

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: Because the Citizen's Clean Elections Commission is an independent agency, the following Notice of Exempt Rulemaking was exempt from the Governor's Regulatory Review Plan memorandum of January 22, 2009 and its continuations on April 30 and June 29, 2009. (See a copy of the memoranda in this issue on pages 1574 through 1576.)

[R09-86]

PREAMBLE

- 1. Sections Affected**
R2-20-113
- Rulemaking Action**
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. § 16-940, et seq.
Implementing statute: A.R.S. § 16-956(C)
- 3. The effective date of the rules:**
September 2, 2009
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rule:**
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Todd Lang, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: todd.lang@azcleaselections.gov
or
Name: Colleen McGee, Deputy Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: colleen.mcgee@azcleaselections.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
R2-20-113 prescribes the requirements for calculation of equalizing funds. The change to R2-20-113(F) was made in order to eliminate a means by which candidates could take advantage of the Clean Elections system.
Adoption and amendment of the above described rules is exempt from regular rulemaking procedures pursuant of A.R.S. § 16-956(C) of the Citizens Clean Elections Act.

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7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:

Not applicable

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:

Not applicable

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

Changes between rules as initially proposed and as finally adopted by the Commission were primarily grammatical and stylistic. Additional changes were incorporated at the suggestion of members of the public and Commissioners to clarify terms and provisions of the rules.

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

The Commissioners solicited public comment throughout the rulemaking process. Comments were generally supportive of the revised rules. Requests for clarifications and revisions and statements in support or opposition to specific provisions were duly considered by the Commission at open meetings and were acted upon as deemed appropriate.

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? If so, please indicate the Register citation:

Not applicable

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-113. Calculation of Equalizing Funds

ARTICLE 1. GENERAL PROVISIONS

R2-20-113. Calculation of Equalizing Funds

A. During the primary election period, the Commission shall pay any participating candidate in the same party primary of a nonparticipating candidate, the amount of the nonparticipating candidate's expenditures in excess of the amount over the primary election spending limit, not to exceed three times the original primary election spending limit, as follows:

1. The nonparticipating candidates' expenditures, which are defined as:
 - a. Any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state;
 - b. A promise or agreement to make an expenditure resulting in an extension of credit; and
 - c. The value of any in-kind contribution received.
2. If an independent expenditure is made against one or more participating candidates for a single office, each participating candidate will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. The participating candidates who were the subject of the expenditure will be the only candidates eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
3. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the party primary of the candidate favored by the independent expenditure will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. If so required by this subsection, the

Notices of Exempt Rulemaking

Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.

4. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in that party primary will be eligible to receive equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
- B.** During the general election period, a participating candidate will receive equalizing funds when the opposing nonparticipating candidate has received in contributions to date, less the amount of expenditures the nonparticipating candidate made through the end of the primary election period, an amount that exceeds the general election spending limit. The Commission shall pay any participating candidate seeking the same office an amount equal to any excess over the general election spending limit, not to exceed three times the original general election spending limit, as follows:
 1. The nonparticipating candidate's contributions include:
 - a. Surplus funds transferred from previous campaign accounts and deposited into the current campaign account;
 - b. Individual contributions;
 - c. \$25 or less contributions;
 - d. In-kind contributions;
 - e. Political committee contributions;
 - f. Personal monies;
 - g. Candidate or family loans;
 - h. Other loans; and
 - i. Contributions to retire campaign debt, irrespective of whether placed in a prior, current or future campaign account. Contributions to retire debt from the immediately preceding election cycle and received within 21 days following the general election shall be disregarded for purposes of calculating equalizing funds in the subsequent election cycle.
 2. In accordance with A.R.S. § 16-952, the nonparticipating candidate's contributions shall not include offsets to contributions, including a refund of a contribution to an individual contributor or to a political committee contributor.
 3. In accordance with A.R.S. § 16-952(C)(4), when a participating candidate is opposed in the general election by an independent candidate or nonparticipating candidate who was not opposed in the party primary, expenditures made during the primary election period by the nonparticipating candidate or independent candidate will not be included in the calculation of equalizing funds.
 4. If an independent expenditure is made against one or more participating candidates for a single office, each participating candidate will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. The participating candidates who were the subject of the expenditure will be the only candidates eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
 5. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the election(s) for the same office(s) will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
 6. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in the election for that office will be eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
- C.** Independent expenditures made against a nonparticipating candidate during the primary or general election periods will not be considered in the calculation of equalizing funds for a participating candidate.
- D.** In accordance with A.R.S. § 16-952(C)(6), during the primary and general election periods, expenditures promoting or opposing candidates for more than one office shall be allocated by the Commission among candidates for different offices based on the relative size or length and relative prominence of the reference to candidates for different offices. Equalizing funds shall be issued to each participating candidate, if applicable, in an amount equal to the proportion of the expenditure that is targeted at the office sought by such participating candidate. If so required by this rule, the Commission may issue equalizing funds based on an expenditure in an amount greater than the amount of such expenditure.
- E.** The Commission shall cease to disburse equalizing funds for an election period after the Wednesday following the primary or general election day.
- F.** The Commission may decline to issue equalizing funds on the basis of expenditures that the Commission determines to be of de minimis value, and shall decline to issue equalizing funds during the primary or general election period after the participating candidate and the nonparticipating candidate triggering the match made a joint campaign expenditure during that primary or general election period.

NOTICE OF EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from the Governor's Regulatory Review Plan memorandum, January 22, 2009 and its continuations on April 30 and June 30, 2009 per A.R.S. § 41-1005. (See a copy of the memorandum on pages 1574 through 1576.)

[R09-89]

PREAMBLE

- 1. Sections Affected**
R7-2-302.06
- Rulemaking Action**
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)(1) and 15-701.02
Implementing statute: A.R.S. § 15-701.02
- 3. The effective date of the rules:**
September 25, 2006
- 4. A list of all previous notices appearing in the Register addressing the exempt rules:**
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Vince Yanez, Executive Director State Board of Education
Address:	1535 W. Jefferson St. Phoenix, AZ 85007
Telephone:	(602) 542-5057
Fax:	(602) 542-3046
E-mail:	vince.yanez@azed.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

Pursuant to A.R.S. § 15-701.02 the State Board of Education is required to adopt rules that allow high school students that fail to achieve a passing score on the AIMS test to augment their test scores with points derived from classroom grades of "C" or better.

Pursuant to A.R.S. § 41-1005(F) the State Board of Education is exempt from standard rulemaking procedures.
- 7. A reference to any study relevant to the rule that the agency reviewed 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:**
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business and consumer impact:**

The rules are not expected to have significant, if any, economic impact on small businesses but may have some impact upon school districts and charter schools. School districts and charter schools will be required to allocate additional resources, including technology and personnel, to make the necessary calculations for their students that do not achieve a passing score on any section of AIMS as well as for staffing any related appeals.
- 10. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):**
Not applicable
- 11. A summary of the comments made regarding the rule and the agency response to them:**
A public hearing was held regarding these proposed rules on September 19, 2006. No comment was 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:

Not applicable

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

Not applicable

15. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS

Section

R7-2-302.06. AIMS, Additional Credit

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS

R7-2-302.06. AIMS, Additional Credit

- A. A pupil who fails to achieve a passing score on the AIMS assessment for high school graduation during the ~~2005—2006~~ ~~or~~ 2006 – 2007 school ~~years~~ year may graduate if the pupil meets the alternative graduation requirements established pursuant to this Section.
- B. A school district or charter school is not required to comply with this Section if it is determined that augmenting the pupil's score on any section of the AIMS assessment by 25 percent would not meet or exceed the "Meets the Standard" threshold.
- C. A pupil is eligible for the alternative graduation requirement established pursuant to this Section if all of the following apply:
1. The pupil has completed with a passing grade all coursework and credits prescribed for the graduation of pupils from high school by the governing board of the pupil's school district or charter school.
 2. The pupil has taken the AIMS assessment each time the test was offered when the pupil was eligible to take the test after August 12, 2005.
 3. The pupil has participated in any academic remediation program available in the pupil's school in those subject areas where the pupil failed to achieve a passing score on AIMS.
- D. If a pupil is not eligible for the AIMS augmentation due to a failure to meet the requirements in subsections (C)(2) and/or (3) the student may appeal this decision to the local governing board. The governing board may delegate these appeals to other school district or charter school officials. All appeals held pursuant to this subsection shall comply with the following requirements:
1. The governing board shall adopt a form for a petition that a pupil, or a pupil's parent or legal guardian, must complete to initiate an appeal. The petition shall indicate what requirement is being appealed and the basis for the appeal. The petition shall also include a written explanation of the appeal procedures used by the school district or charter school.
 2. The pupil, or the pupil's representative, shall have the burden of demonstrating what circumstances prevented compliance with the requirements in subsections (C)(2) and/or (3).
 3. An appeal for failing to meet the requirement in subsection (C)(2) should be granted only upon presentation of credible evidence that extreme circumstances made the pupil ineligible for each AIMS assessment administration the student did not attend.
 4. An appeal for failing to meet the requirement in subsection (C)(3) should be granted only upon presentation of credible evidence that the pupil has participated in at least one state or school sanctioned remediation program in those subject areas where the pupil failed to achieve a passing score on the AIMS assessment.
 5. School district or charter school officials shall provide adequate notice to the pupil and the pupil's parents or legal guardians regarding the date, time and place of the appeal. A pupil, or a pupil's representative, may participate in the appeal either personally, by telephone, or by providing written documentation.
 6. All other procedures regarding these appeals shall be determined by the local school district or charter school governing board.
- E. Every school district or charter school that graduates pupils from high school shall determine whether the pupils that have failed to achieve a passing score on any section of the AIMS assessment meet the alternative graduation requirements established by this Section. In making this determination the school or school district shall adhere to the following

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requirements:

1. The school district or charter school shall augment the score of each section of the AIMS assessment where a pupil failed to achieve a passing score with additional points derived from classroom performance. These points shall represent a potential percentage augmentation from a pupil's original score. The number of additional points shall be calculated as follows:
 - a. Only classes that satisfy the following ~~11-1/2~~ 20 credits shall be included in the calculation:
 - i. Four credits of English or English as a Second Language, which shall include but not be limited to the following: grammar, writing, and reading skills, advanced grammar, composition, American literature, advanced composition, research methods and skills and literature. One-half credit of the English requirement shall include the principles of speech and debate but not be limited to those principles.
 - ii. One and one-half credits in instruction in the essentials, sources and history of the constitutions of the United States and Arizona and instruction in American institutions and ideals and in the history of Arizona.
 - iii. One credit of world history/geography.
 - iv. Two credits of mathematics. Mathematics credits shall be taken consecutively beginning with the 9th grade, and the course content of the mathematics credits shall include Number Sense; Data Analysis and Probability; Patterns, Algebra and Functions; Geometry; Measurement and Discrete Mathematics; and Mathematical Structure/Logic, in preparation for proficiency, at the high school level, on the AIMS test.
 - v. Two credits of science.
 - vi. One credit of fine arts or vocational education.
 - vii. Eight and one-half credits of additional courses prescribed by the local governing board subject to the approval of the State Board pursuant to A.R.S. § 15-341(A)(6).
 - b. Each eligible grade in an advanced placement class, or a school district or charter school designated "honors" class, up to the ~~11-1/2~~ 20 credits prescribed in this Section, shall receive additional points as follows:
 - i. A letter grade of "A," or its equivalent, shall receive additional points equal to 25 times the amount of credit for that class.
 - ii. A letter grade of "B," or its equivalent, shall receive additional points equal to 20 times the amount of credit for that class.
 - iii. A letter grade of "C," or its equivalent, shall receive additional points towards the average augmentation equal to 15 times the amount of credit for that class.
 - iv. A letter grade of "D" or "F," or its equivalent, shall receive zero points towards the average.
 - c. All other eligible grades, up to the ~~11-1/2~~ 20 credits prescribed in this Section, shall receive additional points as follows:
 - i. A letter grade of "A," or its equivalent, shall receive additional points towards the average augmentation equal to 20 times the amount of credit for that class.
 - ii. A letter grade of "B," or its equivalent, shall receive additional points towards the average augmentation equal to 15 times the amount of credit for that class.
 - iii. A letter grade of "C," or its equivalent, shall receive additional points towards the average augmentation equal to 12 times the amount of credit for that class.
 - iv. Letter grades of "D" or "F," or their equivalent, shall receive zero points towards the average.
 - d. Pupils that have earned additional credits in any of the areas prescribed in this Section may apply the grade that would award the highest augmentation.
 - e. After determining a pupil's additional points the school district or charter school shall calculate the average number of points awarded per credit by dividing the sum of additional points earned by ~~11-1/2~~ 20.
 - f. The pupil's augmentation shall be calculated by applying the following formula:

$$\left(\frac{\text{Avg. Additional Points per Credit}}{100} \right) \times (\text{Pupil's Original Score}) = \text{Augmentation Points}$$

2. The augmentation points shall be added to the pupil's highest achieved score on each section of the AIMS assessment where the student failed to achieve a passing score. If a pupil's augmented score exceeds the passing score for the applicable section of the AIMS assessment, the pupil shall be considered to have passed that section of the assessment for graduation purposes.
 3. The school district or charter school shall augment the highest achieved score of each section of the AIMS assessment where a pupil failed to achieve a passing score separately and concurrently.
- F.** A pupil's augmented score shall be used only for the purpose of determining whether the pupil meets the competency test requirement for graduation from high school.
- G.** All school districts and charter schools shall report to the Arizona Department of Education the number of students in their schools that met the alternative graduation requirement prescribed in this Section. School districts and charter schools shall also report disaggregated data showing the number of students whose augmented scores met or exceeded the passing scores for the reading, writing and math sections of the AIMS assessment respectively. These reports shall be made annually and shall be received by the Arizona Department of Education by June 30.