



TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2020 through June 30, 2020.

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Questions about these expired rules?

Name: The Governor's Regulatory Review Council
 100 N. 15th Ave #305
 Phoenix, AZ 85007

Phone: (602) 542-2058

The release of this Chapter in Supp. 20-2 replaces Supp. 03-3, 1-14 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

(Authority A.R.S. § 15-1852 et seq.)

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (01-4).

Editor's Note: This Chapter contains rules which were adopted, amended, repealed, or renumbered under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), pursuant to A.R.S. § 15-1852(C). Exemption from A.R.S. Title 41, Chapter 6 means the Commission was not required to hold public hearings; and the Governor's Regulatory Review Council did not review or approve the rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, it is printed on blue paper.

ARTICLE 1. RULEMAKING

Article 1, consisting of Sections R7-3-101 through R7-3-108, adopted effective August 22, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).

Table listing sections R7-3-101 through R7-3-108 with their respective topics and page numbers.

ARTICLE 2. EXPIRED

Article 2, consisting of Sections R7-3-201 through R7-3-205, expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322, effective June 10, 2020 (Supp. 20-2).

Article 2, consisting of Sections R7-3-201 through R7-3-205, adopted effective August 22, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).

Table listing expired sections R7-3-201 through R7-3-205 with their respective topics and page numbers.

ARTICLE 3. ARIZONA LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

Article 3, consisting of Sections R7-3-301 through R7-3-309, adopted effective September 19, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).

Table listing section R7-3-301 with its topic and page number.

Table listing sections R7-3-302 through R7-3-309 with their respective topics and page numbers.

ARTICLE 4. ARIZONA PRIVATE POSTSECONDARY EDUCATION STUDENT FINANCIAL ASSISTANCE PROGRAM

Article 4, consisting of Sections R7-3-401 through R7-3-404, adopted effective September 19, 1996, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 96-3).

Table listing sections R7-3-401 through R7-3-405 with their respective topics and page numbers.

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

Article 1, consisting of Sections R7-3-501 through R7-3-505, adopted effective October 31, 1997, under an exemption from the provisions of the Arizona Administrative Procedure Act (Supp. 97-4).

Table listing sections R7-3-501 through R7-3-508 with their respective topics and page numbers.

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ARTICLE 1. RULEMAKING**R7-3-101. General Provisions**

- A.** Definitions. In this Article, unless the context otherwise requires:
1. "Agenda item" means a specified matter listed on an agenda included as part of the public notice of a Commission meeting pursuant to A.R.S. § 38-431.02.
 2. "Commission" means the Commission for Postsecondary Education.
 3. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
 4. "Public meeting" means a meeting held under and subject to the Open Meeting Act, A.R.S. §§ 38-431 through 38-431.09.
 5. "Rule" means a statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the Commission. Rule includes the amendment or repeal of a prior rule, but does not include intra-agency memoranda.
 6. "Rulemaking" means the process for formulation and adoption of a rule.
- B.** The Commission shall follow the uniform system for numbering, form and style as prescribed by the Secretary of State in the *Arizona Administrative Code*.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-102. Incorporation by Reference

The Commission may incorporate by reference in its rules and without publishing the incorporated matter in full all or any part of a code, standard, rule, or regulation that is adopted by an agency of the United States or this state, or a nationally recognized organization or association, if incorporation of its text in Commission rules would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the Commission rules shall fully identify the incorporated matter by location, date, and shall state that the rule does not include any later amendments or editions of the incorporated matter. The Commission shall file three copies of the incorporated matter with the Secretary of State at the time the adopted rule is filed.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-103. Commission Rulemaking Record

The Commission shall maintain an official rulemaking record for each rule proposed. The record and matter incorporated by reference shall be available for public inspection. The Commission rulemaking record shall contain all of the following:

1. Reference to the specific authority under which the rule is proposed to be adopted, amended, or repealed;
2. The name and address of Commission personnel with whom persons may communicate regarding the rule;
3. An informative summary of the proposed rule;
4. The time during which written submissions may be made and the time and place where oral comments may be made;
5. The current status of the proposed rule;
6. Any known timetable for Commission decisions or other action for the rulemaking;

7. A copy of all publications in the *Arizona Administrative Register* or a newspaper of general circulation with respect to the proposed action;
8. All written petitions, requests, submissions, and comments received by the Commission and all other written materials considered or prepared by the Commission in connection with the proposed action;
9. The official minutes of all oral proceedings regarding the rule;
10. A copy of the economic, small business, and consumer impact summary and the minutes of any public meeting at which the rule was considered by the Commission;
11. A statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule;
12. A copy of the final rule, including the date of its adoption and the date of its filing and publication.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-104. Notice of Oral Proceedings

The Commission or its staff shall request that the Secretary of State publish in the *Arizona Administrative Register* notice of an oral proceeding concerning proposed action by the Commission regarding a rule. The notice shall include a statement of the date, time, place, and nature of the proceedings, and the name and address of Commission personnel with whom persons may communicate regarding the rule. If the Secretary of State declines to publish such information, the Commission or its staff shall cause the information to be published in a newspaper of general circulation. If an oral proceeding regarding a rule is scheduled, the Commission shall allow at least 30 days to elapse after the publication date of the notice before adopting, amending, or repealing the rule.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-105. Economic, Small Business, and Consumer Impact Summary

The Commission shall cause to be prepared an economic, small business, and consumer impact summary. The economic, small business, and consumer impact summary shall be a brief summary of the following information:

1. An identification of the proposed rulemaking;
2. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking;
3. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking;
4. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking;
5. A statement of the probable impact of the proposed rulemaking on small business;
6. A statement of the probable effect on state revenues;
7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.

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Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-106. Effective Date of Rules

A rule adopted by the Commission becomes effective when a certified original and two copies of the rule are delivered to the Office of the Secretary of State unless a later date is required by the constitution of Arizona, statute, or court order, or as specified in the rule.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-107. Variance Between Adopted Rule and Published Notice of Proposed Rule Adoption

- A.** If, as a result of public comment or internal review, the Commission determines that a proposed rule requires substantial change pursuant to subsection (B), the Commission shall issue a supplemental notice containing the changes in the proposed rule, in accordance with R7-3-104. The Commission shall provide for additional public comment pursuant to R7-3-108.
- B.** In determining whether a rule which the Commission intends to adopt is substantially different from the rule as originally proposed by the Commission, the following shall be considered:
1. The extent to which the subject matter of the proposed rule or the issues determined by that rule are different from the subject matter or issues involved in the rule which the Commission intends to adopt,
 2. The extent to which the effects of the proposed rule differ from the effects of the rule which the Commission intends to adopt,
 3. The extent to which all persons affected by the rule which the Commission intends to adopt should have understood that the proposed rule would affect their interests.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

R7-3-108. Oral Proceedings

- A.** When the Commission proposes a rule, such proposed action shall be presented as a specifically identified agenda item for review at a public meeting of the Commission, and such public meeting shall take place no less than 30 days prior to the public meeting at which the Commission intends to adopt, amend, or repeal the rule. At the time it proposes a rule, the Commission may schedule an oral proceeding on the proposed action. Any person may submit written statements, arguments, and supporting data on the Commission's proposed action to the Executive Director of the Commission within 30 days following the date the Commission proposes the rule.
- B.** The Commission shall schedule an oral proceeding on a proposed rule if, within 30 days after proposing the rule, a written request for an oral proceeding is submitted to the Commission by no fewer than five persons. An oral proceeding may not be held earlier than 30 days after notice of its date, location, and time is published. If an oral proceeding is scheduled, the Commission shall post, in a location as required for notice of a public meeting, a written notice of the place and date of the proceeding no less than 20 days in advance thereof. The Commission, a member of the Commission, or an official of the Commission's staff designated by the Commission, shall preside at the oral proceeding. At the oral proceeding, minutes of the meeting shall be taken and persons may present oral argu-

ment, views, and supporting data on the proposed rule. The person presiding at the hearing shall exclude unduly repetitious argument.

- C.** Prior to its meeting at which it intends to adopt, amend, or repeal a rule, the Commission shall be provided with a copy of the proposed action; an informative summary of such action; a memorandum summarizing the written public comment received; the economic, small business, and consumer impact summary; and the minutes of any oral proceeding regarding the proposed action. The Commission shall consider all such information prior to adopting, amending, or repealing the rule.

Historical Note

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3).

ARTICLE 2. EXPIRED**R7-3-201. Expired****Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

R7-3-202. Expired**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

R7-3-203. Expired**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

R7-3-204. Expired**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

R7-3-205. Expired**Historical Note**

Adopted effective August 22, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322 effective June 10, 2020 (Supp. 20-2).

ARTICLE 3. ARIZONA LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM**R7-3-301. Federal LEAP Requirements**

The federal government requires that a state LEAP Program must:

1. Be administered by a single state agency in accordance with the Federal-State Agreement under Section 1203 of the Higher Education Act, as amended. The Governor of Arizona has designated as the responsible single state agency the Arizona Commission for Postsecondary Edu-

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- ation, which hereafter shall be referred to as the Commission;
2. Award grants only to students who meet the eligibility and financial need requirements as outlined in R7-3-304(A) and (B);
 3. Provide grants which do not exceed \$5,000 per program year for a full-time student enrolled in an eligible program at a participating postsecondary institution;
 4. Use as state matching funds an amount which is over and above the amount the state expended for grants in the initial program year of FY 1974;
 5. Provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of the accounting for federal funds paid to the state;
 6. Provide for making such reports, in such form and containing such information, as may be reasonably necessary to enable the U.S. Secretary of Education to perform program analysis;
 7. Provide for the payment of the state matching fund share of grants awarded from direct state appropriated funds;
 8. Provide that no payment may be made to a student under this program unless the student meets the requirements specified in R7-3-304;
 9. Obey all other United States laws and regulations applying to the Federal-State Student Grant Program;
 10. Provide that all institutions of higher education in Arizona which meet the eligibility requirements of R7-3-302 shall be eligible to participate in the program;
 11. Provide that state expenditures shall not be less than:
 - a. The average annual aggregate expenditures for the preceding three years; or
 - b. The average annual expenditure per full-time equivalent student for those years.
 12. Provides assurances that all LEAP grants will be awarded without regard to sex, race, debilitating condition, creed, or economic background.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-302. Institutional Eligibility Requirements

To participate in the Arizona LEAP Program, an Arizona postsecondary educational institution must either:

1. Be a public or other nonprofit institution of higher education which:
 - a. Admits as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the state in which the institution is located, and who have the ability to benefit from the training offered;
 - b. Is legally authorized by the state of Arizona to provide an educational program beyond secondary education;
 - c. Provides an educational program for which it awards an associate, baccalaureate, graduate, or professional degree, or at least a two-year program which is acceptable for full credit toward a baccalaureate degree; or at least a one-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation; or at least a six-month training program at a postsecondary vocational institution (such as a public com-

munity college) which leads to a certificate or degree and prepares students for gainful employment;

- d. Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution which has satisfactorily assured the Secretary that it will meet the accreditation standards of an approved agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards, or is an institution whose credits are determined by the Secretary to be accepted on transfer by at least three accredited institutions on the same basis as transfer credits from fully accredited institutions.
 - e. Has a certified Eligibility Letter and a valid written Program Participation Agreement from the Department of Education cited in 34 CFR 668.
2. Be a proprietary institution of postsecondary education which:
 - a. Is not a public or other nonprofit institution;
 - b. Admits as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the state in which the institution is located, and who have the ability to benefit from the training offered;
 - c. Is legally authorized to provide postsecondary education in the state of Arizona;
 - d. Provides at least a six-month or 600 clock hour program of training to prepare students for gainful employment in a recognized occupation;
 - e. Is accredited by a nationally recognized accrediting agency or association; and
 - f. Has been in existence for at least two years. The Secretary considers a school to have been in existence for two years if it has been legally authorized to provide, and has provided, a continuous training program to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation periods) preceding the date of application for eligibility.
 - g. Refer to this subsection (1)(e).

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-303. Receipt and Allocation of Arizona LEAP Program Funds

- A. Receipt of funds.
 1. The Commission may receive funds for the Arizona LEAP Program from the following sources:
 - a. The federal government;
 - b. The Arizona Legislature;
 - c. Institutions which are eligible to participate in the program; and,
 - d. Other nonfederal institutions, organizations, or individuals.
 2. All funds received will be deposited by the Commission in a properly secured account and appropriate controls will be instituted to assure that accountability will be maintained for all funds received.

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3. Available federal program funds will be matched, on a dollar-for-dollar basis, by state appropriated funds.
4. Funds provided by the eligible participating institutions and nonfederal funds from other institutions, organizations, or individuals shall be used by the Commission to supplement the federal and state program funds for grants and for necessary administrative costs.

B. Allocation of funds.

1. Arizona LEAP Program Funds will be allocated to eligible Arizona postsecondary educational institutions according to their proportionate share of the State's total headcount of Arizona resident students enrolled in eligible programs. The Commission will survey each eligible institution in Arizona no later than May of each year to determine the number of eligible Arizona resident students who are enrolled. Headcount will be determined in the following manner:
 - a. Semester or quarter hour schedule institutions will provide data for the preceding fall semester. (For example, allocations for the LEAP program for any given academic year will be based on enrollment data from the previous academic year.)
 - b. Institutions which operate on clock hour or other nontraditional schedules will provide unduplicated student enrollment data for the period from August through April of the previous year. (For example, allocations for the LEAP program for any given year will be based on data for the period August through April.) Enrollment data must be verified by two Administrative Officials of the school.
2. The staff will promptly notify each eligible institution of its preliminary allocation as soon as necessary Commission approvals can be obtained. The total will show the amount of federal and state dollars and also the amount the institution must provide to receive the full allocation. The institution will be asked to select one of the following choices:
 - a. It will provide the full amount of institutional funds in order to receive the full allocation.
 - b. It will provide the full amount of institutional funds and also is prepared to provide additional institutional funds if additional federal and state funds should become available. The institution will be asked to specify the amount of additional institutional funds it will be able to provide.
 - c. It prefers to provide a lesser amount which will be noted in the space provided. In this case the federal and state amounts will be adjusted to meet the reduced institutional amount.
 - d. It chooses not to participate in the LEAP program for this period. In this case it is important that the institution return the form to the Commission to inform them of this choice.
3. A response due date will be included in this notification. Only institutions whose response is received by the Commission by that due date will be eligible to participate in the LEAP Program for that academic year.
4. All institution responses which are received by the Commission on or before the response due date will determine the final list of institutions eligible to participate in the LEAP program. If all institutions elect to participate, the preliminary allocation will become the final allocation list. However, if some institutions choose not to participate, or if some prefer to participate at a reduced level, the staff will calculate a new final allocation list considering only the institutions on the final institutional eligibil-

ity list. The staff will then notify each participant institution of its revised allocation, the amount of institutional funds to provide, and instructions for transmitting its funds to the Commission.

5. The Commission will maintain the necessary accounts for each eligible institution which participates in the Arizona LEAP Program. Each account will, as a minimum, show the current status of that account for its source of program funds, and such other information that the Commission deems necessary.
- C. Transfer of institutional funds.** When the institution receives its final allocation notice from the Commission, it shall send its institutional funds to the Commission. This transfer shall take place beginning July 1 of each year. Checks conveying institutional funds shall be made out to the Arizona Commission for Postsecondary Education -- LEAP Program.
- D. Disbursement of Arizona LEAP Program Funds to Participating Institutions.** The Commission will disburse funds from the Arizona LEAP Program Fund to participating institutions for further disbursement to approved student applicants in accordance with the program calendar.
- E. Reallocation of Unused LEAP Program Funds**
1. Schools will be contacted in February, and asked if they will be able to use all their funds or if they wish additional funding and the amount thereof.
 2. Schools not awarding 100% of their funds by the middle of February may have the remaining LEAP funds recovered by the Commission for reallocation. Remaining institutional funds, less administrative funds, will then be returned to each of those schools when the final program financial report has been received by the Commission.
 3. In March, a reallocation of funds will take place and funds will be available for those schools that asked for additional funds in February.
 - a. If the amount of available funds exceeds the total amount of requests, all requests will be honored. Any remaining available funds will be retained by the Commission for later reallocation.
 - b. If the amount of the requests exceeds the amount of available funds, the Commission will allocate those funds among the requesting institutions based on each institution's proportionate share of Arizona resident students eligible headcount for that institution. The enrollment at non-requesting institutions will not be included in these calculations.
 4. The staff will notify each participant institution of its share of the reallocation, the amount of institutional funds to provide, and instructions for transmitting its funds to the Commission.
 5. Any LEAP funds retained by the institutions, minus the institutional proportionate share originally paid, must be returned to the Commission in the form of a check by the end of July, along with the signed Financial Report. Any unused program funds remaining in the state treasury will be returned to the institutions in the same proportionate share as was paid in at the beginning of the program year. The Commission may impose a deduction in the amount of those unutilized program funds from a school's following years allocation.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

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R7-3-304. Arizona LEAP Student Eligibility Requirements

- A.** Student eligibility requirements. To be eligible for a grant from the Arizona LEAP Program, a student must:
1. Be a resident of the State of Arizona as defined by the A.R.S. §§ 15-1802, 15-1803, 15-1804, and 15-1805;
 2. Be enrolled or accepted for enrollment on at least a half-time basis as defined in R7-3-309(A)(20) in an eligible course or program at an Arizona postsecondary educational institution which has met the institutional eligibility requirements in R7-3-302, and which has been approved by the Commission.
 3. At the discretion of the institution financial aid officer, this may include a person who has attained a baccalaureate or first professional degree and has re-entered an eligible Arizona postsecondary institution for retraining in a program below the baccalaureate level. Such a person will be considered an undergraduate student for LEAP purposes.
 4. Have a substantial demonstrated financial need determined in accordance with the provision given in R7-3-304(B);
 5. Maintain satisfactory progress in a course of study as defined by the institution and not be in default or owe a repayment on a federal grant or loan. Refer to 34 CFR 692.
- B.** Financial Need Determination Procedures. The financial need of eligible students will be determined annually, or more often if need be, by the financial aid officer of the institution the student is attending, or will attend, using the Federal Methodology (FM) system of need analysis approved by the Commission and the U.S. Department of Education. A student must be considered to have substantial need.
- C.** A student is considered to have substantial financial need when:
1. The student has an expected family contribution of \$2,140 or less as a result of the student's FM need analysis for the program year; or,
 2. The difference between the student's cost of education and the student's expected family contribution is at least \$100.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-305. Arizona LEAP Award Procedures

- A.** Eligible students who wish to apply for a LEAP award will provide to the financial aid office the information needed for the financial need analysis as specified in R7-3-304(B).
- B.** The financial aid office will:
1. Determine whether or not the student meets the eligibility requirements for an Arizona LEAP award as outlined in R7-3-304(A);
 2. Determine the financial need of the student using the need analysis specified in R7-3-309(B);
 3. Exercise due diligence in determining that the student:
 - a. Satisfies verification procedures which may be required for federal Title IV financial aid programs;
 - b. Satisfies requirements listed under 34 CFR 692.4.
 4. Recommending the amount of the LEAP award in accordance with the following guidelines:
 - a. Awards may be made only to students who meet the criteria of R7-3-304(A);
 - b. The total of all LEAP awards to a student may not

- a. exceed \$2,500 for the program year;
 - c. The financial aid officer will determine, based on student need, an award of no more than \$2,500 nor less than \$100 (round all awards to the nearest \$1.00).
 - d. The financial aid officer must ensure that all applications are received in a timely fashion so disbursement of funds to students will be made before a semester or training period ends.
 - e. Sign the application form.
5. Send the application form to:
Arizona Commission For Postsecondary Education
2020 North Central Avenue, Suite 275
Phoenix, Arizona 85004-4503
(Attention: Financial Aid Director)
6. Receive approved applications, assure that LEAP award funds are disbursed to the student, and retain on file disbursement records (signed receipts, canceled checks, etc.) which verify that the student received the funds. No disbursement may be made to a student who, as a result of a change in status, no longer meets the eligibility requirements outlined in R7-3-304.
7. Maintain adequate fiscal control, accounting, and financial aid records at the institution in accordance with approved state and federal procedures.
8. Provide to the Commission such financial and other information as may be required to meet federal reporting and auditing requirements.
- C.** The Arizona Commission for Postsecondary Education will:
1. Receive the application for the Arizona LEAP award;
 2. Verify that the student is eligible and that there are sufficient funds in the LEAP program account to fund the award;
 3. Approve applications which meet these criteria;
 4. Return applications that do not meet the criteria or are in any way incomplete to the financial aid office;
 5. Disburse funds to the institution's financial aid officer for the approved applications.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-306. Award Alterations

- A.** The Commission will attempt to accommodate any changes which institutional financial aid officers wish to make in individual student awards. These changes might include, for example, cancellation of award, reduction in award level, or increase in award level.
1. Increased LEAP Awards: A student's LEAP award may be increased if the earlier award for that program year is less than the maximum amount specified, and if the student is eligible for such an increase. To increase a LEAP award, the institutional financial aid officer will simply submit to the Commission another LEAP application form, and provide updated financial aid information on the form. In no case may a student receive more than a total of \$2,500 in LEAP awards for a program year.
 2. Reversions: A student's LEAP award may be reduced or canceled. If a student officially or unofficially withdraws or is expelled from the institution, or if the student drops below the minimum number of hours, the institution financial aid officer must attempt to recover all of LEAP

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award funds possible in accordance with the repayment policies of that institution.

3. The reversion procedure includes the following steps:
 - a. Funds are recovered from the student;
 - b. The financial aid officer completes the LEAP Reversion Form;
 - c. The financial aid officer forwards the completed LEAP Reversion Form(s) and the Transmittal Form to the Commission.
4. Reverted LEAP funds recovered by the Commission are redeposited in the secured LEAP program account and credited to the institution's LEAP Program Fund account. Such funds are then available to the institution to be used to make new LEAP awards.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-307. Administrative Costs

No federal LEAP funds may be used to administer the Arizona LEAP Program. Therefore, administrative expenses will be paid from nonfederal state appropriated or institutional program funds provided such payment does not reduce state appropriated matching funds necessary to receive the maximum federal LEAP funds.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-308. Arizona LEAP Institutional Review

Commission staff members will review Institutional LEAP Program records for each program year, and each institution participating in the LEAP program will be visited at least once every two years. The purpose of the visit is to review, with institution financial aid and fiscal officers, the LEAP student records which state and federal regulations require be kept. Those records include documentation which verifies that:

1. The student is a resident of the state of Arizona as prescribed by Arizona Revised Statutes.
2. The student is currently enrolled at least half-time in an eligible course or program.
3. The student has a demonstrated need for financial assistance as determined by a Federal Methodology needs analysis system approved by the Commission and the U.S. Department of Education.
4. The student has received the LEAP funds approved for the award (for example, a canceled check, a written receipt, a signed roster, etc.).
5. The institutional financial aid officer must assure that the total amount of financial aid awarded to a student, from all sources, added to the amount of the family contribution, is limited by and does not exceed the student's total cost of education. The LEAP award limits and the treatment of any additional funds which were received after the institutional aid awards were made shall be consistent with the federal regulations which govern the Federal Title IV, Campus-based programs.
6. Repayments and refunds of LEAP disbursements which have been made to students shall be made in accordance with the written policies of the institution. These written policies must be consistent with applicable federal regu-

lations and a copy must be filed at the Commission office at the beginning of each LEAP program year.

7. Verify that the institution has a Certified Letter of Eligibility and a valid Program Participation Agreement from the Department of Education cited in 34 CFR 668.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

R7-3-309. Definitions

The following definitions are taken from the Federal Regulations which govern the LEAP program and apply to this Plan as well.

1. "Academic year" means a period of time, usually eight to nine months, during which a full-time student would normally be expected to complete the equivalent of two semesters (24 semester hours), two trimesters (24 trimester hours), three quarters (36 quarter hours), or 900 clock hours of instruction.
2. "Act" means the Higher Education Act of 1998, as amended, of Title IV.
3. "Board" means the Arizona Board of Regents.
4. "CFR" means the Code of Federal Regulations.
5. "Clock hour" means a period of time which is the equivalent of a 50 to 60 minute class, lecture, or recitation, or a 50 to 60 minute period of faculty-supervised laboratory, shop training, or internship.
6. "Commission" means the Commission for Postsecondary Education.
7. "Cost of education" means the cost of attending an institution as defined by the institution.
8. "Dependent student" is a student who does not qualify as an Independent Student.
9. "Eligible course or program" is one which is properly approved by an accrediting agency recognized by the U.S. Department of Education as being an integral part of the curriculum of the institution, is of postsecondary level, and is at least one semester in length at a college or university, or six months in length, or a minimum of 600 clock hours at a proprietary institution.
10. "Expected family contribution of a dependent student" means the sum of amounts which reasonably may be expected from the student to meet the student's costs of education and the amount which reasonably may be expected to be made available to the student by the student's parents for such purpose. Amount is calculated based upon the Federal methodology need analysis for current program year.
11. "Expected Family Contribution of an Independent Student" means the amount which reasonably may be expected from the student or their spouse, or both, to meet the student's cost of education. Amount is calculated based upon the Federal methodology need analysis for current program year.
12. "Federal methodology" means the methodology now mandated by federal regulation for determining financial need for federally funded programs.
13. "Full-time undergraduate student" means a student who has not attained the baccalaureate or first professional degree and who is carrying a full-time academic work load, other than by correspondence, measured in terms of:
 - a. Course work or other required activities as determined by the institution in which the student is enrolled, or by the state whose agency is administer-

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- ing the program authorized by the Act, which amounts to the equivalent for institutions utilizing trimester, semester, or quarter hour systems, or which consists of a program requiring a minimum of 24 clock hours per week in a program of at least six months or 600 clock hours for those institutions that do not utilize such systems.
- b. The tuition and fees customarily charged for full-time study by the institution.
14. "Full-time graduate student" is a student who has attained a baccalaureate or first professional degree, has been accepted by the graduate college, and is enrolled in an approved graduate level program at an accredited university or college for a minimum of nine semester, trimester, or quarter hours during a normal length term or five hours during a summer session.
15. "Independent" means an independent student as defined by federal regulations.
16. "Program funds" means the awards; reversions (reverted/retained); and un-utilized Funds:
- a. Awards: Awarded LEAP Funds are dollars given in the form of grants to eligible students attending eligible postsecondary institutions.
- b. Reversions:
- i. Reverted LEAP funds are funds that have been awarded and because student is no longer eligible are returned to the Commission for re-use at a later date.
- ii. Reverted Retained LEAP funds are those funds that institutions have kept and not transferred back to the Commission after the student who has been awarded is considered ineligible for LEAP award.
- c. Un-utilized: Un-utilized LEAP Program Funds are those Funds that have never been awarded to a student by an eligible institution.
17. "Public or private nonprofit institution of higher education" means an educational institution which:
- a. Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.
- b. Is legally authorized to provide a program of education beyond secondary education.
- c. Provides an educational program for which it awards an associate, baccalaureate, or professional degree or at least a two-year program which is acceptable for full credit towards a baccalaureate degree, or at least a six-month vocational program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation.
- d. Is accredited by a nationally recognized accrediting agency or association or, if not so accredited,
- i. Is an institution with respect to which the Commission has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or
- ii. Is an institution whose credits are accepted on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. This term also includes a public or nonprofit private educational institution which, in lieu of the requirement in this subsection 309(A)(16)(d)(i) admits as regular students persons who are beyond the age of compulsory school attendance in the state in which the institution is located and who have the ability to benefit from the training offered by the institution.
18. "Nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.
19. "Parent" means the student's mother or father, or both, legal guardians or legally adoptive parents. This does not include foster parents.
20. "Part-time undergraduate student" is a student who is enrolled at least half-time, but less than full-time, in an eligible program at an eligible and participating Arizona institution. In no case will this be less than six semester, trimester or quarter hours per academic term (including one summer session), or less than 12 clock hours per week for institutions which utilize a clock hour system.
21. "Part-time graduate student" is a student who has attained a baccalaureate or first professional degree, has been accepted by the graduate college, and is enrolled in an approved graduate level program at an accredited university or college for a minimum of six semester, trimester, or quarter hours during any term, including summer sessions.
22. "Postsecondary education institution" means an educational institution which offers courses or training programs which are beyond the high school level in scope and complexity and which are open to the general public. Major categories are public universities, private colleges and universities, community colleges and proprietary institutions.
23. "Program Year" means the consecutive period which begins on July 1 and runs through June 30 of any given year.
24. "Proprietary institution of higher education" means an educational institution:
- a. Which provides not less than a six-month or 600 clock hour program of training to prepare students for gainful employment in a recognized occupation;
- b. Which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, or persons who are beyond the age of compulsory school attendance and who have the ability to benefit from the training offered;
- c. Which is legally authorized by the state in which it is located to provide a program of education beyond secondary education;
- d. Which is accredited by a nationally recognized accrediting agency or association approved by the U.S. Commissioner of Education for this purpose;
- e. Which is not a public or other nonprofit institution; and
- f. Which has been in existence for at least two years. The term also includes any proprietary institution which offers degrees at the associate, baccalaureate

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or graduate level, and which has an agreement with the U.S. Secretary of Education containing the terms and conditions which the Secretary determines to be necessary to ensure that the availability of assistance to students at the school under this program has not resulted, and will not result, in an increase in the tuition, fees, or other changes to students.

25. "State" means, in addition to the several states of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and Trust Territory of the Pacific Islands, and the Virgin Islands.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2046, effective June 1, 1999 (Supp. 99-2).

ARTICLE 4. ARIZONA PRIVATE POSTSECONDARY EDUCATION STUDENT FINANCIAL ASSISTANCE PROGRAM

R7-3-401. Purpose

The purpose of the Arizona Private Postsecondary Education Student Financial Assistance Program is to enhance the educational opportunities of citizens wishing to attend Arizona private postsecondary colleges or universities by providing financial assistance to eligible students attending eligible postsecondary institutions.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

R7-3-402. Definitions

- A.** "Award year" means the period from July 1 through June 30 of the succeeding year.
- B.** "Commission" means the Commission for Postsecondary Education.
- C.** "Eligible postsecondary institution" means any private postsecondary institution:
1. Licensed to provide baccalaureate degrees in Arizona by the Arizona State Board for Private Postsecondary Education; and
 2. Accredited by an accrediting body recognized by the United States Department of Education.
- D.** "Eligible student" means an individual who:
1. Has obtained an associate degree from a community college under the jurisdiction of the Arizona State Board of Directors for Community Colleges; and
 2. Enrolls as a full-time undergraduate student at an eligible postsecondary institution.
- E.** "Enrollment" means the establishment and maintenance of an individual's status as a student in an eligible postsecondary institution, regardless of the definition used at that institution.
- F.** "FAFSA" means Free Application for Federal Student Aid.
- G.** "Financial need" means the cost of attendance less expected family contribution, determined from the student's FAFSA form, minus any grant or scholarship aid.
- H.** "Full-time student" means an individual who is enrolled in at least 12 credit hours per semester or an equivalent calculation.
- I.** "Undergraduate student" means an individual who has not earned a baccalaureate or professional degree and who is enrolled in a postsecondary educational program which leads to, or is creditable toward, a baccalaureate degree.
- J.** "Student financial assistance" means awarding a grant of money to an eligible, undergraduate student for payment of tuition and fees, as defined and allowed under United States Department of Education Title IV student assistance analysis, at an eligible postsecondary institution.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

R7-3-403. Administration and Allocation of Funds

- A.** The Commission shall administer the Arizona Private Postsecondary Education Student Financial Assistance Program in accordance with A.R.S. § 15-1854 and the rules promulgated thereunder. Administration shall include but not be limited to the award of vouchers to eligible students approved by the Commission.
- B.** The Commission shall maintain financial records of all disbursements made under the Program. These records shall include the amount of each student grant and the award year for which it was disbursed.
- C.** The Commission shall allocate private postsecondary education student financial assistance grant funds to eligible students based on methodology approved by the Commission under these rules.
- D.** Any funds which have been allocated to a student, but are not used by that student, shall be reallocated by the Commission in a subsequent award year.
- E.** Student financial assistance will be awarded to renewal students as first priority and then to new students in the order of receipt of completed applications. In the event that there are more new eligible students in an award year than available vouchers for new students, awards shall be made in the following priority:
1. Date of receipt of a completed application,
 2. Highest grade point averages for the associate degree.
- F.** Student financial assistance in the amount up to \$1,500 may be disbursed to an eligible student for an award year. An amount representing the student financial assistance award shall be paid to the eligible institution towards tuition and fee charges following:
1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
 2. The initial expiration of the institution's refund time period for United States Department of Education Title IV student assistance during the award year. The institution shall then repay the Commission the applicable proportion of the annual award if the eligible student is not enrolled full-time on the date of the expiration of the institution's refund policy during any subsequent portion of the award year.
- G.** Student financial assistance in the amount up to \$750 may be awarded to an eligible student for half of an award year. An amount representing the student financial assistance award shall be paid to the eligible institution towards tuition and fee charges following:
1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
 2. The expiration of the institution's refund time period for United States Department of Education Title IV student financial assistance.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to

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A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

R7-3-404. Student Eligibility

- A.** To be considered for an initial private postsecondary education student financial assistance, an eligible student, as defined in R7-3-402(D) and R7-3-402(G), shall submit a complete private postsecondary education student financial assistance program application to the Commission. The application shall contain:
1. Assurance of acceptance at an eligible institution;
 2. Assurance of attendance as a full-time student;
 3. Written authorization to inspect any of the academic or financial records of the student which are in the possession or under the control of the institution, which records are necessary to the proper administration of the provision of the Program and the regulations promulgated thereunder;
 4. A signed statement certifying the student's understanding that the award will be used for tuition and fee expenses only; and
 5. Agreement to reimburse the Commission the total amount of Program awards in the event the student fails to receive a baccalaureate degree within a three-year period of the receipt of the initial student financial assistance award.
- B.** To be eligible for a renewal of a private postsecondary education student financial assistance, a student shall:
1. Meet the conditions of R7-3-402(D);
 2. Provide verification of full-time enrollment and satisfactory academic progress as determined by the institution for the previous award year; and
 3. Not have exceeded a cumulative total of \$3,000 in awards.

Historical Note

Adopted effective September 19, 1996, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

R7-3-405. Termination of Award

- A.** Student financial assistance shall be terminated if:
1. A student has withdrawn from the PFAP program; or
 2. A student has been dismissed from the institution for academic or other reasons; or
 3. A student is not in attendance for more than 12 consecutive months.
- B.** The remaining student financial assistance award money designated for that student shall no longer be available to that student. This money shall be available for awards to other eligible students.

Historical Note

Adopted by exempt rulemaking at 5 A.A.R. 2006, effective May 24, 1999 (Supp. 99-2).

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM**R7-3-501. Definitions**

- A.** "Account year" means the period beginning on October 1 and ending on September 30 of each year.
- B.** "A.R.S." means Arizona Revised Statutes.
- C.** "Cash" means currency, bills and coin in circulation, or converting a negotiable instrument to cash by endorsing and presenting to a financial institution for deposit. An automatic transfer, cashier's check, certified check, money order, payroll

deposit, traveler's check, personal check, and wire transfer will be treated as cash. Deposits will also be accepted by credit card.

- D.** "Code" means the Internal Revenue Service Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue law.
- E.** "Commission" means the Commission for Postsecondary Education as defined in A.R.S. § 15-1871.
- F.** "Committee" means the Family College Savings Program Oversight Committee as defined in A.R.S. § 15-1871.
- G.** "Distributee" means the designated beneficiary or the account owner who receives or is treated as receiving a distribution from an account. If a distribution is made directly to the designated beneficiary or to an eligible educational institution for the benefit of the designated beneficiary, the designated beneficiary is the distributee. In all other circumstances, the account owner is the distributee.
- H.** "Eligible educational institution" means an institution of higher education that qualifies under § 529 of the Code as an eligible educational institution.
- I.** "Negotiable instrument" means negotiable instrument as defined in A.R.S. § 47-3104.
- J.** "Qualified Tuition Program" means a qualified tuition program as defined in § 529 of the Code.

Historical Note

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Amended effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 917, effective February 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 8 A.A.R. 486, effective January 9, 2002 (Supp. 02-1). Amended by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

R7-3-502. Fees

- A.** Application fee. The application fee is \$10. Application fees shall be forwarded to the Commission at the end of the month in which the account is opened. A financial institution may waive the application fee but will nevertheless be responsible for tendering to the Commission \$10 for each new account opened; said tender to be made at the end of the month in which the account is opened. The Committee shall review the application fee every 24 months and recommend to the Commission whether the application fee should be adjusted.
- B.** Administrative fee. For each account opened, the financial institution shall pay to the Commission a one-time fee of \$3 at the end of the month in which the account was opened. The Committee shall review the administrative fee every 24 months and recommend to the Commission whether the administrative fee should be adjusted. The financial institution shall not charge the account owner the administrative fee.
- C.** Marketing fee. The financial institution shall pay to the Commission an annual marketing fee. The marketing fee shall be paid at the beginning of each calendar year as a \$200 flat fee. If a financial institution begins participating in the Arizona Family College Savings Program after the beginning of a calendar year, the financial institution shall pay a pro-rated marketing fee based upon the month in which it begins participation in the Program regardless of the day in the month. The Committee shall review the marketing fee every 12 months and recommend to the Commission whether the marketing fee should be adjusted. The Commission may

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review the marketing fee prior to the committee's required 12-month review. The financial institution shall not charge the account owner the marketing fee.

Historical Note

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

R7-3-503. RFP Process

The Commission may require any and all information for participation, including the ability of the investment instruments to track estimated costs of higher education as calculated by the Commission.

Historical Note

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4).

R7-3-504. Changing Designated Beneficiary

An account owner may change the designated beneficiary so long as the new designated beneficiary is a member of the family, as defined in A.R.S. § 15-1871(8), of the previously named designated beneficiary. The account owner must certify and provide to the financial institution the name, address, social security number, and relationship of the new designated beneficiary to the previously named designated beneficiary. The change shall be effective upon the financial institution's receipt of such certification.

Historical Note

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Section repealed; new Section adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4).

R7-3-505. Account Balance Limitations

- A.** For each designated beneficiary, the balance in all qualified tuition programs, as defined in § 529 of the Code, shall not exceed the lesser of:
1. The product (rounded down to the nearest multiple of \$1000) of 7 and the average one year's undergraduate tuition, fees, room and board at the ten independent four year eligible educational institutions as measured and last published by the College Board's Independent College 500 Index that have the largest total direct charges. For purposes of this subsection, "total direct charges" means the charges determined for each eligible educational institution by multiplying the eligible educational institution's undergraduate enrollment by the reported tuition, fees, room and board for an on-campus student at the eligible educational institution; or
 2. The cost in current dollars of qualified higher education expenses the account owner reasonably anticipates the designated beneficiary will incur.
- B.** No person shall make any contribution to a qualified tuition program during an account year that would cause the sum of the account balances in all qualified tuition programs of the designated beneficiary as of the first day of the account year plus contributions made during the account year less withdrawals during the account year to or from any such account to exceed the maximum allowable balance set forth in subsection (A). Any excess contributions with respect to a designated beneficiary shall be promptly withdrawn as a non-qualified

withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(F).

- C.** No financial institution shall accept for deposit in any account a contribution if the contribution would cause the sum of the values (as of the beginning of an account year) of all qualified tuition programs of the designated beneficiary that are managed by the financial institution and contributions to such accounts less withdrawals from such accounts during the account year to exceed the maximum allowable balance set forth in subsection (A).
- D.** Each year, the Commission shall review the amounts set forth in subsection (A).
- E.** Persons making a contribution to an account shall certify that as to the account's designated beneficiary, and to the best of the contributor's knowledge, the contribution shall not cause the balances in all qualified tuition programs to exceed the account balance limitations described in subsection (A).
- F.** If the Commission determines that contributions have been made to program accounts in violation of subsection (B) or (C), it shall notify the designated beneficiary and the account owners of all accounts of such designated beneficiary. The account owners shall have 60 days after receipt of such notice to reduce the balances of the qualified tuition programs through distributions and/or changes in beneficiaries to a level less than or equal to the maximum account balance described in subsection (A). If the balances are not appropriately reduced, the Commission will disqualify such accounts in reverse order of their date of opening until the sum of the balances in the accounts does not exceed the maximum allowable balance set forth in subsection (A). This subsection shall not apply to any contribution made at a time when such contributions did not cause the account balance limits to be exceeded.

Historical Note

Adopted effective October 31, 1997, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 97-4). Section repealed; new Section adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 917, effective February 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 7 A.A.R. 5699, effective November 26, 2001 (Supp. 01-4). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

R7-3-506. Withdrawals; Reporting of Non-qualified Withdrawals; Penalties

- A.** An account owner may withdraw funds from an account at any time. The designated beneficiary of an account shall not have any authority to withdraw funds from an account unless the account is structured to give the designated beneficiary such right of withdrawal upon matriculation or upon incurring qualified higher education expenses.
- B.** Withdrawals.
1. Qualified Withdrawals.
In order to make a qualified withdrawal, the account owner or the account owner's designee must complete a certification, on a form approved by the Commission, declaring that the funds will be used for the purposes set forth in A.R.S. § 15-1871(11). The form shall include a statement advising the designated beneficiary and account owner of their obligations to report, in accordance with R7-3-506(B)(3)(c), refunds received from an eligible educational institution. In addition to the certification, a withdrawal shall be deemed qualified only if:
 - a. The financial institution is provided with a copy of

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- an invoice from the eligible educational institution, and the distribution is made directly to the eligible educational institution; or
- b. The financial institution is provided with a copy of an invoice from the eligible educational institution, and the distribution is made in the form of a check payable to both the designated beneficiary and the eligible educational institution; or
 - c. Within 30 days following the withdrawal, substantiation that the withdrawal was actually expended for qualified higher education expenses is submitted to the financial institution.
2. **Withdrawal Based on Death, Disability, or Scholarship.**
A penalty-free withdrawal may be made as a result of the designated beneficiary's death, disability, or scholarship, if written substantiation thereof is provided. Such written substantiation must come from a party other than the designated beneficiary or the account owner. In the case of a scholarship, the withdrawal may not exceed the amount of the scholarship.
 3. **Non-Qualified or Unsubstantiated Withdrawals.**
Pursuant to A.R.S. § 15-1875(H), the Commission has authority to assess penalties for non-qualified withdrawals. If an account owner fails to certify that a withdrawal is qualified or penalty-free, as defined in R7-3-506(B)(1) and (2), above, or if a financial institution has reason to believe that a withdrawal is non-qualified, the financial institution shall withhold from such withdrawal an amount equal to 10% of that portion of that withdrawal which constitutes income under § 72 of the Code. If an account owner seeks to make a withdrawal in accordance with R7-3-506(B)(1)(c) and does not provide the required substantiation at the time of the withdrawal, the withdrawal shall be limited so that the balance remaining in the account is sufficient to pay the 10% of earnings penalty. If the financial institution is not provided with the required substantiation within 30 days, the withdrawal shall be treated as a non-qualified withdrawal, the penalty shall be assessed at that time, and the financial institution shall withdraw the penalty from the account.
 - a. If the withdrawal has not been declared, by the party making the withdrawal, to be non-qualified, the amount of any penalty shall be remitted to the Commission with the financial institution's first monthly report following the date that the withdrawal is determined to be non-qualified. If the withdrawal has been declared to be non-qualified, the amount of said withholding may be remitted to the Commission with the financial institution's required monthly report.
 - b. If the withdrawal has not been declared, by the party making the withdrawal, to be non-qualified, the financial institution shall report any such withholding, in writing, to the Commission with the financial institution's first monthly report following the date that the withdrawal is determined to be non-qualified. The report shall include identification of the account owner, beneficiary, date of withdrawal, amount of withdrawal, and a brief description as to why the financial institution believes the withdrawal to be non-qualified. If the withdrawal has been declared to be non-qualified, the report may be submitted to the Commission with the financial institution's required monthly report. The financial institution shall notify the account owner and beneficiary, in writing, of any withholding.
 - c. If a qualified withdrawal is made from an account in any calendar year, within 60 days after the end of such year and within 60 days after the end of the following year, any designated beneficiary or account owner who received a partial or total refund from the eligible educational institution attended by the designated beneficiary or the eligible educational institution that the designated beneficiary had expected to attend shall provide to the financial institution a signed statement identifying the amount of any refunds received. In addition, the designated beneficiary or account owner shall provide an explanation as to what portion, if any, of the refund is allocable to a qualified withdrawal. If all or a portion of a refund is allocable to a qualified withdrawal, the designated beneficiary (or the account owner) may provide the financial institution with substantiation of qualified higher education expenses for which the refund was used or substantiation that the refund was made by reason of scholarship, or the death, or disability of the designated beneficiary. To the extent that a refund allocable to a qualified withdrawal was not used to pay qualified higher education expenses or made on account of death, disability, or scholarship of the designated beneficiary, it shall be considered a non-qualified withdrawal subject to the penalty described in R7-3-506(B)(3). The financial institution shall withdraw the penalty from the account from which the original qualified withdrawal was made, if sufficient funds are available in the account, or attempt to collect the penalty by billing the designated beneficiary or account owner for the penalty, if sufficient funds are not available in the account.
 4. **Substantiation Procedures.**
Before treating any withdrawal as qualified or penalty-free based on substantiation provided, the financial institution shall review the substantiation to confirm that substantiation is provided for the amount of a withdrawal that the account owner or designated beneficiary asserts is qualified or penalty-free, that the substantiation complies with the program rules, and, in the case of a withdrawal to pay qualified higher education expenses, that the substantiated expenditures are of a nature and in amounts that can be treated as qualified higher education expenses. The financial institution may seek additional information from the account owner, the designated beneficiary, or the eligible educational institution before approving or rejecting substantiation, and the financial institution may seek guidance from staff of the Commission. If the financial institution determines that substantiation is inadequate, it shall promptly notify the account owner and defer making any distribution with respect to any inadequately substantiated request until proper substantiation is provided or the account owner instructs the financial institution to make the requested distribution and either withhold the penalty from the distribution or from other funds in the account.
 5. **Distributions Made after December 31, 2001.**
R7-3-506(B)(1) through (4) shall not apply to any withdrawals made after December 31, 2001, except to the extent that any provision contained therein is required for the Family College Savings Program to qualify as a qualified tuition program under § 529 of the Code. A financial institution shall not be required to collect a penalty on any withdrawal made after December 31, 2001. Withdrawals

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may be made pursuant to forms prepared or used by the financial institution and meeting the requirements of R7-3-501 through R7-3-507, if any, and any requirements for the Family College Savings Program to qualify as a qualified tuition program under § 529 of the Code. To the extent that A.R.S. § 15-1875 requires provisions that will generally enable the Commission to determine whether withdrawals are qualified or nonqualified withdrawals, a financial institution shall require an account owner to state whether the account owner expects that the withdrawal will be a qualified or nonqualified withdrawal.

- C. The account owner may dispute any withholding made by a financial institution under subsection (B) by submitting written notice, to the Commission, within 30 days from the date of such withholding. The Commission shall make a written determination regarding the dispute within 30 days of the receipt of its notice from the account owner. If the account owner disagrees with the Commission's determination, the matter shall be adjudicated in accordance with A.R.S. § 41-1092 et seq.

Historical Note

Adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 6 A.A.R. 917, effective February 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 6 A.A.R. 2486, effective June 7, 2000 (Supp. 00-2). Amended by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

R7-3-507. Oversight of Financial Institutions

- A. Disclaimer of state liability. Every document pertaining to the Family College Savings Program shall clearly indicate that "The account is not insured by the state of Arizona and neither the principal deposited nor the investment return is guaranteed by the state of Arizona." A rubber stamp may be used to imprint this language on deposit slips, account statements, payroll stubs, or other documents pertaining to the Family College Savings Program. This language may also be handwritten or typed or provided by any other method to facilitate compliance.
- B. No Investment Direction. A financial institution shall not permit an account owner to move funds, once deposited, that in any way would result in investment direction under § 529 of the Code.
- C. Reporting Requirements.
- At least quarterly, every financial institution shall provide each account owner with a statement. The statement shall list a beginning balance, all activity during the quarter, including any interest paid or dividends earned and any penalties charged, and an ending balance. Additionally, the statement for the fourth quarter shall include the following information: an annual beginning balance, an annual total of the interest earned or dividends paid, an annual total of any penalties charged, and a year-end balance.
 - Within the time-frames established by the Code, financial institutions, at the request of the Commission, shall provide Form 1099Q to all distributees.

- A copy of the statement described in (C)(1) and (2) shall be sent to the Commission. Additionally, each financial institution shall provide the Commission with the information required by A.R.S. § 15-1874(F).

- D. Access to books and records. No contractor shall have access to the books and records of a financial institution or Program Manager unless the Commission or its designee first approves, with or without modification, such request for access.
- E. Non-renewal. The Commission's failure to renew a contract with a financial institution shall not be construed as "good cause" as referred to in A.R.S. § 15-1874(I).
- F. Marketing programs.
- Any financial institution or group of financial institutions that wishes to engage in its own marketing program may do so provided that any proposed marketing program is first submitted to the Commission for review. If, within 30 days, the Commission does not notify the financial institution or group of financial institutions, in writing, that the proposed marketing program is rejected or requires modifications, the proposed marketing program shall be deemed approved.
 - Any financial institution or group of financial institutions that chooses to engage in its own marketing program may petition the Commission for a credit against future marketing fees.

Historical Note

Adopted effective December 21, 1998, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 15-1852(C) (Supp. 98-4). Amended by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 3886, effective August 14, 2003 (Supp. 03-3).

R7-3-508. IRS Regulations, Rulings, Notices, and Other Guidance

- A. If (i) the Internal Revenue Service issues on or after February 27, 2002, any regulation, ruling, notice or other precedential guidance on procedures or activities that a qualified tuition program may adopt or undertake without jeopardizing its exemption under § 529 of the Code, (ii) such guidance is less restrictive than any rule contained in Title 7, Chapter 3, Article 5, and (iii) the more restrictive rule was not mandated by A.R.S. §§ 15-1871 to 15-1877, then the more restrictive rule shall be deemed liberalized to the maximum extent possible without violating A.R.S. §§ 15-1871 through 15-1877 or any requirements for a program to qualify as a qualified tuition program under § 529 of the Code.
- B. If (i) the Internal Revenue Service issues on or after February 27, 2002, any regulation, ruling, notice or other precedential guidance on procedures or activities that a qualified tuition program shall or shall not adopt or undertake to avoid jeopardizing its exemption under § 529 of the Code and (ii) the rules contained in Title 7, Chapter 3, Article 5 or the statutes contained in A.R.S. §§ 15-1871 to 15-1877 do not include such requirement or prohibition, then these rules shall be deemed amended to the maximum extent possible without violating A.R.S. §§ 15-1871 through 15-1877 to adopt such requirement or prohibition.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 3743, effective August 8, 2002 (Supp. 02-3).