41-1032(A)(4), which allows a rule to become effective immediately when it provides a benefit to the public and a penalty is not associated with a violation of the rule. It is a benefit to the public to have current, up-to-date rules that provide procedures for withdrawing funds and the payment of survivor benefits, and for information on interest rate applications. The change in the interest rate on funds withdrawn by terminating members benefits ASRS members by minimizing the increase in contribution rates and maintaining the stability of ASRS. There is no penalty associated with violation of this rule.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 4848, December 3, 2004  
Notice of Proposed Rulemaking: 10 A.A.R. 5072, December 17, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Nancy O. Johnson, Rules Coordinator Arizona State Retirement System
Address:	3300 N. Central Ave., 14th Floor Phoenix, AZ 85012
Telephone:	(602) 308-5172
Fax:	(602) 240-5303
E-mail:	nancyj@asrs.state.az.us
Or	
Name:	Susanne Dobel, Manager, External Affairs Arizona State Retirement System
Address:	3300 N. Central Ave., 14th Floor Phoenix, AZ 85012
Telephone:	(602) 240-2039
Fax:	(602) 240-5303
E-mail:	susanned@asrs.state.az.us

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

On November 7, 2000 the Governor's Regulatory Review Council (G.R.R.C.) approved the ASRS 5-Year-Review Report. Noting that R2-8-115 was last amended in 1979 and R2-8-118 was last amended in 1982, the report found that R2-8-115 conflicts with current statutes, R2-8-118 is no longer used or enforced, and both rules are not clear, concise, or understandable. This rulemaking removes outdated information and citations, clarifies language, and conforms the rules to current rulemaking standards. This rulemaking identifies the application of interest from inception of the ASRS through the present. Finally, this rulemaking changes the interest rate paid on plan members returned contributions from 8% to 4% beginning July 1, 2005, as determined by the Board at its regular monthly meeting on August 20, 2004, based on a presentation by the Board's actuary. The purpose of reducing the interest rate from 8% to 4% is to help minimize the contribution rate increases for Plan members.

**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 review any study relevant to the rule. However, at the August, 2004 ASRS Board meeting, Mr. Charles Chittenden of Mellon made an oral presentation regarding a change in the interest rate paid on contributions returned to members who are terminating membership in the ASRS. As part of that presentation, the Board and the public were provided with a chart that showed estimates of what the contribution rate would be if various interest rates were adopted. The minutes of the meeting and a copy of the chart are available during regular business hours at the ASRS main office, 3300 N. Central, Suite 1400, Phoenix, Arizona 85012.

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.

The ASRS will bear moderate to substantial costs for promulgating and enforcing the rules. Costs for promulgating the rules include staff time to write, review, and direct the rules through the rulemaking process.

The cost in reduced contribution returns by individuals who withdraw their contributions from the ASRS varies depending on the amount of contributions they have in the fund, and how long they wait to withdraw the funds. As an example, if an individual quit working for an ASRS employer on June 30, 2005, with \$100,000 in the member's account, and 10 years later withdrew the funds, the individual would receive \$148,024, at 4% interest. If the interest rate had stayed at 8% the individual would have received \$215,892.

Based on the ASRS's June 30, 2004 valuation report, the reduction in the interest rate on returned contributions will produce a reduction in the contribution rate for 2006 and 2007 fiscal years of 20 basis points each year for employee members and 20 basis points each year for employer members, for a total reduction in the contribution rate of 40 basis points for each year. That is a total savings of \$29.9 million per year.

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

1. In R2-8-115, defined "domestic relations order" by referencing A.R.S. § 38-773(G). This clarifies the definition and is not a substantial change;
2. In R2-8-115 (B)(8), reference Section 4 of the application that is listed in R2-8-115(B)(7), instead of listing all of the information in Section 4 again, which is redundant;
3. Defined "ASRS" in R2-8-118 for clarification purposes; and
4. Additional minor technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

**11. A summary of the comments made regarding the rule 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:**

Not applicable

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

No.

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

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN**

Section

- R2-8-115. ~~Termination of membership~~ Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member
- R2-8-118. ~~Allocation to funds~~ Application of Interest Rates

**ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN**

- R2-8-115. ~~Termination of membership~~ Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member**

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

1. "ASRS" means the same as in A.R.S. § 38-711.
2. "ASRS employer" has the same meaning as "employer" in A.R.S. § 38-711.
3. "Authorized representative" means an individual specified by the employer to provide the ASRS with information about a member who previously worked for the employer.
4. "Beneficiary" means the individual specified by a member to receive the balance of the member's account or, if applicable, selected benefits upon the death of the member.
5. "Contribution" means:
  - a. Amounts required by A.R.S. Title 38, Chapter 5, Article 2, to be paid to ASRS by a member or an employer on behalf of a member other than amounts attributed to long-term disability insurance;
  - b. Any voluntary amounts paid by a System member to ASRS to be placed in the System member's account; and
  - c. Any amount credited to a non-retired System member's employer account or to a retired System member's non-guaranteed benefit as determined by Section 24(B) of Arizona Session Laws 1995, Chapter 32, Section 24, as amended by Arizona Session Laws 1999, Chapter 66, Section 1.
6. "Court" means a superior, appellate, or the Supreme court of this state, a corresponding court of another state of the United States, or a federal court of the United States.
7. "Designated beneficiary" has the same meaning as in A.R.S. § 38-762(H).
8. "Direct rollover" has the same meaning as in A.R.S. § 38-770.
9. "Domestic relations order" has the same meaning as in A.R.S. § 38-773(G).
10. "Fiscal year" means July 1 of one year to June 30 of the next year.
11. "Lump-sum payment" means a member receives the total amount in the member's ASRS account to which the member is entitled by law.
12. "Member" has the same meaning as in A.R.S. § 38-711.
13. "Personal representative" means a person who is authorized by law to represent the estate of a deceased individual.
14. "Separate from service" means to terminate employment with an ASRS employer during a service year.
15. "Service year" has the same meaning as in A.R.S. § 38-711.
16. "System" means the same as "defined contribution plan" as defined in A.R.S. § 38-769, and which is administered by the ASRS.
17. "Terminate employment" means:
  - a. To end the employment relationship between a member and an ASRS employer with the intent that the member not return to employment, and
  - b. There is an interval of not less than 21 calendar days between the last date of employment in any position subject to participation in the ASRS and the first date of employment or of reemployment in the same or in any other position subject to participation in the ASRS.
18. "Trustee" means an individual who holds monetary assets in an eligible retirement plan under the Internal Revenue Code or IRA for the benefit of the member.
19. "United States" means the same as in A.R.S. § 1-215.
20. "Warrant" means a voucher authorizing payment of funds due to a member.

**A.B.** ~~Payment of refund: A member who terminates service separates from service by other than retirement or death and desires a refund return of his the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and together with interest thereon interest on the contributions, shall sub-~~

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~~mit a withdrawal request on a complete an Application for Return or Transfer of Contributions form supplied by the Board that includes the following information:~~

1. The member's full name;
2. The member's Social Security number;
3. The member's current mailing address;
4. The member's daytime telephone number;
5. The member's birth date;
6. Whether the member wants a lump-sum payment or direct rollover;
7. Dated and notarized signature of the member certifying that the member:
  - a. Is no longer employed by an ASRS employer, and has provided the last date of employment;
  - b. Understands that if a payroll transaction occurred in the six months before the date of application, the member's former ASRS employer must complete Section 4 of the application, providing the following:
    - i. The last date the member worked;
    - ii. Final pay period ending date with final contribution adjustment or correction amount, if applicable;
    - iii. Amount of final contribution to the ASRS or payroll adjustment that does not include long-term disability contributions;
    - iv. Printed name, title, and signature of the authorized representative;
    - v. The authorized representative's phone number;
    - vi. The authorized representative's fax number, if applicable;
    - vii. The name of the ASRS employer; and
    - viii. The date Section 4 was completed;
  - c. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application;
  - d. Has read and understands the statements of information in the instructions the member received with the application;
  - e. Understands that the member is forfeiting all future retirement rights and privileges of membership with the ASRS;
  - f. Understands that long-term disability benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
  - g. Has provided the member's correct Social Security number on the form; and
  - h. Is or is not a resident of the United States;
8. If a payroll transaction for the member has occurred with an ASRS employer within the six months before the date of application, the member shall ensure that the ASRS employer completes Section 4 of the application as specified in subsection (B)(7)(b); and
9. If the member requests a direct rollover, the member shall:
  - a. Specify either that:
    - i. The entire amount of the distribution be transferred to an eligible retirement plan or individual retirement account, or
    - ii. A specific dollar amount of the distribution be transferred to an eligible retirement plan or individual retirement account;
  - b. Provide the individual retirement account number, if applicable;
  - c. Provide the name and mailing address of the individual retirement account trustee or the name of the eligible retirement plan; and
  - d. Obtain from the eligible retirement plan, if applicable, the authorized representative's:
    - i. Signature, date, and title,
    - ii. Business telephone number; and
    - iii. E-mail address, if applicable.

~~**B.C. Interest credits on refunds:** If membership is cancelled the member requests a return of contributions and a refund warrant is issued distributed during the fiscal year that the member began membership in the ASRS was established, no interest shall be is paid to the account of such withdrawing the member. If termination of membership occurs the member requests a return of contributions after the first fiscal year of membership, ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(B) to the account of the member interest at the annual rate shall be credited to the account of the withdrawing or deceased member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. Interest The ASRS shall credit interest for an incomplete year of participation in the ASRS on the previous June 30 balance shall be allowed in accordance with R2-8-118(A)(1) at the rate of 1/12th of the annual rate for each month of participation following the previous June 30.~~

~~**C.D. Marital status:** Upon filing submitting a request for a refund return of contributions, a withdrawing member shall be is entitled to payment of the amount due him, with interest, to the member as specified in subsection (C) without regard to his previous or current marital status unless there has been filed with a present or former spouse submits to the ASRS a~~

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domestic relations order that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions to the member, the Board prior to such request for payment a notice of the claim of entitlement to all or a portion of the amount by a present or former spouse. A claim of entitlement by a present or former spouse will be recognized by the Board only in accordance with the legally adjudicated rights of the contesting claimants. Certified copies of court decrees or judgments shall be filed in support of the claim of a former spouse of a withdrawing member.

~~D.E.~~ Refund of contributions of deceased member: Upon death of a member, the designated beneficiary shall furnish a certified copy of the death certificate to the Board, whereupon ASRS shall refund shall be made in accordance with provide survivor benefits based on the deceased member's last dated written designation of beneficiary on file with the ASRS. If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the refund shall be survivor benefit is paid to the deceased member's estate representative designated by a court order as specified in A.R.S. § 38-762(F). Such representative The designated beneficiary or other person specified in A.R.S. § 38-762(F) shall furnish:

1. Provide a certified copy of a death certificate and or a certified copy of a court order that establishes the member's death;
2. Provide a certified copy of the court order of appointment as administrator, if applicable; and
3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
  - a. The deceased member's full name.
  - b. The deceased member's Social Security number.
  - c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § 38-762(F):
    - i. Full name.
    - ii. Mailing address.
    - iii. Contact telephone number.
    - iv. Date of birth, if applicable; and
    - v. Social Security number or Tax ID number, if applicable.

~~E.~~ Refund of contributions where no death certificate is available:

1. Upon such circumstances which lead to the presumed death of a member or upon such conditions and circumstances where a death certificate is unavailable, but that the death of a member is presumed to have occurred; then the designated beneficiary of the member shall make application for the refund of contributions for said member. If there is no designation of beneficiary, the application shall be made by an estate representative designated by a court order. Such representative shall furnish a certified copy of the court order of appointment.
2. The Board shall, upon receipt of such application, request such secondary evidence or court order or testimony as shall satisfy the Board concerning the death of the aforesaid member.
3. The Board may hold a hearing and hear all of the evidence or the Board may require the beneficiary or the representative to institute an estate proceedings in the Superior Court to establish the presumed death of the member and to have a representative appointed by a court order to act in behalf of the estate of said member. The Board may determine or may deduce that death is probable.
4. Upon the decision of the Board that death of the aforesaid member is and was probable under the circumstances, the Board shall require a covenant of indemnity from the designated beneficiary or the representative of the said member which shall indemnify the Arizona State Retirement System for any loss of funds due to payment or expenses involved in the event the aforesaid member is later found not to have been deceased at the time and under the circumstances presented before the Board.
5. After compliance with all of the above conditions, refund shall be made in accordance with the deceased member's last dated written designation of beneficiary. If there is no designation of beneficiary, the refund shall be paid to the deceased member's estate representative designated by a court order. Such representative shall furnish a certified copy of a death certificate and a certified copy of the court order of appointment.

~~F.~~ Limitation on eligibility for payment of refund: For the purpose of A.R.S. §§ 38-758 and 38-781.12 a member or participant is not considered to have terminated employment or to have left employment unless there is an interval of not less than 21 calendar days between the last day of employment in any position subject to participation in the Arizona State Retirement System and the first day of employment or of reemployment in the same or in any other position subject to the participation in the Arizona State Retirement System.

**R2-8-118. Allocation to funds Application of Interest Rates**

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

1. "ASRS" means the same as in A.R.S. § 38-711.
2. "Member" has the same meaning as in A.R.S. § 38-711.
3. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-769, and administered by the ASRS.
4. "System" means the same as "defined contribution plan" as defined in A.R.S. § 38-769, and that is administered by the ASRS.

B. Retirement Fund earnings Application of interest from inception of the ASRS through the present is as follows:

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<u>Effective Date of Interest Rate Change</u>	<u>Assumed Actuarial Interest and Investment Yield Rate</u>	<u>Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death</u>		<u>Interest Rate Used to Determine Survivor Benefits</u>
<u>7-1-1953</u>	<u>2.50%</u>	<u>2.50%</u>		<u>2.50%</u>
<u>7-1-1959</u>	<u>3.00%</u>	<u>3.00%</u>		<u>3.00%</u>
<u>7-1-1966</u>	<u>3.75%</u>	<u>3.75%</u>		<u>3.75%</u>
<u>7-1-1969</u>	<u>4.25%</u>	<u>4.25%</u>		<u>4.25%</u>
<u>7-1-1971</u>	<u>4.75%</u>	<u>4.75%</u>		<u>4.75%</u>
<u>7-1-1975</u>	<u>5.50%</u>	<u>5.50%</u>		<u>5.50%</u>
<u>7-1-1976</u>	<u>6.00%</u>	<u>5.50%</u>		<u>6.00%</u>
<u>7-1-1981</u>	<u>7.00%</u>	<u>5.50%</u>		<u>7.00%</u>
<u>7-1-1982</u>	<u>7.00%</u>	<u>7.00%</u>		<u>7.00%</u>
<u>7-1-1984</u>	<u>8.00%</u>	<u>8.00%</u>		<u>8.00%</u>
<u>7-1-2005</u>	<u>8.00%</u>	<u>4.00% for Plan Members</u>	<u>8.00% for System Members</u>	<u>8.00%</u>

**1. Interest:**

a. ~~The June 30, 1959, and preceding actuarial valuations of the Retirement Fund were based on a 2 1/2 percent annual rate of interest; the June 30, 1960, through June 30, 1965, actuarial valuations were based on a 3 percent annual rate of interest; the June 30, 1966, through June 30, 1968, actuarial valuations were based on a 3 3/4 percent annual rate of interest; the June 30, 1969, through June 30, 1970, actuarial valuations were based on a 4 1/4 percent annual rate of interest; the June 30, 1971, through June 30, 1974, actuarial valuations were based on a 4 3/4 percent annual rate of interest; the June 30, 1975, actuarial valuation was based on a 5 1/2 percent annual rate of interest; the June 30, 1976, through June 30, 1980, actuarial valuations were based on a 6 percent annual rate of interest; the June 30, 1981, actuarial valuation shall be based on a 7 percent annual rate of interest and subsequent valuations shall be at the 7 percent annual rate of interest until such rate is changed by the Board.~~

~~b.~~ **C.** Interest at the annual rate of 5 1/2 percent shall be effective July 1, 1975. The annual rate in effect at At the beginning of each fiscal year shall be interest is credited to the retirement account of each member on the June 30 ~~which that~~ marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The ~~balances upon balance on which such interest shall be is~~ credited shall include includes:

1. ~~both employer~~ Employer and employee contributions;
2. ~~voluntary~~ Voluntary additional contributions made by ~~employees~~ System members, if applicable;
3. ~~any amounts~~ Amounts credited as employer contributions by ~~transfers pursuant to~~ transfer under A.R.S. § 38-753(E) 38-922;
4. Amounts credited to a non-retired system member's employer account or to a retired System member's non-guaranteed benefit as determined by Article 2 of this Chapter; and
5. ~~interest previously~~ Interest credited in previous years. If a member terminates service and withdraws his contributions, interest earnings for the fiscal year in which the refund occurs will be calculated for the incomplete year on the previous June 30 balance, if any, at the rate of 1/12th of the annual rate for each elapsed month following such June 30.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 5. BOARD OF BARBERS

[R05-138]

PREAMBLE

**1. Sections Affected**

**Rulemaking Action**

Article 1	New Article
R4-5-101	New Section
R4-5-102	New Section
R4-5-103	New Section
R4-5-104	New Section
R4-5-105	New Section
R4-5-106	New Section
R4-5-107	New Section
R4-5-108	New Section
Article 2	New Article
R4-5-201	New Section
R4-5-202	New Section
R4-5-203	New Section
R4-5-204	New Section
Article 3	New Article
R4-5-301	New Section
R4-5-302	New Section
R4-5-303	New Section
R4-5-304	New Section
Article 4	New Article
R4-5-401	New Section
R4-5-402	New Section
R4-5-403	New Section
R4-5-404	New Section
R4-5-405	New Section
Exhibit 1	New Exhibit
Exhibit 2	New Exhibit
R4-5-406	New Section
R4-5-407	New Section
R4-5-408	New Section
R4-5-409	New Section
R4-5-410	New Section
R4-5-411	New Section
Article 5	New Article
R4-5-501	New Section
R4-5-502	New Section

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

Authorizing statute: A.R.S. § 32-304(A)(1)

Implementing statutes: A.R.S. §§ 32-301 through 32-305, 32-321 through 32-328, and 32-351 through 32-356

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

April 5, 2005

Upon filing with the Secretary of State. Currently no Barber Board rules exist. The Board requests an immediate effective date to protect the public under:

1. A.R.S. § 41-1032(A)(1), which allows rules to become effective immediately when they preserve the public health, and
2. A.R.S. § 41-1032(A)(4), which allows rules to become effective immediately when they provide a benefit to the public and a penalty is not associated with a violation of the rules.

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 4012, September 12, 2003

Notice of Proposed Rulemaking: 10 A.A.R. 3222, August 20, 2004

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

Name: Sam B. LaBarbera, Executive Director

Address: Arizona Board of Barber Examiners  
1400 W. Washington, Suite 220  
Phoenix, AZ 85007

Telephone: (602) 542-4498

Fax: (602) 542-3093

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

After publication of the Notice of Rulemaking Docket Opening listed in item #3, the entire Chapter expired on May 31, 2004 as a result of a required action under A.R.S. § 41-1056(E). The expiration action was noticed by the Governor's Regulatory Review Council as published at 10 A.A.R. 2942, July 23, 2004.

The Secretary of State's Office Public Services Division advised the Board of Barbers that in the case of this rulemaking, R1-1-406 is not applicable and that the Board may reuse old Article and Section numbers for this rulemaking even though a full year has not lapsed since the Chapter's expiration.

In this rulemaking, the Board remakes its rules substantially similar to the expired rules but with the following special objectives:

- A. To ensure the Chapter conforms to current Arizona Administrative Procedure Act standards for clarity, conciseness, and understandability.
- B. To add new Sections that set forth provisions for:
  - 1. Licensing time-frames,
  - 2. Application forms,
  - 3. Inspections, and
  - 4. School curriculum.
- C. To modify the Board's Article on hearings to conform to A.R.S. Title 41, Chapter 6, Article 10.

Because this rulemaking follows the above-referenced statutory expiration action, it does not arise from a previous five-year rule review submitted to the Governor's Regulatory Review Council.

**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 Board did not rely on any study for 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:**

Not applicable

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

Under the proposed provisions of 4 A.A.C. 5, the following persons or entities will bear costs and experience benefits as briefly described according to the included scale:

- a. Licensed barbers or instructors: minimal licensure costs; moderate to substantial annual income benefits.
- b. Barbershop or barber school owners: minimal to moderate licensure and compliance costs; substantial business profitability benefits.
- c. Student barbers or student instructors: moderate to substantial tuition costs; minimal examination costs; moderate to substantial annual income to recoup initial costs.
- d. Board of Barbers: substantial operating costs; substantial gross annual fee receipts.
- e. Vendors of barbering furnishing, equipment, supplies, and maintenance services: no Board-imposed costs; presumed substantial business profitability.
- f. Public patrons of barbering services: no direct Board-imposed costs; non-financially quantifiable benefit in assurance of minimum professional standards, safety, and welfare integrity.

<u>Scale</u>	Minimal	less than \$1,000
	Moderate	\$1,000 to \$9,999
	Substantial	more than \$10,000

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

The Board moved R4-5-205 on licensing time-frames in its entirety to R4-5-108 because the subject of the rule is more appropriate to Article 1 than Article 2. Section citations throughout the Chapter were modified accordingly.

The Board divided R4-5-404, "General School Operating Requirements," into three rules to enhance clarity. R4-5-404 is now "School Premises and Basic Equipment," R4-5-405 is "School Operation and Enrollment," and R4-5-406 is "Student Training and Supervision." The remaining rules in Article 5 were renumbered.

Minor grammatical changes were made at the suggestion of Governor's Regulatory Review Council staff.

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

The Board received no comments on 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:**

Not applicable

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

None

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

No.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 5. ~~EXPIRED~~ BOARD OF BARBERS**

**ARTICLE 1. GENERAL PROVISIONS**

Section	
<u>R4-5-101.</u>	<u>Definitions</u>
<u>R4-5-102.</u>	<u>Fees and Service Charges</u>
<u>R4-5-103.</u>	<u>Fee Payment</u>
<u>R4-5-104.</u>	<u>Safety and Sanitation Provisions</u>
<u>R4-5-105.</u>	<u>Disinfectants: Approval; Usage Guidelines</u>
<u>R4-5-106.</u>	<u>Change of Ownership or Location</u>
<u>R4-5-107.</u>	<u>Inspections</u>
<u>R4-5-108.</u>	<u>Licensing Time-frames</u>

**ARTICLE 2. EXAMINATION AND PRACTITIONER LICENSING**

Section	
<u>R4-5-201.</u>	<u>Examinations</u>
<u>R4-5-202.</u>	<u>Barber License Application</u>
<u>R4-5-203.</u>	<u>Instructor License Application</u>
<u>R4-5-204.</u>	<u>License Renewal</u>

**ARTICLE 3. SHOPS**

Section	
<u>R4-5-301.</u>	<u>Shop License Application</u>
<u>R4-5-302.</u>	<u>Shop Premises and Basic Equipment</u>
<u>R4-5-303.</u>	<u>Shop Supervision</u>
<u>R4-5-304.</u>	<u>Shop Mobile Units</u>

**ARTICLE 4. SCHOOLS**

Section	
<u>R4-5-401.</u>	<u>Barber School Application</u>
<u>R4-5-402.</u>	<u>Notification of Changes</u>

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<u>R4-5-403.</u>	<u>Use of “Accredited,” “Approved,” or Similar Terms</u>
<u>R4-5-404.</u>	<u>School Premises and Basic Equipment</u>
<u>R4-5-405.</u>	<u>School Operations and Enrollment</u>
<u>Exhibit 1.</u>	<u>Required Age and Education Notice to a Barber Trainee</u>
<u>Exhibit 2.</u>	<u>Required Age and Education Notice to an Instructor Trainee</u>
<u>R4-5-406.</u>	<u>Student Training and Supervision</u>
<u>R4-5-407.</u>	<u>School Curriculum</u>
<u>R4-5-408.</u>	<u>School Records</u>
<u>R4-5-409.</u>	<u>School Closure</u>
<u>R4-5-410.</u>	<u>Multiple-location Schools</u>
<u>R4-5-411.</u>	<u>Offsite Training Facility</u>

**ARTICLE 5. HEARINGS**

Section

<u>R4-5-501.</u>	<u>Hearing Procedures</u>
<u>R4-5-502.</u>	<u>Rehearing and Review of Decision</u>

**ARTICLE 1. GENERAL PROVISIONS**

**R4-5-101. Definitions**

The following definitions apply to this Chapter unless the context otherwise requires:

“Barbering implement” means any tool or device used for barbering.

“Diploma from a high school or its equivalent” means any of the following:

A document that certifies successful course completion from any accredited secondary school in the United States, a U.S. territory, the District of Columbia, or a foreign country;

A cumulative score of no fewer than 45 points on a General Education Development “GED” test;

A high school equivalency diploma that certifies successful passing of a General Education Development “GED” test; or

An academic degree from an accredited college or university in the United States, a U.S. territory, the District of Columbia, or a foreign country.

“Domestic administration” means barbering performed:

On oneself, or

On another person to whom the practitioner is related as follows:

Father,

Mother,

Grandfather,

Grandmother,

Child,

Step-child,

Brother,

Sister,

Foster parent,

Legal guardian,

Step-parent, or

Spouse.

“Dry sanitizer” means a container large enough to store any barbering implement that requires:

Sanitation by a Board-approved fumigant or ultraviolet radiation, and

Maintenance of the implement’s sanitary condition.

“Establishment” means a distinct physical location but does not include an offsite training facility.

“Liquid sanitizer” means a container large enough to immerse completely any barbering implement that requires disinfectant by solution sanitization.

“One year’s experience as a licensed barber” means that during any period of 12 consecutive months, a person:

Maintained a valid license prescribed under A.R.S. § 32-322, and

Engaged in barbering at least 1,200 hours.

“Owner” means a person who has controlling interest in a barber shop or school or the owner’s designee.

“Patron” means a person who receives barbering services.

“Practiced barbering for at least two years” means that during any period of 24 consecutive months, a person engaged in barbering at least 1,200 hours during each 12-month consecutive period.

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“Shop” has the meaning prescribed under A.R.S. § 32-301(6) and when used in this Chapter includes the term “salon.”

“Study” means to receive classroom or practical instruction in a subject.

“Two years of high school education or its equivalent” means either of the following:

Receipt of 10 high school credits.

Receipt of an overall score of no fewer than 39 points on a GED test, or

Passing a GED test.

“Workstation” means a specific location within a shop, mobile unit, offsite training facility, or school where barbering is performed not including hair-cleaning activity.

**R4-5-102. Fees and Service Charges**

**A.** Under authority of A.R.S. § 32-328, the Board charges the following fees:

1. Barber:

a. Examination \$100.

b. License by reciprocity \$175.

c. Initial license \$40.

d. Renewal valid for two years \$80.

2. Instructor:

a. Examination \$100.

b. Initial license \$50.

c. Renewal valid for two years \$60.

3. Shop:

a. Application and initial inspection \$150.

b. Change of location \$85.

c. Change of ownership \$85.

d. Renewal \$50.

4. Late-renewal penalty for any license issued under subsections (A)(1) through (A)(3):

a. First time in a five-year period \$25.

b. Second time in a five-year period \$50.

c. Third time in a five-year period \$75.

5. School:

a. Application and initial inspection \$1,000.

b. Change of location \$500.

c. Change of ownership \$500.

d. Renewal \$400.

e. Late-renewal penalty:

i. First time in five-year period \$50.

ii. Second time in five-year period \$100.

iii. Third time in five-year period \$150.

6. Re-examination fee for an examinee who failed part of an examination after an original fee assessment under subsection (A)(1)(a) or (A)(2)(a):

a. Written \$25.

b. Practical \$50.

7. A duplicate of any license issued under this Section \$20.

**B.** The Board charges the following for copies of non-confidential records:

1. Name and address of licensee \$.25 per licensee.

2. Public records \$.50 per page.

**R4-5-103. Fee Payment**

**A.** A person shall pay any fee required by the Board in full, in cash, or certified instrument.

**B.** The Board shall consider a fee payment timely if:

1. The Board receives the fee on or before the date due; or

2. The fee is postmarked on or before the date due.

**R4-5-104. Safety and Sanitation Provisions**

**A.** A licensee under A.R.S. Title 32, Chapter 3, and this Chapter shall conduct the following safety and sanitation procedures:

1. Use barbering implements that are:

a. New if intended for use on a single patron and disposed of after use; or

b. In good repair and free of defect if intended for multiple use;

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2. Sanitize any barbering implement intended for multiple use according to the following procedure:
    - a. For any immersible barbering implement other than a scissors or razor, a licensee shall:
      - i. Remove all hair or debris.
      - ii. Wash with soap and water.
      - iii. Completely immerse in a disinfectant solution that is approved and used as prescribed under R4-5-105.
      - iv. Rinse with water.
      - v. Dry completely, and
      - vi. Store in a dry sanitizer.
    - b. For a scissors or a razor, a licensee may follow the procedure under subsection (A)(2)(a) or wipe the implement with a cloth bearing a disinfectant solution approved and used as prescribed under R4-5-105. The licensee shall store an implement sanitized under this subsection in a dry sanitizer.
    - c. For a non-immersible barbering implement, a licensee shall wipe or spray any parts that contact a patron with a disinfectant solution approved and used as prescribed under R4-5-105. The licensee shall store an implement sanitized under this subsection in a dry sanitizer.
  3. Dispense any barbering preparation listed under subsection (A)(3)(a) according to the procedure prescribed under subsection (A)(3)(b).
    - a. A barbering preparation under this subsection includes any:
      - i. Oil.
      - ii. Gel.
      - iii. Shampoo.
      - iv. Cream.
      - v. Antiseptic.
      - vi. Clay.
      - vii. Ointment, or
      - viii. Other preparation intended for use on a patron.
    - b. Preparation dispensing procedure. A licensee shall avoid direct manual contact with a barbering preparation by:
      - i. Using a manufacturer's dispensing device included with the original container; or
      - ii. Using a new disposable or sanitized reusable spoon, spatula, or other similar dispensing implement when no manufacturer dispensing device is included with the original container.
  4. Maintain a sufficient quantity of uncontaminated sanitizing solution approved for use as prescribed under R4-5-105 at all times during the performance of barbering;
  5. Maintain towels or cloths for patron use that are:
    - a. New and disposed immediately after use if intended for single use.
    - b. Sanitized by laundering if intended for multiple use.
    - c. Stored in a closed container when sanitized before use, and
    - d. Stored in a closed container separate from sanitized towels or cloths after use;
  6. Maintain a separate covered receptacle for garbage and hair;
  7. Maintain all barbering product containers with clear, correct labels indicating contents and intended use;
  8. Wash hands with soap and water before serving each patron;
  9. Not use a styptic pencil or lump alum in barbering;
  10. Not reuse a neck strip, end paper, or depilatory wax on multiple patrons;
  11. Use a neck strip to prevent a patron's neck from contacting a non-sanitized object; and
  12. Store each neck duster not in use in a dry sanitizer.
- B.** In addition to licensee requirements under subsection (A), a licensed shop or school owner shall:
1. Ensure that flooring within six feet of each workstation is comprised of smooth, durable, and impervious material; and
  2. Maintain all furniture and fixtures of each facility in a clean and orderly manner at all times.

**R4-5-105. Disinfectants: Approval; Usage Guidelines**

- A.** Approval. For barbering purposes, the Board approves any disinfectant, sanitation, or sterilization product or method registered by the U.S. Environmental Protection Agency for use as:
1. A virucide.
  2. A bactericide, or
  3. A fungicide.

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- B. Usage guidelines.** Unless a product manufacturer’s instructions specify otherwise, a licensee shall disinfect barbering implements according to the following guidelines:
1. Liquid sanitizing. A licensee shall use one or more of the following:

<u>Solution type</u>	<u>Strength</u>	<u>Minimum immersion time</u>
<u>Quaternary Ammonium Compounds “Quats” – liquid or dissolved tablet</u>	<u>1:1000</u>	<u>20 minutes</u>
<u>Formalin</u>	<u>25%</u>	<u>10 minutes</u>
<u>Formalin</u>	<u>10%</u>	<u>20 minutes</u>
<u>Alcohol*: Ethyl, Grain, or Isopropanol</u>	<u>70%</u>	<u>10 minutes</u>
<u>Sodium Hypochlorite</u>	<u>10%</u>	<u>10 minutes</u>

\* Note: for sharp cutting implement or electrode sanitization

2. Dry sanitizing. A licensee shall use either of the following:
  - a. A fumigant prepared as a mixture of:
    - i. One tablespoon of borax; and
    - ii. One tablespoon, one premanufactured tablet, or one container of formalin; or
  - b. An ultraviolet-ray electric sanitizer manufactured specifically for sanitation purposes.

**R4-5-106. Change of Ownership or Location**

Within 15 days after a change in location or ownership of a shop or school, the new owner shall submit the following to the Board:

1. Written notification of the change;
2. A completed shop or school operation application; and
3. The applicable fee prescribed under R4-1-102(A)(3)(b), (A)(3)(c), (A)(5)(b), or (A)(5)(c).

**R4-5-107. Inspections**

- A. Applicability.** This Section applies to any barbering establishment operating within Arizona.
- B. Time of inspection.** An inspector designated by the Board:
  1. Shall inspect each establishment’s premises at least twice per calendar year, and
  2. May inspect an establishment at any time permitted under A.R.S. § 32-304(B)(2).
- C. Inspection procedure.** According to the requirements of A.R.S. Title 32, Chapter 3, and this Chapter, the Board’s inspector shall document that:
  1. Each applicable license is current and displayed as prescribed under A.R.S. § 32-351;
  2. Equipment and barbering implements are present, clean, and in appropriate quantity to the number of employees in the establishment;
  3. Each sanitary product and procedure is appropriately maintained by facility staff; and
  4. All applicable statutes and rules are followed.
- D. Inspection findings.** An inspector shall submit a copy of a completed inspection report to:
  1. The owner of the inspected establishment; and
  2. The Board.
- E. Disciplinary action.** The Board shall follow disciplinary procedures prescribed under A.R.S. §§ 32-352 through 32-356 for any inspection finding indicating a violation of any provision under A.R.S. Title 32, Chapter 3, or this Chapter.

**R4-5-108. Licensing Time-frames**

- A. Licensure and renewal.** For purposes of A.R.S. § 41-1073(E)(2), the Board shall issue or deny all licenses and renewals under A.R.S. Title 32, Chapter 3, and this Chapter within seven days of receipt of an application except for an initial school license.
- B. Initial school licensure.** For purposes of A.R.S. Title 41, Chapter 6, Article 7.1, the Board shall issue an initial school license according to the following time-frame:
  1. The overall time-frame for issuance of a license under this subsection is 60 days. The Board and an applicant may agree in writing to extend the substantive review time-frame and the overall time-frame.
  2. The administrative completeness time-frame for a license under this subsection is 15 days beginning the day the Board receives a school license application.
    - a. The Board shall send notice of administrative completeness or deficiencies within the administrative completeness time-frame.

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- b. In a notice of deficiency, the Board shall list each deficiency and items required to complete the application.
- c. The Board shall suspend for a maximum of 30 days the administrative completeness time-frame and the overall time-frame to provide the applicant time to submit the items specified in the notice of deficiency under subsection (B)(2)(b).
- d. If the applicant fails to submit the deficient items within 30 days after the date of the notice of deficiency, the Board shall consider the application withdrawn.
- 3. The substantive review time-frame for a license under this subsection is 45 days beginning on the date of a notice of administrative completeness sent under subsection (B)(2)(a).
  - a. As part of the substantive review for a license under this subsection, the Board shall inspect the applicant's premises according to the procedure prescribed under R4-5-107.
  - b. The Board shall send a license or a written notice of denial to an applicant within the substantive review time-frame.
  - c. During the substantive review time-frame, the Board may send a single comprehensive written notice of request for additional information that includes a written statement of the additional information needed for the Board to make a decision.
  - d. An applicant shall submit all required information within 15 days after the date of a notice of request for additional information sent under subsection (B)(3)(c).
  - e. The Board may suspend the substantive review time-frame if the Board and applicant agree in writing to a specified amount of time necessary for the applicant to return all information required under subsection (B)(3)(c) to the Board. The Board shall not grant a substantive time-frame extension that exceeds the amount of time allowed under A.R.S. § 41-1075(B).
  - f. The Board shall close the file of an applicant if the applicant fails to submit all required information to the Board within:
    - i. The number of days specified under subsection (B)(3)(d); or
    - ii. The amount of time specified by written agreement under subsection (B)(3)(e) if applicable.
  - g. If the Board denies a license under this subsection, the Board shall send a written denial notice to the applicant that specifies each reason for denial.
- 4. A person denied a school license under this Section may immediately reapply according to the provisions of R4-5-401 and may appeal the denial under A.R.S. Title 41, Chapter 6, Article 10.

**ARTICLE 2. EXAMINATION AND PRACTITIONER LICENSING**

**R4-5-201. Examinations**

In addition to requirements prescribed under A.R.S. § 32-324, the Board shall make the following provisions for any examination administered by the Board:

- 1. The Board shall send written notification of an assigned examination time and location to an applicant for a license under A.R.S. Title 32, Chapter 3, and this Chapter at least seven days before a scheduled examination.
- 2. Examination language provision. The Board shall:
  - a. Administer an examination under this Section in the English language; and
  - b. Allow an applicant to provide a personal foreign language interpreter that shall not be:
    - i. A currently or previously licensed barber or cosmetologist.
    - ii. A barber or cosmetology instructor, or
    - iii. A barber or cosmetology student in any state of the U.S. or foreign country.
- 3. Examination integrity provision. The Board shall not:
  - a. Provide advance disclosure of examination questions; or
  - b. Return a completed examination or other examination records kept by the Board to a school or applicant.
- 4. The Board shall dismiss an applicant from an examination under penalty of examination fee forfeiture if the applicant:
  - a. Cheats, or
  - b. Solicits any information from another person except the examiner.
- 5. The Board shall require re-examination if an applicant fails to apply for a license within one year after successfully completing an examination.
- 6. For purposes of an examination's practical portion, an applicant shall supply:
  - a. All necessary barbering implements and supplies; and
  - b. Any necessary live model who shall not be:
    - i. A currently or previously licensed barber or cosmetologist.
    - ii. A barber or cosmetology instructor, or
    - iii. A barber or cosmetology student in any state of the U.S. or foreign country.

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7. If an applicant fails to pass a portion of an examination, the Board shall allow the applicant to review the failed portion of the examination if the applicant submits a written review request notice to the Board within 30 days after the examination.

**R4-5-202. Barber License Application**

**A.** On a form provided by the Board, an initial barber license applicant shall submit the following:

1. Full name;
2. Full address;
3. Telephone number;
4. Social Security number;
5. Birth date;
6. Name and location of high school attended;
7. Highest school grade completed;
8. Alternate school enrollment name if different from that provided under subsection (A)(1);
9. Dates of high school attendance;
10. Proof of an earned GED, if applicable;
11. A statement and explanation if the applicant has had a barber license suspended or revoked in the five-year period before the application date;
12. A statement of any current reciprocal license in another state and state name;
13. Any other information required by the Board; and
14. The applicant's verification that the information contained on the application is correct and complete, and the applicant's notarized signature.

**B.** In addition to the requirements under subsections (A), (D)(1), and (D)(2), the Board shall require the following information on a special application form if an applicant applies for licensure by examination:

1. A statement whether the applicant was ever previously a licensed barber in Arizona;
2. A statement whether the applicant was ever licensed as a barber or apprentice in another state or country and the state or country, if applicable;
3. The date of first barber or apprentice license;
4. The name and location of barber school attended;
5. Total number of earned credit hours;
6. Attendance dates;
7. Proof that the applicant graduated from barber school; and
8. The applicant's verification that the information contained on the special application is correct and complete, and the applicant's notarized signature.

**C.** In addition to the requirements under subsections (A), (D)(1), and (D)(2), an applicant for a barber license by reciprocity shall submit to the Board the following documentation:

1. Proof the applicant is at least 16 years old;
2. Proof of a minimum tenth grade education in one of the following forms:
  - a. A copy of a high school diploma;
  - b. A high school transcript or letter that verifies the minimum education requirement under this subsection;
  - c. Military discharge documentation that verifies the minimum education requirement under this subsection; or
  - d. A GED grade report indicating an overall passing grade as prescribed under R4-5-101 for two years of high school education or its equivalent;
3. A copy of a current barber license from a state that has a reciprocity agreement with Arizona; and
4. Documentation of at least one year of barbering work experience, notarized by the barber where the work was performed.

**D.** The Board shall require any applicant under this Section to submit the following application attachments:

1. A photograph as prescribed under A.R.S. § 32-322(A)(3) that is:
  - a. A professionally produced photograph of the applicant only;
  - b. U.S. passport sized; and
  - c. Signed by the applicant across the front, but without blocking the face;
2. The applicable fee in cash or by certified instrument for the type of license for which application is made.

**R4-5-203. Instructor License Application**

**A.** On a form provided by the Board, an applicant for a barbering instructor license shall submit the following:

1. Full name;
2. Full address;
3. Telephone number;
4. Birth date;
5. Current barber license number;

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6. Name and address of barbering school attended for instructor training;
  7. Total hours of instructor training;
  8. Attendance dates;
  9. An indication whether the applicant:
    - a. Completed more than one instructor examination in Arizona before the current application;
    - b. Has been a licensed instructor in any other country or state of the U.S.; and
    - c. Had a former instructor license suspended or revoked;
  10. Name and location of high school attended;
  11. Highest school grade completed;
  12. Alternate school enrollment name if different from that provided under subsection (A)(1);
  13. Dates of high school attendance;
  14. Proof of an earned GED, if applicable;
  15. Any other information required by the Board; and
  16. The applicant's verification that the information contained on the license application is correct and complete, and the applicant's notarized signature.
- B.** An applicant shall submit the instructor license fee in cash or by certified instrument with the completed application.

**R4-5-204. License Renewal**

- A.** A licensee shall renew a license by submitting the renewal fee for the applicable license type as prescribed under R1-4-102(A)(1)(d), (A)(2)(c), (A)(3)(d), or (A)(5)(d) to the Board:
1. No earlier than 30 days before the expiration date; and
  2. No later than midnight on the expiration date.
- B.** The licensee shall pay the fee according to R4-1-103.

**ARTICLE 3. SHOPS**

**R4-5-301. Shop License Application**

- A.** Application time-frame. An applicant shall submit to the Board the items under subsections (B) and (C) no fewer than seven business days before the opening date of the applicant's shop.
- B.** On a form provided by the Board, a shop license applicant shall submit the following information:
1. Ownership information:
    - a. Name and social security number of an individual, or
    - b. Partnership or corporate name, names of the individuals comprising the partnership or corporation, and the tax identification number of the partnership or corporation;
  2. Shop information:
    - a. Shop name,
    - b. Full physical address,
    - c. Telephone number,
    - d. A map of approximate shop location indicating the names of major cross streets, and
    - e. Any applicable corporate information that includes:
      - i. Corporate name if different from subsection (B)(2)(a),
      - ii. Name of contact person;
      - iii. Address of corporate headquarters; and
      - iv. Telephone number;
  3. If known at the time of application, the name and license number of the barber who will manage the shop on behalf of the licensed owner;
  4. A projected date for the Board's initial inspection;
  5. Indicate the applicant's requested licensing action:
    - a. A new shop license;
    - b. A shop relocation; or
    - c. A change of ownership including the following information:
      - i. Former owner's name,
      - ii. Former shop name,
      - iii. Board file number, and
      - iv. A copy of the shop's bill of sale or the signature of the former owner on the application;
  6. A listing of equipment in the applicant's shop including the total number of the following:
    - a. Barber chairs,
    - b. Sinks,
    - c. Dry sanitizers,
    - d. Liquid sanitizers,

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e. Soiled-towel receptacles, and

f. Garbage and hair receptacles;

7. A description of the shop's floor covering;

8. An indication of whether the applicant's shop is or will be licensed by the Board of Cosmetology;

9. Any other information required by the Board; and

10. The applicant's verification that the information contained on the application is correct and complete, and the applicant's notarized signature.

C. Fee. In addition to a completed shop application form, an applicant shall submit to the Board in cash or by certified instrument the appropriate fee for the licensing action requested.

**R4-5-302. Shop Premises and Basic Equipment**

A shop owner shall ensure that each shop has at least the following equipment:

1. A sink that has hot and cold running water;

2. Soap and clean towels for use at each sink; and

3. A separate covered receptacle for the following:

a. Garbage and hair, and

b. Reusable towels or cloths that are soiled.

**R4-5-303. Shop Supervision**

A. A shop owner or supervising barber licensed under this Chapter shall ensure that:

1. Each employee, independent contractor, or supervisor that practices barbering in the shop has a current license that meets the requirements of A.R.S. § 32-322;

2. Each required license and the most recent Board inspector's record are displayed according to A.R.S. § 32-351(A); and

3. Each licensee complies with any applicable provision of A.R.S. Title 32, Chapter 3, and this Chapter.

B. The Board shall hold a shop owner and any supervising barber responsible for any violation of an applicable provision of A.R.S. Title 32, Chapter 3, or this Chapter.

C. A shop owner who is a licensed barber may directly supervise a shop.

**R4-5-304. Shop Mobile Units**

The Board shall license a mobile unit as a shop only if:

1. The unit is self-contained,

2. The mobile unit meets all requirements for a shop, and

3. The mobile unit's owner agrees to provide the Board with 15-day written or oral advance notice of the unit's proposed location or a change in location.

**ARTICLE 4. SCHOOLS**

**R4-5-401. Barber School Application**

A. Application form. On a form provided by the Board, an applicant for a license to operate a barber school shall submit the following information:

1. School name;

2. Physical location address;

3. Telephone number;

4. Applicant information:

a. Name,

b. Address, and

c. Telephone number;

5. Owner information. If the school owner is other than the person specified under (A)(4), the applicant shall supply the following owner information:

a. Owner name,

b. Home address, and

c. Telephone number;

6. School manager information:

a. Name, and

b. Applicable barber or instructor license number;

7. An indication of whether the school is or will be licensed by the Board of Cosmetology;

8. An indication of the requested licensing action:

a. A new school license,

b. A school move, or

c. A change of ownership;

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9. If the applicant indicates a school move under subsection (A)(8)(b):
    - a. The Board file number, and
    - b. The school's new address;
  10. If the applicant indicates a change of ownership under subsection (A)(8)(c):
    - a. The Board file number,
    - b. The school's former name if applicable, and
    - c. A copy of the bill of sale or the signature of the former owner on the application;
  11. A listing of equipment in the applicant's school including the total number of the following:
    - a. Barber chairs,
    - b. Sinks,
    - c. Dry sanitizers,
    - d. Liquid sanitizers,
    - e. Latherizers,
    - f. Soiled-towel receptacles,
    - g. Garbage and hair receptacles, and
    - h. Student lockers;
  12. A description of the establishment's floor covering;
  13. A projected ready date for the Board's initial inspection;
  14. Any other information required by the Board; and
  15. The applicant's verification that the information contained on the application is correct and complete, and the applicant's notarized signature.
- B. Bond.** An applicant for a license to operate a school shall attach to the completed application a copy of the bond in the amount required under A.R.S. § 32-325(C)(6).
- C. Fee.** In addition to a completed barber school application form, an applicant shall submit to the Board in cash or by certified instrument the appropriate fee for the applicant's indicated licensing action.

**R4-5-402. Notification of Changes**

A school owner shall send written notification and updated information to the Board within 15 days if the school owner:

1. Amends the school catalog,
2. Offers a new curriculum,
3. Offers a new course,
4. Changes the school operating schedule,
5. Changes the school name,
6. Changes the school manager,
7. Opens an additional location, or
8. Establishes an offsite training facility in a shop under the provisions of R4-5-411.

**R4-5-403. Use of "Accredited," "Approved," or Similar Terms**

If "accredited," "approved," or a similar term appears in a school catalog or advertisement, the school's owner shall ensure that the catalog or advertisement includes the name of the accrediting or approving organization.

**R4-5-404. School Premises and Basic Equipment**

- A.** In addition to the requirements of A.R.S. § 32-325(C)(2) and (C)(3), the school owner shall ensure that the school has the following at a minimum:
1. An instructor, licensed in Arizona, to teach each required course of instruction;
  2. Instructional furnishings and fixtures for instructor and student use;
  3. A workstation for each student scheduled for practical instruction;
  4. Filing cabinets for school and student records;
  5. Chalkboards or other writing boards;
  6. A dispensary to prepare, mix, store, and dispose of supplies and chemicals used to sanitize barbering implements;
  7. One liquid sanitizer and one dry sanitizer at each workstation;
  8. At least one latherizer for every 10 students;
  9. At least one sink, with hot and cold running water, soap, and towels for every three students; and
  10. A student library that contains at least the following:
    - a. A dictionary;
    - b. Current barbering manuals and textbooks;
    - c. A current copy of A.R.S. Title 32, Chapter 3; and
    - d. A current copy of this Chapter; and
  11. All equipment, implements, materials, and supplies necessary for student instruction.
- B.** A school owner shall ensure that each student workstation has at least the following:
1. A wall mirror;

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2. A work stand; and
  3. A chair for the patron.
- C. A school owner shall ensure that each student at a workstation has access to the following:
1. A covered receptacle for soiled towels and cloths;
  2. A covered receptacle for garbage and hair; and
  3. A sufficient supply of tonics, lotions, shampoos, and chemical preparations used to process hair.

**R4-5-405. School Operations and Enrollment**

- A. A school owner shall file the school's operating schedule with the Board before the first scheduled class begins.
- B. A school owner shall ensure that any item provided under this Chapter is of shop quality and maintained in good repair.
- C. Unless a student possesses items listed under this subsection at the time of enrollment, a school owner shall provide each student with a non-returnable training kit that includes:
1. Course textbooks.
  2. One mannequin for barbering practice.
  3. Twelve combs and six brushes without defects.
  4. One hair dryer.
  5. One straight razor with interchangeable blades.
  6. One pair of haircutting shears.
  7. One pair of thinning shears.
  8. One clipper with interchangeable blades sizes 1 and .000 or an adjustable clipper, and
  9. One neck duster.
- D. Trainee age and education requirement notices. At the time a school owner enrolls a student, the school owner shall give Exhibit 1 or 2 to the student, as appropriate, and maintain the completed document for five years.
- E. An instructor trainee shall not teach students until the instructor trainee has received 40 hours of training in methods of teaching.
- F. A person who is not a licensed instructor shall not teach in a school but may demonstrate any process, product, or appliance to students when the person is under the supervision of a licensed instructor.
- G. Within five days after enrolling a student, a school owner shall send the following to the Board:
1. A copy of the student's written application that contains the following:
    - a. The student's name and address.
    - b. The student's enrollment date.
    - c. Indicate whether the student is enrolled in a barber or instructor course, and
    - d. The student's signature, and
  2. Two passport-size photographs of the student.
- H. Upon receipt of enrollment information under subsection (G), the Board shall issue an educational card to a student. The student shall:
1. Display the card at the student workstation, and
  2. Return the card to the Board upon completion of the course or upon withdrawal from the course for any reason.

**Exhibit 1. Required Age and Education Notice to a Barber Trainee**

NOTICE

This Notice is required by the Arizona State Board of Barbers.

You have applied to this school for training that will qualify you to apply for a license to be a barber in Arizona. The Arizona State Board of Barbers will not issue you a license unless you are at least 16 years of age when you apply for the license and you can demonstrate to the Board of Barbers that you have completed and received appropriate credits for at least two years of high school education or its equivalent.

It is your responsibility to make sure that you can meet the requirements of the Board of Barbers, particularly regarding the completion of two years of high school or its equivalent. If you are unsure about whether you can meet the requirements, you should contact the Board of Barbers for further information.

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

I hereby acknowledge that I have received and understand the foregoing Notice.  
(student signature)(signature date)

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**Exhibit 2. Required Age and Education Notice to an Instructor Trainee**

NOTICE

This Notice is required by the Arizona State Board of Barbers.

You have applied to this school for training that will qualify you to apply for a license to be a barber instructor in Arizona. The Arizona State Board of Barbers will not issue you a license unless you are at least 19 years of age when you apply for the license and you can demonstrate to the Board of Barbers that you hold a high school diploma or its equivalent.

It is your responsibility to make sure that you can meet the requirements of the Board of Barbers, particularly regarding the holding of a high school diploma or its equivalent. If you are unsure about whether you can meet the requirements, you should contact the Board of Barbers for further information.

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

I hereby acknowledge that I have received and understand the foregoing Notice.  
(student signature)(signature date)

**R4-5-406. Student Training and Supervision**

- A. A school owner shall grade students at least monthly and inform the students of their grades.
- B. An instructor may assist students in the performance of barbering.
- C. A student shall not dismiss a patron until a licensed instructor inspects and approves the student's work.
- D. A student shall not attend a school for longer than eight hours per day.
- E. A student may receive a maximum of 20 credit hours for field trips pertaining to barbering.
- F. A student may receive up to 50 percent of the student's total training at an offsite training facility operated under the provisions of R4-5-411.
- G. The instructor shall not ask a student to perform barbering on the public while the student is engaged in classroom instruction or taking a written examination.
- H. A student shall wear a name tag during school attendance that clearly identifies the student.

**R4-5-407. School Curriculum**

- A. A school owner shall offer barbering curriculum that complies with A.R.S. § 32-325(B).
- B. In addition to the minimum requirements under A.R.S. § 32-325(B)(1), a school owner shall include instruction in the following:
  - 1. Professional ethics.
  - 2. Shop management, and
  - 3. Regulatory provisions prescribed under A.R.S. Title 32, Chapter 3, and this Chapter.

**R4-5-408. School Records**

- A. A school owner of one school shall keep a student's records at the student's enrollment location. A school owner of a multiple-location school may keep a student's records at the student's enrollment location or as prescribed at R4-5-410.
- B. A school owner shall at least weekly enter into each student's record the following:
  - 1. The date of the recorded entry.
  - 2. Each subject and number of clock hours earned.
  - 3. An indication whether instruction in a subject listed under subsection (B)(2) was classroom or practical instruction.
  - 4. The student's signature on a paper copy of the record to acknowledge modification of the record within three days after each record update.
- C. A school owner shall maintain a permanent record file for each student that includes:
  - 1. The signed contract made between the student and the school.
  - 2. The student's current transcript.
  - 3. The applicable original notice required under R4-5-405(D), and
  - 4. The records created under subsection (B).
- D. Within 15 days after the end of each month, a school owner shall submit a report to the Board that includes:
  - 1. A list of each student who graduated during the reporting period;
  - 2. The name and license number of:
    - a. The school's chief instructor, and

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- b. Each licensed instructor:
- 3. A list of total hours earned by each student during the reporting period;
- 4. A list of each student's cumulative hours;
- 5. The name of any student who, during the applicable reporting period.:
  - a. Transfers to another school;
  - b. Withdraws, or
  - c. Takes a leave-of-absence;
- 6. A copy of the documents signed by a student under R4-5-408(B)(4) during the reporting period; and
- 7. The signature of the school owner or the owner's representative verifying that all information is correct and complete.

**R4-5-409. School Closure**

- A.** The Board shall consider a school closed if the school fails to provide instruction for a consecutive five-day period that does not comply with the operating schedule on file with the Board.
- B.** Closure notification. A school owner shall deliver written or oral notification of a school's closure to each student and the Board:
  - 1. Ten days in advance of closure in a case when the owner anticipates school closure, or
  - 2. Within five days after closure if the school's closure was not reasonably anticipated by the owner.
- C.** Disposition of student records. A school owner shall forward all records for each student to the Board within 10 days after school closure.

**R4-5-410. Multiple-location Schools**

The following provisions apply to a school that operates in more than one location:

- 1. The operator of a multiple-location school shall obtain a license for each school location; and
- 2. The owner of a multiple-location school may keep school records in a single location.

**R4-5-411. Offsite Training Facility**

- A.** A school owner may operate an offsite training facility in a shop that complies with the provisions of A.R.S. § 32-325(C) and R4-5-404(A)(11), R4-5-405(B), (E), and (F), and R4-5-406(B), (C), (D), (G), and (H).
- B.** In addition to subsection (A), a school owner operating an offsite training facility shall comply with the following:
  - 1. R4-5-404(A)(1), (3), (6), (7), (8), and (9) if training at the facility is practical only; or
  - 2. Requirements of subsection (B)(1) and R4-5-404(A)(2) and (A)(5) if training at the facility includes classroom study.
- C.** In addition to the requirements of subsection (A), a school owner operating an offsite training facility shall:
  - 1. Clearly indicate to the public the specific portion of the shop designated as an offsite training facility.
  - 2. Post a sign indicating that barbering services at the offsite training facility are provided by students.
  - 3. Require a student to orally give notice of status as a student to each patron, and
  - 4. Restrict student barbering only to the portion of the shop designated as an offsite training facility.

**ARTICLE 5. HEARINGS**

**R4-5-501. Hearing Procedures**

For purposes of A.R.S. § 32-354(D), the Board shall conduct all formal proceedings according to A.R.S. Title 41, Chapter 6, Article 10.

**R4-5-502. Rehearing and Review of Decision**

- A.** The Board shall provide for a rehearing and review of a decision under A.R.S. Title 41, Chapter 6, Article 10.
- B.** A party shall file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  - 1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
  - 2. Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
  - 3. Accident or surprise that could not have been prevented by ordinary prudence;
  - 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  - 5. Excessive penalty;
  - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
  - 7. That the Board's decision is a result of passion or prejudice; or
  - 8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for

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any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.

- F.** If a motion for rehearing or review is based upon an affidavit, the affidavit shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).
- G.** Not later than 30 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and:
  - 1. A ruling on the motion will further administrative convenience, expedition, or economy; or
  - 2. A ruling on the motion will avoid undue prejudice to any party.