

# Arizona Administrative REGISTER

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

# Arizona Administrative REGISTER

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This publication is available online for free at [www.azsos.gov](http://www.azsos.gov).

**ADMINISTRATIVE CODE**  
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact customer service at  
(602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

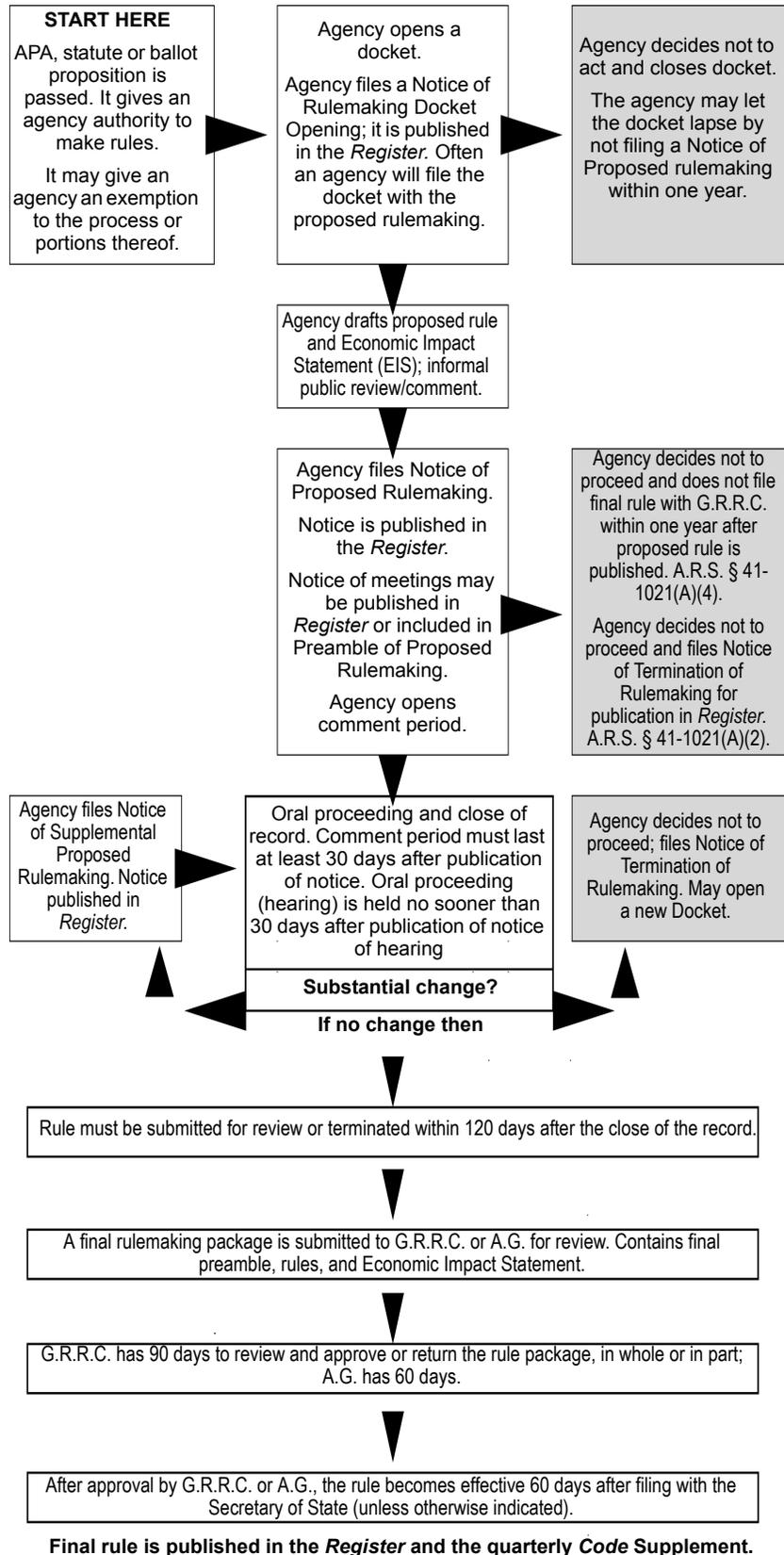
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.





**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
 Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**  
 The Agency foresees only minor economic impacts based on the proposed change. These impacts include effected licensees being able to contract-for higher cost projects and increase revenue due to the proposed increase in the dollar limitation.

**9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Jim Knupp, Legislative Liaison  
 Address: Arizona Registrar of Contractors  
 1700 W. Washington St., Ste. 105  
 Phoenix, AZ 85007  
 Telephone: (602) 771-6710  
 E-mail: jim.knupp@azroc.gov  
 Web site: www.azroc.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The agency does not intend to hold public hearings on this rule, unless a public hearing is requested within 30-days of the publication of this rule. The Agency will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. E-mail comments will be accepted.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The agency does not issue general permits because activities or practices in license classifications are not substantially similar in nature. Statutes require the agency to classify licenses in a manner consistent with established usage and procedure found in the construction industry.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 9. REGISTRAR OF CONTRACTORS**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
 R4-9-102. Commercial Contractor License Classifications and Scopes of Work

**ARTICLE 1. GENERAL PROVISIONS**

**R4-9-102. Commercial Contractor License Classifications and Scopes of Work**

A. No change

ENGINEERING CONTRACTING



- A No change
- A-4 No change
- A-5 No change
- A-7 No change
- A-9 No change
- A-11 No change
- A-12 No change
- A-14 No change
- A-15 No change
- A-16 No change
- A-17 No change
- A-19 No change

GENERAL COMMERCIAL CONTRACTING

- B-1 No change
- B-2 No change

SPECIALTY COMMERCIAL CONTRACTING

- C-4 No change
- C-6 No change
- C-9 No change
- C-11 No change
- C-16 No change
- C-27 No change
- C-37 No change
- C-39 No change
- C-49 No change
- C-53 No change
- C-58 No change
- C-74 No change
- C-77 No change
- C-78 No change
- C-79 No change

**B. Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:**

**A- GENERAL ENGINEERING**

No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. No change
- 11. No change

No change

- A-4 No change
- No change

**A-5 EXCAVATING, GRADING AND OIL SURFACING**

No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change

No change



- A-7 PIERS AND FOUNDATIONS  
No change
- A-9 SWIMMING POOLS  
No change  
No change
- A-11 STEEL AND ALUMINUM ERECTION  
No change
- A-12 SEWERS, DRAINS AND PIPE LAYING  
No change
- A-14 ASPHALT PAVING  
No change
- A-15 SEAL COATING  
No change
- A-16 WATERWORKS  
No change
- A-17 ELECTRICAL AND TRANSMISSION LINES  
No change  
No change
- A-19 SWIMMING POOLS, INCLUDING SOLAR  
No change  
No change
- B-1 GENERAL COMMERCIAL CONTRACTOR  
No change  
No change
- B-2 GENERAL SMALL COMMERCIAL CONTRACTOR

Small commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind for which the total amount paid to the licensee does not exceed ~~\$750,000~~ \$2,000,000. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.

Also included are the scopes of work allowed by the CR-2 through CR-80 license classifications. Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, or B-3 scopes.

- C-4 BOILERS, STEAMFITTING AND PROCESS PIPING  
No change  
No change
- C-6 SWIMMING POOL SERVICE AND REPAIR  
No change  
No change  
No change
- C-9 CONCRETE  
No change  
No change  
No change  
No change
- C-11 ELECTRICAL  
No change  
No change



- C-16 FIRE PROTECTION SYSTEMS
  - No change
  - No change
  - No change
- C-27 LIGHTWEIGHT PARTITIONS
  - No change
  - No change
- C-37 PLUMBING
  - No change
  - No change
  - No change
  - No change
- C-39 AIR CONDITIONING AND REFRIGERATION
  - No change
  - No change
  - No change
  - No change
- C-49 REFRIGERATION
  - No change
  - No change
  - No change
  - No change
- C-53 WATER WELL DRILLING
  - No change
  - No change
  - No change
  - No change
- C-58 COMFORT HEATING, VENTILATING,  
EVAPORATIVE COOLING
  - No change
  - No change
  - No change
- C-74 BOILERS, STEAMFITTING AND PROCESS  
PIPING, INCLUDING SOLAR
  - No change
  - No change
- C-77 PLUMBING INCLUDING SOLAR
  - No change
  - No change
  - No change
  - No change
- C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY
  - No change
  - No change
  - No change
  - No change
- C-79 AIR CONDITIONING AND REFRIGERATION  
INCLUDING SOLAR





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

Not applicable

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

The Industrial Commission anticipates that the rule change related to incorporating by reference the recent amendments to federal safety standards on injury and illness recording and reporting will not have a significant economic impact on a substantial number of small entities. Federal OSHA has determined that this rulemaking has net annualized costs nationally of \$9 million, with total annualized new costs of \$20.6 million to employers, total annualized cost savings of \$11.5 million for employers who no longer have to meet certain recordkeeping requirements, and average annualized costs of \$82 per year for the most-affected firms (those newly required to keep records every year). Thus, this rulemaking imposes far less than \$100 million in annual costs on the economy and, consequently, OSHA has determined that this rule is not “economically significant” within the context of Executive Order (E.O.) 12866. OSHA has also determined that this final rule is economically feasible and will not have a significant economic impact on a substantial number of small entities. By contrast, OSHA estimates that the rulemaking will improve access to information about workplace safety and health, with potential benefits that could include:

- Allowing the Agency to identify the workplaces where workers are at greatest risk, in general and/or from specific hazards, and target its compliance assistance and enforcement efforts accordingly.
- Increasing the ability of employers, employees, and employee representatives to identify and abate hazards that pose serious risks to workers at their workplaces.

OSHA stated that the conversion from SIC to NAICS and the revised reporting requirements have substantially different goals and thus different potential benefits. OSHA said it expects the conversion from SIC to NAICS to result in more useful injury and illness data. The SIC system currently in use is obsolete and has not been used by many other data collection entities for years. Converting to NAICS will enable both affected employers and OSHA to achieve consistency and comparability with other data collection efforts conducted by both public and private entities. OSHA reported there was little controversy concerning the concept of converting from SIC to NAICS. However, there is no way to convert from SIC to NAICS without changing in some way the number of establishments required to routinely record injuries and illnesses. This result is inevitable because there is no one-for-one mapping from SIC to NAICS for many industries.

The requirement to report all work-related fatalities, in-patient hospitalizations, amputations, and losses of an eye will likely assure better use of inspection and enforcement resources by targeting those resources to establishments with the most serious hazards.

Having data on establishments that experience significant events will improve inspection targeting. Studies have shown that OSHA inspections can lead to a reduction in the rate of injuries and illnesses, and that the effect is greater where injury and illness rates are higher and where the inspection finds violations that result in a citation. Most studies reviewed by OSHA showed reductions in injuries and illnesses at a given facility only when the inspection uncovered safety and health violations that resulted in citations. A working paper, funded by the RAND Corporation, Haviland (Haviland, et al., 2008), estimated that firms with between 20 and 250 employees experience a 19 to 24 percent reduction in injury rates per year for two years following an inspection that results in a citation.

OSHA reported that these provisions in Part 1904 will increase the amount of injury and illness data recorded on employer records and available for review and collection by OSHA. It is believed that improved data availability will likely result in increased inspections in facilities more likely to have violations that result in citations, which will, in turn, have some positive effect on the rates of injuries and illnesses at those facilities. As a result of these considerations, OSHA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

**9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Larry Gast, ADOSH Assistant Director  
 Address: Industrial Commission of Arizona  
 Division of Occupational Safety and Health  
 800 W. Washington St., Suite 203  
 Phoenix, AZ. 85007  
 Telephone: (602) 542-1695  
 Fax: (602) 542-1614  
 E-mail: Larry.Gast@azdosh.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments can be submitted to the address listed in item 9 by the close of the comment period, which is at



5:00 p.m. on December 1, 2015. An oral proceeding is scheduled for December 1, 2015 at 10:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington St., Room 206, Phoenix, AZ, 85007.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require issuance of a regulatory permit or license.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

29 CFR 1904 The Federal Occupational Injury and Illness Recording and Reporting Requirements with amendments as of September 18, 2014. This incorporation by reference will appear in R20-5-629.

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

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

Section

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904**

Each employer shall comply with the Occupational Injury and Illness Recording and Reporting Requirements, published in 29 CFR 1904, as amended ~~June 30, 2003~~, September 18, 2014, incorporated by reference. This incorporation by reference contains no future editions or amendments. Copies of the incorporated materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all employers, both public and private, in the state of Arizona which are the subject of R20-5-629. This incorporation by reference does not include amendments or editions to 29 CFR 1904 published after ~~June 30, 2003~~. September 18, 2014.



NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R15-151]

PREAMBLE

- 1. Articles, Parts, and Sections Affected (as applicable)**

R2-8-104	Amend
R2-8-115	Amend
R2-8-118	Amend
R2-8-120	Amend
R2-8-123	Amend
R2-8-126	Amend
R2-8-401	Amend
R2-8-501	Amend
R2-8-601	Amend
R2-8-701	Amend
  
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
  - Authorizing statute: A.R.S. § 38-714(E)(4)
  - Implementing statutes: A.R.S. §§ 38-711, 38-712, 38-715, 38-738, 38-740, 38-742, 38-743, 38-745, 38-747, 38-755, 38-760, 38-762, 38-769, 38-770, 38-771, 38-772, 38-773, 38-776, 38-924, 41-1001, 41-1092
  
- 3. The effective date for the rules:**
  - December 5, 2015
  - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
    - Not applicable
  - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
    - Not applicable
  
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
  - Notice of Rulemaking Docket Opening: 21 A.A.R. 726, May 22, 2015
  - Notice of Rulemaking Docket Opening: 21 A.A.R. 931, June 26, 2015
  - Notice of Proposed Rulemaking: 21 A.A.R. 959, July 3, 2015
  
- 5. The agency's contact person who can answer questions about the rulemaking:**
  - Name: Jessica A. Ross, Rule Writer
  - Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250
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**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

Definitions for terms that apply to all the articles in 2 A.A.C. 8 will be removed from rules throughout the articles and added to R2-8-104. R2-8-104 contains terminology that is outdated and needs to be removed. This rulemaking reorganizes and clarifies the terms and definitions used throughout 2 A.A.C. 8. In a 2010 five-year-review report approved by the Council, the ASRS identified that R2-8-104 is not clear, concise, or understandable because it appears to address when certain categories of people (e.g. agricultural labor, student services, and elective positions) are excluded from participating in the ASRS. This is not the typical function of a definitions section and the rule needs to be amended to conform to current rulemaking formatting. Similarly, the remaining sections containing definitions throughout 2 A.A.C. 8 need to be amended in order to improve clarity and consistency with other rules.

R2-8-115 provides for the return of contributions to an ASRS member who leaves ASRS employment other than by retirement or death. The rule also provides for the distribution of a deceased member's benefits upon the death of the member. The ASRS will amend R2-8-115 to reflect that the ASRS will distribute a deceased member's benefits pursuant to the most recent, acceptable documentation on file with the ASRS prior to the member's death. Members' survivors will no longer be able to submit documents to the ASRS on behalf of the member on, or after, the date of the member's death.

**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:**

No study was reviewed.

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

Not applicable

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

Other than the minimal cost to the ASRS to prepare the rule package, there is little to no economic, small business, or consumer impact. The rules will have minimal economic impact, if any, because they simply clarify and make public, the terms and definitions used by the ASRS. Amendments to the rules will not substantively affect the definitions of terms or the interests of people subject to these rules.

R2-8-115 will have minimal economic impact, if any, because the majority of members currently follow this process. There may be some minimal cost to a few members who, in the past, have not used acceptable documentation to designate beneficiaries, and now must do so, either physically or electronically. There may also be some minimal cost to members' survivors, who, in the past, could submit a beneficiary designation that was embedded within an incomplete document after the member's death, so long as the designation was complete and dated before the member's death. With these amendments, survivors cannot submit any kind of beneficiary designation after the member's death.

**10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**

The ASRS made minor formatting and grammatical changes to the rules between the proposed rulemaking and the final rulemaking as follows:

- The ASRS referenced "the" ASRS in the definition of "contribution" at R2-8-104(B)(3).
- The ASRS included the citation symbol in the reference to A.R.S. § 38-924 at R2-8-104(B)(3).
- The ASRS did not change "survivor" benefits to "member" benefits as proposed in R2-8-115 in order to remain clear and consistent with the language used in statute.
- The ASRS referenced "the" ASRS in R2-8-115(G).
- The ASRS included references to statutory subsections for definitions at R2-8-104(B)(9), (10), (12), (14), and (16); R2-8-401; R2-8-501(15); and R2-8-601(4).
- The ASRS formatted the language in R2-8-104(B)(10), and R2-8-601(4) to be more consistent with other definitions.
- The ASRS corrected the reference in R2-8-115(J) from A.R.S. § 38-762(F) to A.R.S. § 38-762(E).
- The ASRS included a comma in R2-8-118(B).
- The ASRS cited to the A.R.S. in R2-8-501(26).
- The ASRS replaced the reference to A.R.S. § 1-215 in R2-8-104(B)(10) with A.R.S. § 41-1001(15) and removed reference to A.R.S. § 41-1001(15) from R2-8-401 and R2-8-601.

The differences between the proposed rulemaking and the final rulemaking do not render the rules substantially dif-



ferent and the ASRS has not filed any supplemental notice of rulemaking with the Secretary of State.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on August 11, 2015.

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law applies to retirement programs. However, there is no federal law specifically applicable to this rulemaking.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

No materials are incorporated by reference.

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

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

Section	
R2-8-104.	Definitions
R2-8-115.	Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of <del>Survivor</del> Member's Benefits Upon the Death of a Member
R2-8-118.	Application of Interest Rates
R2-8-120.	Designating a Beneficiary; Spousal Consent to Designation
R2-8-123.	Actuarial Assumptions and Actuarial Value of Assets
R2-8-126.	Calculating Benefits

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

Section	
R2-8-401.	Definitions

**ARTICLE 5. PURCHASING SERVICE CREDIT**

Section	
R2-8-501.	Definitions

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

Section	
R2-8-601.	Definitions

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**

Section	
R2-8-701.	Definitions



## ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

**R2-8-104. Definitions**

- A.** ~~Proprietary functions: Services performed in a single proprietary function for a political subdivision are those services normally carried on by private enterprises. These include, but are not limited to, municipal water departments, municipal transportation departments, municipal housing and airport authorities. For other political subdivisions such as school districts, these functions include cafeteria workers and bookstore employees. School district bus drivers engaged in transporting students without charge are not engaged in a proprietary function. Hospitals operated for the care of the indigent sick by political subdivisions constitute a governmental function, and the employees in such a hospital, therefore, are not performing services in proprietary functions.~~
- B.** ~~Who are employees:~~
- ~~1. Every individual is an employee if the political subdivision for which he performs services has the right to control and direct him not only as to what shall be done but how it shall be done. It is not necessary that the political subdivision actually control or direct the manner in which the services are performed; it is sufficient if the subdivision has the right to do so. The right to discharge strongly implies the right to control.~~
  - ~~2. Officers of a political subdivision are its employees. So are any individuals performing services under contract in the exercise of a governmental function. Individuals such as physicians, dentists, and lawyers, engaged in an independent profession in which they offer their services to the public, are employees if their services include the exercise of a governmental function. If not, they may or may not be employees depending upon the degree to which they are subject to control by the political subdivision.~~
  - ~~3. Whether the individual is an employee depends upon the actual facts of his relationship with the political subdivision. A juror is not an employee since he is not a public officer and is not subject to control as to how he votes on a verdict. A physician who contracts with a county Board of Supervisors to furnish medical services to the indigent sick is an employee when the duty of caring for indigent sick is by law placed in the Board.~~
- C.** ~~Mandatory exclusion: Prior to the 1967 Social Security Amendments, the state had the option of excluding emergency services. Beginning January 1, 1968, services performed by an individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency are mandatorily excluded. This mandatory exclusion is applicable to services for groups already covered as well as to services for groups which may be covered in the future.~~
- D.** ~~Elective positions: Elective positions as used in agreements excluding such positions from coverage means those positions filled by a vote of a legislative body, a board or committee, or by the qualified electorate at large for the subdivision or instrumentality covered by the agreement, which would constitute an election under the law of Arizona.~~
- E.** ~~Class or classes of part-time positions: Services performed in a position which does not require more than 150 hours of service in a calendar quarter are services in a part-time position. If a position is established during a calendar quarter and if such position would require more than 150 hours of service if it had been in existence for the entire quarter, such position would not be a part-time position and services in such a position would not be excluded under the state's definition. The time requirements of the position itself, and not the number of hours worked by an individual, is the determinative factor. For example, an individual may be employed and compensated for only a few hours in only one day of a calendar quarter and such individual may be subject to coverage if the position is one which requires more than 150 hours of service.~~
- F.** ~~Class or classes of positions the compensation for which is on a fee basis:~~
- ~~1. Compensation is considered to be on a salary basis when the payments are made at regular and fixed intervals based on services for definite and regular periods of time; and on a fee basis when made for particular services rendered at irregular and uncertain periods. Persons performing personal services of a governmental nature for a political subdivision are employees regardless of whether compensation is on a salary or fee basis. The services of such a person may be excluded, however, if compensated on a fee rather than a salary basis and the agreement between the Arizona State Retirement System Board and the subdivision excludes positions on a fee basis.~~
  - ~~2. Individuals performing governmental services in the practice of their profession, such as doctors or lawyers, may be on either a fee or salary basis depending on the nature of their contract of employment with the political subdivision. For example, a city attorney working full time for a regular monthly salary is not on a fee basis. An attorney employed by the city for special services to be rendered at irregular and uncertain periods for a fixed amount (even though weekly, monthly or other partial advances may be made) is compensated on a fee basis. When, as with some justices of the peace or tax collectors, the compensation is derived in part from fees and part from salary, the position is to be considered as on a fee basis if fees constitute the primary source of compensation. The fees may be received from either the public or the political subdivision. If the fee basis exclusion is taken and if the position is a fee-basis position, all fees and salary received for services in such a position are not to be reported. If the exclusion is not exercised, all fees received, whether from the political subdivision or other sources, are to be reported.~~
  - ~~3. Beginning January 1, 1968, services performed by state and local employees in positions compensated solely by fees, which are not covered under an agreement, are compulsorily covered as self-employment. However, an individual occupying such a fee-basis position in 1968 could elect not to have his fees covered as self-employment income, if he filed a certificate of election of exemption with the Internal Revenue Service on or before the due date of his 1968 federal income tax return.~~



- 4. An entity may modify its agreement to extend coverage to services performed after 1967 in any class or classes of positions compensated solely by fees not covered under an agreement prior to 1968. However, the entity must specifically include such services where this coverage is desired. Such coverage shall be effective with respect to services in such fee-basis positions performed beginning with the first day of the year after the year in which the agreement is approved.
  - 5. An entity may at any time after 1967 modify its agreement to exclude services performed in any class or classes of positions compensated solely by fees. Such an exclusion from coverage is effective the first day of the year following the year in which the agreement is approved. If any class or classes of positions are so excluded, the entity cannot at a later date modify its agreement to again cover the services.
- G. Exclusion by class or classes of positions:**
- 1. Basic classifications may be made within either elective, part-time, or fee-basis positions according to a class or classes of positions having common characteristics or attributes, and exclusions limited to such classes. A class of positions includes all of the positions in the coverage group which have these common characteristics. Services in one or more classes or combinations of classes may be excluded. Positions may be excluded in one class and covered in another. For example, in a coverage group there may be excluded services in all elective positions or the exclusion could be limited to services in all elective positions except elective judicial positions and except part time elective positions.
  - 2. Positions in a single organizational unit of the coverage group do not constitute a class of positions. Therefore, while all of the part time maintenance workers of a county could be excluded under the part time option, the exclusion could not be limited to all or any class or part time maintenance workers in the Office of the County Clerk, which is an organizational unit of the county.
- H. Agricultural labor which would be excluded if performed for a private employer:**
- 1. Under the federal Social Security Act, when the agricultural exclusion has been taken, tests as to services which are excluded should be applied to all reports covering reporting quarters beginning on or after January 1, 1957. Cash remuneration paid to an employee for agricultural services should be reported only if:
    - a. Such remuneration paid the employee during a calendar year (even though part of it was for services performed in a previous calendar year) amounts to \$150 or more; or
    - b. The employee performs agricultural services for the employer on some part of a day on at least 20 days during a calendar year for cash remuneration computed on a time basis, as by the hour, day, or week; in which event the amount of cash remuneration is immaterial in determining if the services are covered.
  - 2. Services performed by individuals lawfully admitted from any foreign country on a temporary basis to perform agricultural labor are excluded.
- I. Student service exclusion: Only those student services which would be mandatorily excluded if performed for a private employer fall within this exclusion. Where this exclusion is taken, the following services are not covered:**
- 1. Services performed by a student regularly enrolled and attending classes in the employ of his school, college, or university. This means the employing entity and not necessarily the individual institution. The exclusion applies only during periods of regular school attendance. Thus, the exclusion does not apply to work done during summer vacation unless the student is attending a summer session. This is true even though the student was enrolled and regularly attending classes in the school during the previous year and expects to return to school the following year. Services performed on holidays and weekends falling within the academic year when classes are not scheduled, on the other hand, are excluded.
  - 2. Services performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school chartered or approved pursuant to state law. It is not necessary that the nurses' training school in which the student nurse is enrolled and attending classes be located within the approving state as long as the school meets the educational standards established by state law for the approval of schools within the state.
- J. Services performed by election officials or election workers if remuneration paid in a calendar quarter is less than \$50:**
- 1. Prior to the 1967 amendments to the Social Security Act, there was no provision for a specific exclusion of the services of election officials or election workers. The exclusion of such services was possible, however, by exclusion of a class of services for which an exclusion was permitted, i.e., exclusion of election officials and election workers as a class of part time or fee-basis positions.
  - 2. This optional exclusion of services performed by election officials or election workers is dependent on the amount paid in a calendar quarter for such services, e.g., if the remuneration paid in the third calendar quarter of a year amounts to \$50 or more, the services are covered and must be reported regardless of the fact that the remuneration paid in any other calendar quarter for election officials' or election workers' services amount to \$49.99 or less and is not reportable.
  - 3. These services may continue to be excluded as a class of part time or fee basis positions without regard to the amount paid for such services. These services would, of course, be excluded already if a part-time or fee-basis position exclusion in broad enough terms was previously exercised. The purpose of the optional exclusion of services performed by election officials or election workers if remuneration in a calendar quarter is less than \$50 is to permit the exclusion to be taken where one was not previously taken. The effective date of exclusion for these services



may not be earlier than the last day of the calendar quarter in which the modification to state's Social Security agreement is mailed to the Secretary of Health and Human Services.

4. On or after January 1, 1978, a political entity can modify its agreement to specifically exclude the services of election officials or election workers if the remuneration paid in a calendar year is less than \$100. A change to \$100 in a year from \$50 in a calendar quarter requires the execution of a new modification. For modification executed after December 31, 1977, the \$100 in a year test must be used.

- K.** "Wages" (A.R.S. § 38-701(8)) means all remuneration paid to employees whose services are covered under an agreement in a calendar year not in excess of the maximum reportable wages on which social security contributions are due.
1. Wages include the cash value of remuneration paid to employees other than money, for example, the value of room and board. The valuation of room and board furnished an employee by a political entity shall be computed at the same valuation as computed by the Industrial Commission for payment of workmen's compensation premiums.
  2. If, as a part of the employment, it is understood that the employee is entitled to meals and the employer is to furnish them, the value of such meals is wages and should be reported. If there is no understanding (either orally or in writing) that meals will be furnished the employee, but they are in fact provided, the value of the meals would be wages if it is substantial. The value of meals may be considered as not substantial if it is less than five percent of the cash pay.
  3. The employer's report of wages paid for each calendar quarter to the Arizona State Retirement System Board shall include for each employee both the cash wages and the value of room and board as a lump sum for the quarter for which the report is made.
  4. The employee tax shall be deducted from the wages paid in accordance with the method of including the value of remuneration paid in any medium other than cash in each pay period or in a single pay period in the calendar quarter.
  5. The value of meals and lodging furnished by, or on behalf of an employer to an employee, the employee's spouse, or any of the employee's dependents is not wages for Social Security purposes if:
    - a. The meals or lodging are furnished on the business premises of the employer, and
    - b. The meals or lodging are furnished for the convenience of the employer, and
    - c. The employee is required to accept such lodging as a condition of employment.

**A.** The definitions in A.R.S. § 38-711 apply to this Chapter.

**B.** Unless otherwise specified, in this Chapter:

1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
2. "Authorized employer representative" means an individual specified by the ASRS employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
3. "Contribution" means:
  - a. Amounts required by A.R.S. Title 38, Chapter 5, Article 2 to be paid to the ASRS by a member or an employer on behalf of a member other than amounts attributed to the long-term disability program;
  - b. Any voluntary amounts paid to the ASRS by a member to be placed in the member's account; and
  - c. Amounts credited by transfer under A.R.S. § 38-924.
4. "Day" means a calendar day, and excludes the:
  - a. Day of the act or event from which a designated period of time begins to run; and
  - b. Last day of the period if a Saturday, Sunday, or official state holiday.
5. "Designated beneficiary" means the same as in A.R.S. § 38-762(G).
6. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
7. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
8. "Investment return rate" means a percentage of total return on an asset.
9. "Party" means the same as in A.R.S. § 41-1001(14).
10. "Person" means the same as in A.R.S. § 41-1001(15).
11. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
12. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
13. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
14. "System" means the same as "defined contribution plan" in A.R.S. § 38-769(O)(7), and as administered by the ASRS.
15. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
16. "United States" means the same as in A.R.S. § 1-215(39).



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

- A. The following definitions apply to this Section unless otherwise specified:
  - 1. ~~“ASRS” means the same as in A.R.S. § 38-711.~~
  - 2. ~~“ASRS employer” has the same meaning as “employer” in A.R.S. § 38-711.~~
  - 3. ~~“Authorized employer representative” means an individual specified by the ASRS employer to provide the ASRS with information about a member who previously worked for the ASRS employer.~~
  - 4. ~~“Beneficiary” means the individual specified by a member to receive the balance of the member’s account or, if applicable, selected benefits upon the death of the member.~~
  - 5. ~~“Contribution” means:~~
    - a. ~~Amounts required by A.R.S. Title 38, Chapter 5, Article 2 to be paid to ASRS by a member or an employer on behalf of a member other than amounts attributed to the long term disability program;~~
    - b. ~~Any voluntary amounts paid by a System member to ASRS to be placed in the System member’s account; and~~
    - e. ~~Any amount credited to a non-retired System member’s employer account or to a retired System member’s non-guaranteed benefit as determined by Section 24(B) of Arizona Session Laws 1995, Chapter 32, Section 24, as amended by Arizona Session Laws 1999, Chapter 66, Section 1.~~
  - 6. ~~“Court” means a superior, appellate, or the Supreme court of this state, a corresponding court of another state of the United States, or a federal court of the United States.~~
  - 7. ~~“Designated beneficiary” has the same meaning as in A.R.S. § 38-762(H).~~
  - 8. ~~“Domestic relations order” has the same meaning as in A.R.S. § 38-773(G).~~
  - 1. ~~“Acceptable documentation” means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.~~
  - 9-2. ~~“Eligible retirement plan” has means the same meaning as in A.R.S. § 38-770(D)(3)-38-770(C)(3).~~
  - 10-3. ~~“Employer number” means a unique identifier the ASRS assigns to a member employer.~~
  - 11-4. ~~“Employer plan” means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f)-38-770(C)(3)(e), (d), (e), and (f).~~
  - 12. ~~“Fiscal year” means July 1 of one year to June 30 of the next year.~~
  - 13. ~~“Individual retirement account” means the types of eligible retirement plans specified in A.R.S. § 38-770(C)(3)(a) and (b).~~
  - 14. ~~“Lump sum payment” means a member receives the total amount in the member’s ASRS account to which the member is entitled by law.~~
  - 15. ~~“Member” has the same meaning as in A.R.S. § 38-711.~~
  - 16. ~~“Personal representative” means a person who is authorized by law to represent the estate of a deceased individual.~~
  - 17-5. ~~“Process date” means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.~~
  - 18. ~~“Service year” has the same meaning as in A.R.S. § 38-711.~~
  - 19. ~~“System” means the same as “defined contribution plan” as defined in A.R.S. § 38-769, and which is administered by the ASRS.~~
  - 20. ~~“Terminate employment” means to end the employment relationship between a member and an ASRS employer with the intent that the member not return to employment with that ASRS employer.~~
  - 21. ~~“Trustee” means an individual who holds monetary assets in an eligible retirement plan under the Internal Revenue Code for the benefit of the member.~~
  - 22. ~~“United States” means the same as in A.R.S. § 1-215.~~
  - 23-6. ~~“Warrant” means a voucher authorizing payment of funds due to a member.~~
- B. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
- D. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
    - a. No change
    - b. No change
    - c. No change



- d. No change
- e. No change
- f. No change
- g. No change
- h. No change
- i. No change
- j. No change
- 8. No change
  - a. No change
  - b. No change
  - c. No change
- 9. No change
  - a. No change
  - b. No change
  - c. No change
- E. No change
  - 1. No change
    - a. No change
    - b. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
      - i. No change
      - ii. No change
      - iii. No change
    - h. No change
- F. No change
- G. If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in ~~R2-8-118(B)~~ R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- H. No change
- I. Upon the death of a member, the ASRS shall provide distribute the survivor benefits based according on to the deceased member's last dated, written designation of beneficiary most recent, acceptable documentation that is on file with the ASRS that was received before prior to the date of the member's death, unless otherwise provided by law.
- J. If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the survivor benefit is paid as specified in A.R.S. § ~~38-762(F)~~ 38-762(E). The designated beneficiary or other person specified in A.R.S. § ~~38-762(F)~~ 38-762(E) shall:
  - 1. Provide a certified copy of a death certificate or a certified copy of a court order that establishes the member's death;
  - 2. Provide a certified copy of the court order of appointment as administrator, if applicable; and
  - 3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
    - a. The deceased member's full name,
    - b. The deceased member's Social Security number,
    - c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § ~~38-762(F)~~ 38-762(E):
      - i. Full name;
      - ii. Mailing address;
      - iii. Contact telephone number;
      - iv. Date of birth, if applicable; and
      - v. Social Security number or Tax ID number, if applicable.

**R2-8-118. Application of Interest Rates**

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



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

~~B.A.~~ Application of interest from inception of the ASRS through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Interest and Investment <del>Yield</del> <u>Return</u> Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death		Interest Rate Used to Determine Survivor Benefits
7-1-1953	2.50%	2.50%		2.50%
7-1-1959	3.00%	3.00%		3.00%
7-1-1966	3.75%	3.75%		3.75%
7-1-1969	4.25%	4.25%		4.25%
7-1-1971	4.75%	4.75%		4.75%
7-1-1975	5.50%	5.50%		5.50%
7-1-1976	6.00%	5.50%		6.00%
7-1-1981	7.00%	5.50%		7.00%
7-1-1982	7.00%	7.00%		7.00%
7-1-1984	8.00%	8.00%		8.00%
7-1-2005	8.00%	4.00% for Plan Members	8.00% for System Members	8.00%
7-1-2013	8.00%	2.00% for Plan Members	8.00% for System Members	8.00%

~~C.B.~~ At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member’s account as of the previous June 30. The balance on which interest is credited includes:

1. Employer and employee contributions;
2. Voluntary additional contributions made by ~~System~~ members, if applicable;
3. Amounts credited by transfer under A.R.S. § ~~38-922~~38-924;
4. ~~Amounts credited to a non-retired system member’s employer account or to a retired System member’s non-guaranteed benefit as determined by Article 2 of this Chapter; and~~
- 5-4. Interest credited in previous years.

**R2-8-120. Designating a Beneficiary; Spousal Consent to Designation**

A. ~~In addition to the definitions at A.R.S. § 38-711, the~~ The following definitions apply to this Section unless otherwise specified:

1. ~~“Beneficiary” means a person designated to receive money or other benefits when someone dies.~~ “DRO” means the same as “domestic relations order” in A.R.S. § 38-773(H)(1).
2. ~~“Contingent annuitant” means the person that a member designates to receive continued annuity payments after the member dies.~~
- 3-2. ~~“Joint and survivor annuity” means an optional form of retirement benefits described at in A.R.S. § 38-760(B)-38-760(B)(1).~~
- 4-3. ~~“Period certain and life annuity” means an optional form of retirement benefits described at in A.R.S. § 38-760(B)-38-760(B)(2).~~
5. ~~“QDRO” means qualified domestic relations order, which is a judgment, decree, or order directing a retirement plan to make payments to an alternative payee.~~
- 6-4. ~~“Spouse” means the individual to whom a member is married under Arizona law.~~

B. No change

1. No change
  - a. No change
  - b. No change
2. No change

C. No change

1. No change
2. No change
3. No change



- D.** Changing a beneficiary designation:
1. If a married member changes a beneficiary designation on or after July 1, 2013, the member shall ensure that the new beneficiary designation is consistent with the requirements specified in subsection (B);
  2. If a married member who retired before July 1, 2013, and:
    - a. Chose a straight-life annuity wishes to change the member's beneficiary, the member shall ensure that the new beneficiary designation is consistent with subsection (B); or
    - b. Chose a period certain and life annuity or joint and survivor annuity wishes to change either the annuity option or the contingent annuitant, the member shall ensure that the new beneficiary designation is consistent with subsection (B).
- E.** No change
1. No change
  2. No change
- F.** No change
- G.** No change
1. No change
  2. No change
    - a. No change
      - i. No change
      - ii. No change
    - b. No change
- H.** No change
- I.** No change
1. No change
    - a. No change
    - b. No change
  2. No change
  3. No change

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

- A.** ~~For the purposes of~~ The following definitions apply to this Section, unless otherwise specified:
1. ~~“Actuarial assumption” means an estimate of an uncertain future event that affects pension liabilities.~~
  2. ~~“Board” means the same as in A.R.S. § 38-711.~~
  3. ~~“Investment return rate” means a percentage of total return on an asset.~~
  4. ~~“market Market value” means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.~~
- B.** No change
1. No change
  2. No change
    - a. No change
    - b. No change

**R2-8-126. Calculating Benefits**

- A.** ~~The following definitions apply to this Section unless otherwise specified:~~ For the purposes of this Section, “prior service credit” means a “service credit” listed in R2-8-501(24), credited service that is earned pursuant to A.R.S. § 38-739, or a service credit that is transferred or redeemed pursuant to A.R.S. §§ 38-730, 38-771, or 38-921 et seq.
1. ~~“Contingent annuitant” has the same meaning as in A.R.S. § 38-711.~~
  2. ~~“Life annuity” has the same meaning as in A.R.S. § 38-711.~~
  3. ~~“Member” has the same meaning as in A.R.S. § 38-711.~~
  4. ~~“Plan” means a “defined benefit plan” under A.R.S. § 38-769 that is administered by the ASRS.~~
  5. ~~“Prior service” has the same meaning as in A.R.S. § 38-772.~~
  6. ~~“System” means a “defined contribution plan” as defined under A.R.S. § 38-769 that is administered by the ASRS.~~
- B.** No change
- C.** No change
- D.** No change
- E.** No change
- F.** No change
- G.** The ASRS shall add any prior service credit benefit that is payable to a member to the life annuity of the member before the ASRS applies any optional payment plan calculation provided for in A.R.S. § 38-760.
- H.** No change

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

**R2-8-401. Definitions**

The following definitions apply to this Article unless otherwise specified:



- 1. “Appealable agency action” ~~has means~~ the same meaning as in A.R.S. § ~~41-1092~~ 41-1092(3).
- 2. “Board” ~~has the same meaning as in A.R.S. § 38-711.~~
- 3. “Director” ~~means the Director appointed by the Board as provided in A.R.S. § 38-715.~~
- 4. “Party” ~~has the same meaning as in A.R.S. § 41-1001.~~
- 5. “Person” ~~has the same meaning as in A.R.S. § 41-1001.~~

ARTICLE 5. PURCHASING SERVICE CREDIT

R2-8-501. Definitions

The following definitions apply to this Article unless otherwise specified:

- 1. “Active duty” ~~has the same meaning as in 32 U.S.C. 101.~~ means full-time duty in a branch of the United States uniformed service, other than active reserve duty.
- 2. “Active duty termination date” means the day a member:
  - a. Separates from active military duty;
  - b. Is released from active duty-related hospitalization or one year after initiation of active duty-related hospitalization, whichever date is earlier; or
  - c. Dies as a result of active military duty.
- 3. “Active member” ~~means the same as in A.R.S. § 38-711.~~
- 4-3. “Active reserve duty” means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
- 5-4. “Actuarial present value” means an amount in today’s dollars of a member’s future retirement benefit calculated using appropriate actuarial assumptions and the:
  - a. Member’s current years of credited service to the nearest month;
  - b. Member’s age to the nearest day;
  - c. Amount of service credit the member wishes to purchase to the nearest month, except for the calculation in R2-8-506(A)(2); and
  - d. Member’s current annual compensation.
- 6. “ASRS” ~~means the same as in A.R.S. § 38-711.~~
- 7. “ASRS employer” ~~means the same as “employer” in A.R.S. § 38-711.~~
- 8. “Authorized employer representative” ~~means an individual who has been delegated the authority to act on behalf of an ASRS employer to provide the ASRS with information.~~
- 9-5. “Authorized representative” means an individual who has been delegated the authority to act on behalf of a custodian, trustee, plan administrator, or, if applicable, a member.
- 10. “Compensation” ~~means the same as in A.R.S. § 38-769.~~
- 11. “Credited service” ~~means the same as in A.R.S. § 38-711.~~
- 12. “Current annual compensation” means the greater of:
  - a. Annualized compensation of the full pay period immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743 or 38-745.
  - b. Annualized compensation of the partial year if the member has less than twelve months total credited service on the date of a request to purchase credited service pursuant to section 38-743 or 38-745.
  - e. The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743 or 38-745.
  - d. The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743 or 38-745 divided by three.
  - e. If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member’s last pension benefit times twelve. A.R.S. § 38-711(10).
- 13-6. “Current years of credited service” means the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable Payroll Deduction Authorization is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid.
- 14-7. “Custodian” means a financial institution that holds financial assets for guaranteed safekeeping.
- 15. “Day” means a calendar day, and excludes the:
  - a. Day of the act or event from which a designated period of time begins to run; and
  - b. Last day of the period if a Saturday, Sunday, or official state holiday.
- 16-8. “Direct rollover” means distribution of eligible funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
- 17-9. “Eligible funds” means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
- 18-10. “Eligible member” means an active member of the Plan or a Plan member who is receiving benefits under the Long Term Disability Program established by A.R.S. Title 38, Chapter 5, Article 2.1.
- 19. “Error” ~~means a typographical mistake, incorrect information, or other inaccuracy, whether intentional or unintentional.~~



- ~~20-11.~~ “Forms of payment” means check, cashier’s check, money order, Irrevocable Payroll Deduction Authorization, direct rollover, indirect IRA rollover, indirect rollover, trustee-to-trustee transfer, IRA rollover and termination pay distribution.
- ~~21-12.~~ “Forfeited service” means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
- ~~22-13.~~ “Immediate family member” means:
- A member’s spouse or life partner;
  - A member’s natural, step, or adopted sibling;
  - A member’s natural, step, or adopted child;
  - A member’s natural, step, or adoptive parent; or
  - An individual for whom the member has legal guardianship.
- ~~23-14.~~ “Indirect IRA rollover” means funds already distributed to the eligible member from a retirement plan listed in A.R.S. § 38-747(H)(3) that are then paid by the eligible member to the ASRS as a contribution for the benefit of the eligible member.
- ~~24.~~ “IRA” means an Individual Retirement Account or Annuity under IRC § 408.
- ~~25-15.~~ “IRC” means the same as “Internal Revenue Code” in A.R.S. § 38-711(18).
- ~~26-16.~~ “Irrevocable Payroll Deduction Authorization ~~payroll deduction authorization~~” means an irrevocable contract between an eligible member, an ASRS employer, and the ASRS that requires the ASRS employer to withhold payments from a member’s pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
- ~~27.~~ “Leave of absence” means the same as in A.R.S. § 38-711.
- ~~28-17.~~ “Life partner” means an individual who lives with a member as a spouse, but without being legally married.
- ~~29-18.~~ “Member” means the same as in A.R.S. § 38-711. “Military Call-up” means a member is called to active duty in a branch of the United States uniformed services.
- ~~30-19.~~ “Military service” means active duty or active reserve duty with any branch of the United States uniformed services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
- ~~31-20.~~ “Military service record” means a United States uniformed services or National Oceanic and Atmospheric Administration document that ~~provides proof of active duty or active reserve duty time, including a military form DD-214 or other military form that~~ provides the following information:
- The member’s full name;
  - The member’s Social Security number;
  - Type of discharge the member received; and
  - Active duty dates, if applicable; and or
  - Active reserve duty dates, if applicable; and
  - Point history for reserve duty dates, if applicable.
- ~~32-21.~~ “Other public service” means previous employment listed in A.R.S. § 38-743(A).
- ~~33-22.~~ “PDA pay-off letter” means written correspondence from the ASRS to a member that specifies the amount necessary to be paid by the member to complete an Irrevocable Payroll Deduction Authorization and receive the credited service specified in the Irrevocable Payroll Deduction Authorization.
- ~~34.~~ “Person” means the same as in A.R.S. § 1-215.
- ~~35.~~ “Plan” means the same as “defined benefit plan” in A.R.S. § 38-769, and administered by the ASRS.
- ~~36-23.~~ “Plan Administrator” means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
- ~~37.~~ “Political subdivision” means the same as in A.R.S. § 38-711.
- ~~38.~~ “Political subdivision entity” means the same as in A.R.S. § 38-711.
- ~~39.~~ “Presidential Call-up” means a directive from the President of the United States, Cabinet Secretary, or Secretary of any United States uniformed service, initiating active duty for personnel of active military, or active or inactive National Guard and Reserve branches of the United States uniformed services.
- ~~40.~~ “Public employer” means the United States government, a state of the United States, a political subdivision of a state of the United States, or a political subdivision entity.
- ~~41.~~ “Rollover” means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (3).
- ~~42-24.~~ “Service credit” means forfeited service under A.R.S. § 38-742, leave of absence under A.R.S. § 38-744, military service and Presidential-Military Call-up service under A.R.S. § 38-745, and other public service under A.R.S. § 38-743 that an eligible member may purchase.
- ~~43-25.~~ “SP invoice” means a written correspondence from the ASRS informing an eligible member of the amount of money required to purchase a specified amount of service credit.
- ~~44.~~ “Terminate employment” means to end the employment relationship between a member and an ASRS employer with the intent that the member not return to employment with that ASRS employer.



- ~~45-26.~~ “Termination pay distribution” means an ASRS employer’s payment to the ASRS of an eligible member’s termination pay to purchase service credit as specified in A.R.S. § 38-747(B)(2).
- ~~46-27.~~ “Three full calendar months” means the first day of the first full month through the last day of the third consecutive full month.
- ~~47-28.~~ “Transfer employment” means to terminate employment with one ASRS employer with which a member has an Irrevocable Payroll Deduction Authorization:
  - a. After accepting an offer to work for a new ASRS employer, or
  - b. While working as an active member for a different ASRS employer.
- ~~48-29.~~ “Trustee-to-trustee transfer” means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program listed in R2-8-515(A) from which, at the time of the transfer, a member is not eligible to receive a distribution.
- ~~49-30.~~ “Uniformed services” means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserves, ~~the National Oceanic and Atmospheric Administration~~, and the Commissioned Corps of the Public Health Service.
- ~~50.~~ “United States” means the same as in A.R.S. § 1-215.
- ~~51-31.~~ “Window credit” means overpayments made on previously purchased service credit by eligible members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

**R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

- ~~1.~~ “ASRS” ~~has the same meaning as in A.R.S. § 38-711.~~
- ~~2.~~ “Day” means a calendar day, and excludes the:
  - ~~a. Day of the act or event from which a designated period of time begins to run; and~~
  - ~~b. Last day of the period if a Saturday, Sunday, or official state holiday.~~
- ~~3-1.~~ “Rulemaking record” means a file the ASRS maintains as specified in A.R.S. § 41-1029.
- ~~4-2.~~ “Oral proceeding” means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
- ~~5-3.~~ “Presiding officer” means an individual selected by the ASRS Director to oversee oral proceedings.
- ~~6-4.~~ “Substantive policy statement” ~~has means~~ the same ~~meaning~~ as in A.R.S. § ~~41-1001~~ 41-1001(22).

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**

**R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

- 1. “218 agreement” means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § ~~218418~~ of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage to employees of the state, political subdivision, or political subdivision entity.
- ~~2.~~ “Active member” ~~has the same meaning as in A.R.S. § 38-711.~~
- ~~3.~~ “ASRS” ~~has the same meaning as in A.R.S. § 38-711.~~
- 4. “ASRS employer” means this state, a political subdivision, or a political subdivision entity that has:
  - a. Signed a 218 agreement,
  - b. Applied to become a member of ASRS, and
  - e. Been approved for membership by the Board.
- ~~5.~~ “Authorized employer representative” ~~means an individual who has legal power to bind the ASRS employer in its transactions with the ASRS.~~
- ~~6.~~ “Board” ~~has the same meaning as in A.R.S. § 38-711.~~
- ~~7.~~ “Director” ~~means the Director appointed by the Board as provided in A.R.S. § 38-715.~~
- ~~8-2.~~ “Documentation” means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, employer letter or spreadsheet, completed State Personnel Action Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other ASRS employer-provided form that includes:
  - a. Whether the employee was covered under the ASRS employer’s 218 agreement prior to July 24, 2014,
  - b. The number of hours worked or length of time the member was employed by the ASRS employer, or
  - c. The compensation paid to the member by the ASRS employer.
- ~~9-3.~~ “Eligible service” means employment with an ASRS employer:
  - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
  - b. In which the member:



- i. ~~Until 6/30/92, worked a minimum of 20 hours per week for at least five months in a fiscal year for any one or more ASRS employers;~~
- ii. ~~From 7/1/92 to 7/1/99, worked a minimum of 20 hours per week for at least 20 weeks in a fiscal year for any one or more ASRS employers; or~~
- iii. ~~From 7/1/99 to the present, worked a minimum of 20 hours per week for at least 20 weeks in a service year for at least one ASRS employer from 7/1/1999 to the present.~~
- 10. ~~“Fiscal year” means from July 1 of one year through June 30 of the next year.~~
- 11. ~~“Member” has the same meaning as in A.R.S. § 38-711.~~
- 12. ~~“Person” has the same meaning as in A.R.S. § 1-215.~~
- 13. ~~“Political subdivision” has the same meaning as in A.R.S. § 38-711.~~
- 14. ~~“Political subdivision entity” has the same meaning as in A.R.S. § 38-711.~~
- 15. ~~“Service year” has the same meaning as in A.R.S. § 38-711.~~

**NOTICE OF FINAL RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 5. BOARD OF BARBERS**

[R15-152]

**PREAMBLE**

<b><u>1. Articles, Parts, and Sections Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R4-5-101	Amend
R4-5-102	Amend
R4-5-103	Amend
R4-5-104	Amend
R4-5-105	Repeal
R4-5-106	Amend
R4-5-107	Amend
R4-5-108	Amend
Table 1	New Table
R4-5-109	ReNUMBER
R4-5-109	Amend
Article 2	Amend
R4-5-201	Amend
R4-5-202	Amend
R4-5-203	Amend
R4-5-204	ReNUMBER
R4-5-301	Amend
R4-5-302	Amend
R4-5-303	Amend
R4-5-304	Amend
R4-5-305	New Section
R4-5-401	Amend
R4-5-402	Amend
R4-5-403	Amend
R4-5-404	Amend
R4-5-405	Amend
Exhibit 1	Amend
Exhibit 2	Amend
R4-5-406	Amend
R4-5-407	Amend
R4-5-408	Amend
R4-5-409	Amend
R4-5-410	Repeal
R4-5-411	Amend
R4-5-501	Amend
R4-5-502	Amend



**2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

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

Implementing statute: A.R.S. §§ 32-304(A)(7), 32-322, 32-323, 32-324, 32-325, 32-326, 32-327, 32-328, 32-351, 32-352, 32-353, 32-354, and 32-355

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

December 8, 2015

**a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 21 A.A.R. 889, June 19, 2015

Notice of Proposed Rulemaking: 21 A.A.R. 869, June 19, 2015

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Sam Barcelona

Address: 1400 W. Washington St., Suite 220  
Phoenix, AZ 85007

Telephone: (602) 542-4498

Fax: (602) 542-3093

E-mail: sam.barcelona@azbarberboard.us

Web site: www.azbarberboard.us

**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Board's rules have not been amended since 2005. In a five-year review report approved by Council on September 14, 2010, the Board identified several rules that needed to be amended. Because of the age of its rules, the Board determined it was necessary to amend all its rules. Some of the amendments the Board determined were necessary increased the length of its licensing time-frames and established requirements regarding blood and body fluid spills and notice to students when a barber school closes.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Ted Vogt, Chief of Operations in the Governor's office, in an e-mail dated May 18, 2015.

**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:**

The Board has not reviewed and does not propose to rely on a study in its evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

The rule changes will have minimal economic impact. The owner of a licensed shop that is not complying with current industry standards regarding safety and infection control will incur some cost to comply with the new standards. The holder of a license to operate a school that closes will incur a minimal cost to provide notice to students affected by the closure.

The Board's time-frame rule for acting on an application for a barber or instructor license is adjusted to be more realistic. While the Board's small staff will continue to act on applications expeditiously, the additional time is necessary to ensure that all applications receive careful and thorough review.

**10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**

In addition to the change indicated in item 11, the following minor, non-substantive changes were made between the proposed and final rules.



R4-5-101: The definition of “barber pole” was amended to more closely align with the language used in the Certificate of Trademark issued by the Office of the Secretary of State.

R4-5-107(A), (B)(1), and (C)(1): Were amended to clarify that inspection procedures apply not only to existing barbering establishments but also to establishments for which an application for licensure has been made. This also clarified that the annual inspection of an establishment is separate from the initial inspection required before licensure.

R4-5-108(B)(3): Was deleted because the Board determined it was an unnecessary source of possible confusion.

Table 1: The Board reduced the proposed overall time-frames for acting on an application to operate a shop or a school from 105 days to 90 days. The administrative review time-frame remains 30 days but the substantive review time-frame is reduced to 60 days. The current overall time-frame to act on an application to operate a shop is seven days and to act on an application to operate a school is 60 days.

It has been the Board’s practice to issue a receipt when an administratively complete application to operate a shop was submitted. This enabled the shop to be opened and fully operational before an initial inspection was conducted. The Board has determined that greater protection is provided to public health and safety, which is the mission of the Board, if an initial inspection is conducted before a license to operate a shop is issued. The greater protection to public health and safety is also enhanced by the safety and infection control and required equipment provisions added in this rulemaking. Data from FY2015, which showed that most rule violations identified during annual inspections related to safety and infection control, emphasize the importance of conducting the initial inspection before a license is issued. Conducting the initial inspection before issuing a license also is more consistent with A.R.S. § 32-328(A)(15), which contemplates that an application and initial inspection occur together.

Including the initial inspection in the time-frame requires the time-frame be more than seven days. The Board believed the proposed 105 days to act on an application to operate a shop was reasonable but understands it is important to enable shops to open quickly. The 90-day time-frame recognizes that the Board has a small staff, no member of which only conducts inspections, but also requires the staff to act expeditiously. The 90-day time-frame is consistent with the time-frames used by other similar boards.

Increasing the overall time-frame for acting on an application to operate a school from 60 to 90 days is required because the Board’s small staff needs additional time in which to ensure that a thorough initial inspection is conducted. The Board believed the proposed 105 days to act on an application to operate a school was reasonable but understands it is important for the Board to quickly. This time-frame is also consistent with the time-frames used by other similar boards.

R4-5-202(A)(4) and R4-5-203(A)(5): To reduce economic impact, the requirement that a photograph be professionally produced was deleted. A photograph is acceptable if it is suitable for use in an identification card.

R4-5-301(A): Was amended to clarify that an application to operate a shop is not a license.

R4-5-302(A)(2): Two changes were made. First, the allowable distance between a chair used to provide barbering services and sink was increased from three to six feet. Second, a clear typographical error was corrected. The word “less” was changed to “more.” The Board is confident no one would have relied on the error and believed a sink was required to be located more than six feet from the chair used to provide barbering services.

R4-5-404(A)(10): The word “time” was inserted before “clock” to clarify that the clock is for tracking attendance by students.

R4-5-404(B)(3): Language that was redundant of that in the lead to the subsection was deleted and a cross reference to R4-5-101 was added.

R4-5-405(G)(2): Was amended to cross reference the photograph standards in R4-5-202(A)(4).

None of the changes made, in particular increasing the allowed distance between a chair used to provide barbering services and sink, is substantial under the standard at A.R.S. §41-1025(B). The persons affected by and subject matter of the final rule is the same as that of the proposed rule. While the effect of the final rule differs somewhat from the effect of the proposed rule, the different effect is not substantial. The difference simply provides additional flex-



ibility. A licensee who wishes to comply with the proposed three foot limitation is free to do so.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**

No written comments were submitted. Six individuals attended the oral proceeding held on July 20, 2015. They were: Josie and David Burden, shop licensees representing Your Style, Gilbert, AZ; Javier Cota, shop licensee representing Vintage American Barbershop, Gilbert, AZ; Brock Graham, licensed barber; Will Mitchell, shop licensee representing Sigma Cuts, Glendale, AZ; and Shannon Roberts, shop licensee representing Cut It Up Barber Lounge, Tucson, AZ. The following issues were discussed:

Comment	Analysis	Board Response
R4-5-302(A)(2): It will be burdensome if all shop licensees must retrofit their establishments to comply with the rule regarding sinks. Cota, Graham, Mitchell, and Roberts	The comment is correct.	A provision was added to clarify that the subsection applies only to those who obtain a new license after the effective date of the rules.  To further reduce any burden, the distance from the barber or shop chair to the sink was made more flexible.
R4-5-305(B): Attendees thanked the Board for trademarking the barber pole as a symbol of barbering services.	The Board appreciates the support.	No change
R4-5-305(C): The phrase "is available to provide barber services" is too restrictive. Some barbers work at multiple shops or only part-time. It is too expensive to change signage when the barber is not available to provide services. Roberts and others	Displaying a barber pole without having a barber available to provide barbering services is contrary to A.R.S. § 32-355(A)(4). It is also unfair and harmful to the economic wellbeing of barbers in shops that may be nearby. And, it is misleading to consumers who enter a shop wanting to avail themselves of barbering services.  If a barber is not available to provide barbering services, the shop licensee can cover the barber pole or simply put a notice on the door informing the public that a barber is not available. Or, the shop licensee can use a temporary sign such as a sandwich board to provide notice when a barber is available to provide barbering services.	No change

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

No federal law is applicable to the subject matter of the rules.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

No materials are incorporated by reference.

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

None of the rules was previously made, amended, or repealed as an emergency rule.

**15. The full text of the rules follows:****TITLE 4. PROFESSIONS AND OCCUPATIONS****CHAPTER 5. BOARD OF BARBERS****ARTICLE 1. GENERAL PROVISIONS**

Section	
R4-5-101.	Definitions
R4-5-102.	Fees and Service Charges
R4-5-103.	Fee Payment
R4-5-104.	Safety and Sanitation Infection Control Provisions
R4-5-105.	<del>Disinfectants: Approval; Usage Guidelines Repealed</del>
R4-5-106.	Change of Ownership or Location
R4-5-107.	Inspections
R4-5-108.	Licensing Time-frames
Table 1.	Time-frames (in days)
<del>R4-5-204</del> R4-5-109.	License Renewal

**ARTICLE 2. EXAMINATION; ~~AND PRACTITIONER LICENSING~~ BARBER AND INSTRUCTOR  
LICENSE APPLICATION**

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

**ARTICLE 3. SHOPS**

Section	
R4-5-301.	<del>Shop License Application for a License to Operate a Shop</del>
R4-5-302.	<del>Shop Premises and Basic Equipment Required in a Shop</del>
R4-5-303.	Shop Supervision
R4-5-304.	Shop Mobile Units
R4-5-305.	Display of Barber Pole

**ARTICLE 4. SCHOOLS**

Section	
R4-5-401.	<del>Barber School Application for a License to Operate a School</del>
R4-5-402.	Notification of Changes
R4-5-403.	Use of "Accredited," "Approved," or Similar Terms
R4-5-404.	School Premises and Basic Equipment
R4-5-405.	School Operations <del>and Enrollment</del>
Exhibit 1.	Required Age and Education Notice to a Barber Trainee
Exhibit 2.	Required Age and Education Notice to an Instructor Trainee
R4-5-406.	Student Training and Supervision
R4-5-407.	School Curriculum
R4-5-408.	School Records
R4-5-409.	School Closure
R4-5-410.	<del>Multiple location Schools Repealed</del>
R4-5-411.	Offsite Training Facility

**ARTICLE 5. HEARINGS**

Section	
R4-5-501.	Hearing Procedures
R4-5-502.	Rehearing and Review of Decision

**ARTICLE 1. GENERAL PROVISIONS****R4-5-101. Definitions**

The definitions in A.R.S. § 32-301 apply to this Chapter. Additionally, the following definitions apply to this Chapter unless the context otherwise requires:

"Barber pole" means a stationary or revolving sign compose of a vertical cylinder or pole with alternating, diagonal, stripes of any combination including red, white, and blue or a likeness of the sign.



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

“Certified hour” means instructional hours for which a barber school has issued a student a Certification of Completion or Withdrawal.

“Change of ownership” means there is a change of 10 percent or more of the owners holding a license to operate a shop or school.

“Diploma from a high school or its equivalent,” as used in A.R.S. § 32-323(B), means any of the following:

- A document that certifies successful course completion from any accredited secondary school in the United States, a U.S. territory, the District of Columbia, or a foreign country;
- ~~A cumulative score of no fewer than 45 points on a General Education Development “GED” test;~~
- A high school equivalency diploma that certifies successful passing of a General Education Development “GED” test; or
- An academic degree from an accredited college or university ~~in the United States, a U.S. territory, the District of Columbia, or a foreign country.~~

“Direct supervision” means a supervisor is physically present and observing the work of a supervisee.

“Disinfect” means the use of chemicals to kill most microbial life that can lead to infection in humans.

“Domestic administration” means barbering performed:

- On oneself, or
- On another person to whom the practitioner is related as follows:
  - Father,
  - Mother,
  - Grandfather,
  - Grandmother,
  - Child,
  - Step-child,
  - Brother,
  - Sister,
  - Foster parent,
  - Legal guardian,
  - Step-parent, or
  - Spouse.

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

- ~~Sanitation by a Board-approved fumigant or ultraviolet radiation, and~~
- ~~Maintenance of the implement’s sanitary condition.~~

“EPA” means the United States Environmental Protection Agency.

“Establishment” means a distinct physical location in which a shop or school is located but does not include an offsite training facility.

“Instructional hour” means 60 minutes during which a student receives classroom or practical instruction.

“Liquid sanitizer” means a container large enough to immerse completely any barbering implement that requires disinfecting by a solution made from an EPA-registered disinfectant ~~by solution sanitization.~~

“One year’s experience as a licensed barber,” as used in A.R.S. § 32-322(C), means that during ~~any period of 12 consecutive months,~~ a person an individual:

- Maintained a valid license prescribed under A.R.S. § 32-322, and
- Engaged in barbering at least ~~1,200~~ 1,500 hours.

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

“Patron” means ~~a person an individual~~ who receives barbering services.

“Practiced barbering for at least two years,” as used in A.R.S. § 32-323(B), means that during ~~any period of 24 consecutive months,~~ a person an individual engaged in barbering at least ~~1,200~~ 1,500 hours during each 12-month consecutive period.

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

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



“Tool drawer” means an ultraviolet electrical sanitizer or a clean, dust-proof cabinet, drawer, or other container that is disinfected with an EPA-registered disinfecting agent and used exclusively to store disinfected barbering implements.

“Two years of high school education or its equivalent,” as used in A.R.S. § 32-322(B), means either of the following:

- Receipt of Successfully completing 10 high school credits,
- Receipt of an overall score of no fewer than 39 points on a GED test, or
- Passing a GED test.

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

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

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

1. Barber:
  - a. No change
  - b. No change
  - c. No change
  - d. No change
2. Instructor:
  - a. No change
  - b. No change
  - c. No change
3. Shop:
  - a. No change
  - b. No change
  - c. No change
  - d. Renewal \$50 annually.
4. Late-renewal ~~penalty fee~~ for any license issued under subsections (A)(1) through (A)(3):
  - a. First time in a five-year period \$25 plus the renewal fee.
  - b. Second time in a five-year period \$50 plus the renewal fee.
  - c. Third time in a five-year period \$75 plus the renewal fee.
5. School:
  - a. No change
  - b. No change
  - c. No change
  - d. Renewal \$400 annually.
  - e. Late-renewal ~~penalty fee~~:
    - i. First time in five-year period \$50 plus the renewal fee.
    - ii. Second time in five-year period \$100 plus the renewal fee.
    - iii. Third time in five-year period \$150 plus the renewal fee.
6. No change
  - a. No change
  - b. No change
7. A duplicate of any license issued under this ~~Section~~ Chapter \$20.

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

1. Name and address of licensee \$.25 per licensee.
2. Public records \$.50 per page.

C. As authorized under A.R.S. § 44-6852, the Board shall charge and collect from an applicant that provides the Board with a check that is dishonored by the bank the actual amount assessed by the bank plus a \$10 service fee.

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

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

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

1. The Board receives the fee on or before the date due, or
2. The fee is postmarked on or before the date due.

#### **R4-5-104. Safety and Sanitation Infection Control Provisions**

A. A licensee under A.R.S. Title 32, Chapter 3, and this Chapter shall ~~conduct~~ adhere to the following safety and ~~sanitation~~ infection control procedures:

1. Use barbering implements that are:
  - a. New if intended for use on a single patron and disposed of immediately after use in a covered waste receptacle; or
  - b. In good repair, and free of defect, and disinfected as described in subsection (A)(2) if intended for multiple use;
2. ~~Sanitize~~ Disinfect any barbering implement intended for multiple use according to the following procedure:



- a. For ~~any immersible~~ a non-electric barbering implement ~~and removable parts of an electric barbering implement~~, other than a scissors or razor, ~~a licensee shall~~:
  - i. ~~Remove all hair or debris;~~
  - ii. ~~Wash with soap and water;~~
  - iii. ~~Rinse with clean water;~~
  - ~~iii-iv. Completely immerse in a disinfectant solution that is approved and used as prescribed under R4-5-105 an EPA-registered disinfectant used according to manufacturer’s instructions;~~
  - iv. ~~Rinse with water;~~
  - v. ~~Dry completely with a clean cloth or air dry;~~ and
  - vi. ~~Store in a dry sanitizer tool drawer;~~
- b. For a scissors or a razor, ~~a licensee may~~:
  - i. ~~follow~~ Follow the procedure under subsection (A)(2)(a); or
  - ii. ~~wipe~~ Wipe the ~~implement~~ scissors or razor with a cloth bearing a disinfectant solution approved and used as prescribed under R4-5-105. ~~The licensee shall store an implement sanitized under this subsection in a dry sanitizer~~ an EPA-registered disinfectant used according to manufacturer’s instructions and store the scissors or razor in a tool drawer; and
- c. For ~~a non-immersible~~ an electric barbering implement, ~~a licensee shall~~:
  - i. ~~Remove all hair or debris;~~
  - ii. ~~wipe~~ Wipe or spray any parts that contact a patron with a disinfectant solution approved and used as prescribed under R4-5-105. ~~The licensee shall store an implement sanitized under this subsection in a dry sanitizer~~ an EPA-registered disinfectant used according to manufacturer’s instructions; and
  - iii. ~~Store in a tool drawer.~~
- 3. Care and storage of barbering products. ~~Dispense~~ A licensee shall dispense any barbering preparation product listed under subsection (A)(3)(a) according to the procedure prescribed under subsection (A)(3)(b).
  - a. A barbering ~~preparation product~~ under this subsection includes any:
    - i. Oil,
    - ii. Gel,
    - iii. Shampoo,
    - iv. Cream,
    - v. Antiseptic,
    - vi. Clay,
    - vii. Ointment,
    - viii. ~~Waxes,~~ or
    - ~~viii-ix. Other preparation product~~ intended for use on a patron,
  - b. ~~Preparation Product-dispensing procedure. A licensee shall avoid~~ Avoid direct manual contact with a barbering ~~preparation product~~ by:
    - i. Using a manufacturer’s dispensing device included with the original container; or
    - ii. Using a new disposable or ~~sanitized~~ disinfected reusable spoon, spatula, or ~~other~~ similar dispensing implement when no manufacturer dispensing device is included with the original container;
  - c. After a barbering product is dispensed, do not return any portion of the dispensed product to the original container; and
  - d. Maintain all barbering product containers with clear, correct labels indicating contents and intended use;
- 4. ~~Maintain a sufficient quantity of uncontaminated sanitizing~~ Ensure that the disinfecting solution approved for use as prescribed under R4-5-105 at all times during the performance of barbering required under subsection (A)(2) is changed if it becomes contaminated or according to the manufacturer’s instructions;
- 5. Maintain towels or cloths for patron use that are:
  - a. New and disposed immediately after use if intended for single use,
  - b. ~~Sanitized~~ Disinfected by laundering with detergent and chlorine bleach if intended for multiple use,
  - c. Stored in a closed container when ~~sanitized~~ disinfected before use, and
  - d. Stored in a closed, ventilated, container separate from ~~sanitized~~ disinfected towels or cloths after use;
- 6. Maintain a separate, covered, non-leaking, receptacle for garbage and hair and empty, clean, and disinfect the receptacle daily;
- ~~7. Maintain all barbering product containers with clear, correct labels indicating contents and intended use;~~
- 7. Exposure to blood or other body fluids. If there is a blood spill or exposure to other body fluids while performing a barbering service, a licensee shall stop the service and:
  - a. If the blood spill or body fluid is on a patron, the licensee shall:
    - i. Put disposable gloves on both of the licensee’s hands;
    - ii. Use a disposable instrument to clean the wound with an antiseptic solution and dispose of the soiled instrument immediately;



- iii. Use a disposable instrument to apply powdered alum, styptic powder, or a cyanoacrylate to stop bleeding and dispose of the soiled instrument immediately;
- iv. Cover the wound with a sterile bandage; and
- v. Dispose of the gloves used;
- b. If the blood spill or body fluid results from an injury to the licensee, the licensee shall comply with subsections (A)(7)(a)(ii) through (iv) and cover the affected area with a clean, fluid-proof glove or finger cover;
- c. If the blood spill or body fluid contacts any surface area, the licensee shall disinfect the surface area with an EPA-registered disinfectant used according to the manufacturer's instructions; and
- d. If the blood spill or body fluid contacts any barbering instrument, the licensee shall disinfect the barbering instrument as specified in subsection (A)(2);
- 8. Patron protection. A licensee shall protect the health and safety of a patron by:
  - a. Washing the licensee's hands with liquid or powder soap and water before serving each patron;
  - b. Disinfecting the head rest of the barber or styling chair after each use or at least daily;
  - c. Placing a clean towel or paper sheet on the head rest of the barber or styling chair for each patron;
  - d. Using a clean neck strip with each patron to avoid having the patron contact a non-sanitized object;
  - e. Not performing a barbering service on a patron while the licensee has a contagious disease unless a medically-approved measure is used to prevent transmission of the disease; and
  - f. Not knowingly performing a barbering service on a patron who has a contagious disease;
- 9. Not use a styptic pencil or lump alum in barbering; Prohibited products. To protect the health and safety of a patron, a licensee shall not use any of the following products when performing barbering services:
  - a. Methyl Methacrylate liquid monomers;
  - b. Alum or other astringents in stick or lump form;
  - c. Fumigants such as formalin (formaldehyde) tablets or liquids;
  - d. Any product that penetrates the dermis layer of the skin; and
  - e. Any product that is banned or deemed to be poisonous or unsafe by any responsible federal, state, or local governmental entity.
- 10. Not reuse a neck strip, end paper, or depilatory wax on multiple patrons; Prohibited practices. To protect the health and safety of a patron, a licensee shall not engage in the following practices when performing barbering services:
  - a. Allow any animal except a service animal on the establishment premises. A covered aquarium that is maintained in a sanitary condition is allowed; or
  - b. Use a shaving brush and mug unless the shaving brush and mug are personally owned by the patron.
- 11. Use a neck strip to prevent a patron's neck from contacting a non-sanitized object; and
- 12. Store each neck duster not in use in a dry sanitizer.
- B. In addition to licensee requirements under subsection (A), the holder of a licensed license to operate a shop or school owner shall:
  - 1. Ensure that flooring within six feet of each workstation is comprised made of smooth, durable, and impervious material; and
  - 2. Maintain all furniture and fixtures of each facility establishment in a clean and orderly manner at all times;
  - 3. Provide at least one restroom located on or near the establishment premises; and
  - 4. Comply with all state, local, and federal requirements.

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

- A. Approval. For barbering purposes, the Board approves any disinfectant, sanitation, or sterilization product or method registered by the U.S. Environmental Protection Agency for use as:
  - 1. A virucide;
  - 2. A bactericide, or
  - 3. A fungicide.
- B. Usage guidelines. Unless a product manufacturer's instructions specify otherwise, a licensee shall disinfect barbering implements according to the following guidelines:
  - 1. Liquid sanitizing. A licensee shall use one or more of the following:

Solution type	Strength	Minimum immersion time
Quaternary Ammonium Compounds "Quats" liquid or dissolved tablet	1:1000	20 minutes
Formalin	25%	10 minutes
Formalin	10%	20 minutes
Alcohol*: Ethyl, Grain, or Isopropanol	70%	10 minutes



Sodium Hypochlorite	10%	10 minutes
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\* Note: for sharp cutting implement or electrode sanitization

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

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

- A. A license issued to operate a shop or school is not transferable to:
  - 1. A location other than the location specified on the license; or
  - 2. An owner other than the owner specified on the license.
- B. A change in the owner or location of a shop or school requires that the owner apply for a new license.
- C. Within At least 15 days after before a change in location or ownership of a shop or school, the owner of the re-located shop or school or the new owner shall submit the following to the Board:
  - 1. Written notification of the change;
  - 2. A completed application to operate a shop, as prescribed under R4-5-301, or school, operation application as prescribed under R4-5-401; and
  - 3. The applicable fee prescribed under R4-1-102(A)(3)(b), (A)(3)(c), (A)(5)(b), or (A)(5)(c).

**R4-5-107. Inspections**

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

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

- A. ~~Licensure and renewal. For purposes of The overall time-frame described in A.R.S. § 41-1073(E)(2) 41-1072(2), the Board shall issue or deny for all licenses and renewals issued by the Board under A.R.S. Title 32, Chapter 3, and this Chapter within seven days of receipt of an application except for an initial school license is specified in Table 1. An applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time-frames by no more than 25 percent of the overall time-frame.~~
- B. Initial school licensure. For purposes of A.R.S. Title 41, Chapter 6, Article 7.1, the Board shall issue an initial school license according to the following time frame:
  - 1. ~~The overall time frame for issuance of a license under this subsection is 60 days. The Board and an applicant may agree in writing to extend the substantive review time frame and the overall time frame.~~
  - 2. ~~The administrative completeness review time-frame described in A.R.S. §41-1072(1) for a license under this subsection is 15 days beginning the day issued by the Board is specified in Table 1 and begins on the date the Board receives a school license application.~~
    - 1. ~~If the application is incomplete, The the Board shall send the applicant a notice of administrative completeness or deficiencies within the administrative completeness time frame.~~
    - 2. ~~In a notice of deficiency, the Board shall list specifying each deficiency and items the information or documents required to complete the application. The administrative completeness review and overall time-frames are suspended until the Board receives the missing information or documents.~~
    - 3. ~~The Board shall suspend for a maximum of 30 days the administrative completeness time frame and the overall time-frame to provide the applicant time to submit the items specified in the notice of deficiency under subsection (B)(2)(b).~~



- d. ~~If the applicant fails to submit the deficient items within 30 days after the date of the notice of deficiency, the Board shall consider the application withdrawn.~~
- 2. ~~If the application is complete, the Board shall send the applicant a notice of administrative completeness.~~
- C. 3. ~~The substantive review time-frame described in A.R.S. § 41-1072(3) for a license under this subsection is 45 days beginning issued by the Board begins on the postmark date of a the notice of administrative completeness sent under subsection (B)(2)(a).~~
  - 1. ~~a. As part of the substantive review for a an initial shop or school license under this subsection, the Board shall inspect the applicant’s premises according to the procedure prescribed under R4-5-107.~~
    - b. ~~The Board shall send a license or a written notice of denial to an applicant within the substantive review time-frame.~~
  - 2. e. ~~During the substantive review time-frame, the Board may send a single comprehensive written notice of request for additional information that includes a written statement of the additional information needed for the Board to make a decision. The substantive review and overall time-frames are suspended from the postmark date of the comprehensive written request for additional information until the Board receives the additional information. The Board and the applicant may agree in writing to allow the Board to submit additional supplemental requests for information.~~
    - d. ~~An applicant shall submit all required information within 15 days after the date of a notice of request for additional information sent under subsection (B)(3)(e).~~
    - e. ~~The Board may suspend the substantive review time-frame if the Board and applicant agree in writing to a specified amount of time necessary for the applicant to return all information required under subsection (B)(3)(e) to the Board. The Board shall not grant a substantive time-frame extension that exceeds the amount of time allowed under A.R.S. § 41-1075(B).~~
- D. f. ~~The Board shall close the file of an applicant if the applicant fails to submit all required information to the Board within: the time specified in Table 1. If a person whose file is closed wishes to be considered further for licensure, the person shall submit another application and fee.~~
  - i. ~~The number of days specified under subsection (B)(3)(d); or~~
  - ii. ~~The amount of time specified by written agreement under subsection (B)(3)(e) if applicable.~~
  - g. ~~If the Board denies a license under this subsection, the Board shall send a written denial notice to the applicant that specifies each reason for denial.~~
- E. ~~Within the overall time-frame specified in Table 1, the Board shall:~~
  - 1. ~~Grant a license to a person that meets all requirements in A.R.S. Title 32, Chapter 3 and this Chapter; or~~
  - 2. ~~Deny a license to a person that fails to meet all requirements in A.R.S. Title 32, Chapter 3 and this Chapter. The Board shall include in the notice of denial the reason for the denial and information regarding the right to~~
  - 4. ~~A person denied a school license under this Section may immediately reapply according to the provisions of R4-5-401 and may appeal the denial under A.R.S. Title 41, Chapter 6, Article 10.~~

**Table 1. Time-frames (in days)**

License	Authority	Overall Time-frame	Administrative Time-frame	Time to Respond	Substantive Time-frame	Time to Respond
Barber	A.R.S. §§ 32-322; 32-327	28	21	90	7	30
Instructor	A.R.S. §§ 32-323; 32-327	28	21	90	7	30
School	A.R.S. §§ 32-325; 32-327	90	30	30	60	60
Shop	A.R.S. §§ 32-326; 32-327	90	30	30	60	60

**R4-5-204-R4-5-109. License Renewal**

- A. ~~A licensee shall~~ To renew a any license issued under this Chapter, a licensee shall submit to the Board:
  - 1. ~~The application for renewal form attached to the license issued by the Board;~~
  - 2. ~~by submitting the The renewal fee for the applicable license type as prescribed under R1-4-102(A)(1)(d), (A)(2)(c), (A)(3)(d), or (A)(5)(d) to the Board:~~
    - 1. ~~a. No earlier than 30 days before the expiration date; and~~
    - 2. ~~b. No later than midnight on the expiration date; and~~
  - 3. ~~If the documentation submitted under R4-5-202(D)(3), R4-5-203(C)(4), R4-5-301(B)(2)(a)(v), or R4-5-401(C)(4)(a)(iii) was a limited form of work authorization issued by the federal government, evidence that the work authorization has not expired.~~
- B. ~~The As provided under A.R.S. § 32-355, a licensee shall pay the fee according to R4-1-103 that fails to renew a license timely shall immediately cease providing the services authorized by the license.~~
- C. ~~An expired license issued under this Chapter may be renewed within five years after the date of expiration by complying with subsection (A) and paying the late-renewal fee prescribed under R4-5-102.~~

**ARTICLE 2. EXAMINATION; AND PRACTITIONER LICENSING BARBER AND INSTRUCTOR LICENSE APPLICATION**



**R4-5-201. Examinations**

**A. Required examinations.**

- 1. Except for an applicant for licensure by reciprocity, an applicant for:
  - a. A barber license shall pass an examination covering the topics listed in A.R.S. § 32-324(C); and
  - b. An instructor license shall pass the examination described in A.R.S. § 32-324(D);
- 2. As authorized under A.R.S. § 32-322(A)(2) and A.R.S. § 32-323(A)(2), the Board shall ensure that applicants for licensure by reciprocity possess necessary qualifications by requiring:
  - a. All applicants for licensure by reciprocity to pass an examination regarding A.R.S. Title 32, Chapter 3 and this Chapter; and
  - b. Applicants for licensure by reciprocity as an instructor to pass an examination regarding procedures the Board uses to measure the practical skills of barbering students.

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

- 1. The Board shall send an applicant written notification of an assigned examination time and location to an applicant for a license under A.R.S. Title 32, Chapter 3, and this Chapter at least seven days before a scheduled examination.
- 2. Examination language provision. The Board shall:
  - a. Administer an examination under this Section in the English language; and
  - b. Allow an applicant for a barber license to provide a reader or personal foreign language interpreter that who shall not be:
    - i. A currently or previously licensed barber or cosmetologist,
    - ii. A barber or cosmetology instructor, or
    - iii. A barber or cosmetology student in any state of the U.S. or foreign country.
- 3. Examination integrity provision. The Board shall not:
  - a. Provide advance disclosure of Disclose examination questions; or
  - b. Return a completed examination or other examination records kept by the Board to a school or applicant.
- 4. The Board shall dismiss an applicant from an examination under penalty of examination fee forfeiture if the applicant:
  - a. Cheats, or
  - b. Solicits any information from another person except the examiner.
- 5. The Board shall require re-examination if an applicant fails to apply for a license within one year after successfully completing passing an examination.
- 6. For purposes of an examination’s practical portion, an applicant for a barber license shall supply:
  - a. All necessary barbering implements and supplies; and
  - b. Any necessary A live model who shall not be:
    - i. A currently or previously licensed barber or cosmetologist,
    - ii. A barber or cosmetology instructor, or
    - iii. A barber or cosmetology student in any state of the U.S. or foreign country.
- 7. If an applicant fails to pass a portion of an examination, the Board shall allow the applicant to review meet with Board staff and participate in a general discussion of the failed portion of the examination if the applicant submits a written review request notice to the Board within 30 days after the examination.

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

**A. ~~On a form provided by the Board, an initial barber license applicant shall submit the following:~~ An applicant for licensure as a barber shall attach the following to the application attachments required under subsections (B) or (C):**

- 1. Full name; Proof that the applicant is at least 16 years old;
- 2. Full address; Proof that the applicant has at least two years of high school education or its equivalent. Acceptable proof includes an official transcript from the high school attended or a copy of a high school diploma or GED;
- 3. Telephone number; Documentation specified under A.R.S. § 41-1080(A) that the applicant’s presence in the U.S. is authorized under federal law;
- 4. Social Security number; A photograph, as prescribed under A.R.S. § 32-322(A)(3), that is suitable for use on an identification card and:
  - a. Of the applicant only;
  - b. U.S. passport sized; and
  - c. Signed by the applicant across the front without blocking the face;
- 5. Birth date; If currently licensed as a barber in another state with which Arizona does not have a reciprocity agreement, a copy of the license; and
- 6. Name and location of high school attended; The applicable fee specified in R4-5-102(A)(1).
- 7. Highest school grade completed;
- 8. Alternate school enrollment name if different from that provided under subsection (A)(1);
- 9. Dates of high school attendance;
- 10. Proof of an earned GED, if applicable;



11. A statement and explanation if the applicant has had a barber license suspended or revoked in the five-year period before the application date;
  12. A statement of any current reciprocal license in another state and state name;
  13. Any other information required by the Board; and
  14. The applicant's verification that the information contained on the application is correct and complete, and the applicant's notarized signature.
- B.** In addition to the requirements under subsections (A), (D)(1), and (D)(2), the Board shall require the following information on a special application form if an applicant applies for licensure by examination License by examination. In addition to the requirements under subsection (A), an applicant for licensure by examination shall submit an application form, which is available from the Board, and provide the following information:
1. A statement whether the applicant was ever previously a licensed barber in Arizona Full name;
  2. A statement whether the applicant was ever licensed as a barber or apprentice in another state or country and the state or country, if applicable Other names, if any, by which the applicant has been known;
  3. The date of first barber or apprentice license Full address;
  4. The name and location of barber school attended Telephone number;
  5. Total number of earned credit hours Social Security number;
  6. Attendance dates Date and place of birth;
  7. Proof that the applicant graduated from barber school Unless currently licensed in another state with which Arizona does not have a reciprocity agreement, name and location of barber school attended; and
  8. The applicant's verification that the information contained on the special application is correct and complete, and the applicant's notarized signature. Unless currently licensed in another state with which Arizona does not have a reciprocity agreement, the number of certified hours obtained from a barber school;
  9. A statement whether the applicant has ever been licensed as a barber in Arizona and if so, when;
  10. A statement whether the applicant has ever been licensed in another state or country as a barber or apprentice barber and if so, when and where;
  11. A statement whether the applicant has had a barber license suspended or revoked in the five years before the date of application and if so, a complete explanation of the circumstances;
  12. Any other information required by the Board; and
  13. The applicant's notarized signature and verification that the information provided is correct and complete.
- C.** In addition to the requirements under subsections (A), (D)(1), and (D)(2), an applicant for a barber license by reciprocity shall submit to the Board the following documentation License by reciprocity. In addition to the requirements under subsections (A) and (B)(1) through (6) and (9) through (13), an applicant for licensure by reciprocity shall submit the following:
1. Proof the applicant is at least 16 years old A copy of a current barber license issued by a state with which Arizona has a reciprocity agreement; and
  2. Proof of a minimum tenth grade education in one of the following forms: Documentation of at least one year of barbering work experience. The documentation shall contain the notarized signature of the barber where the work was performed.
    - a. A copy of a high school diploma;
    - b. A high school transcript or letter that verifies the minimum education requirement under this subsection;
    - e. Military discharge documentation that verifies the minimum education requirement under this subsection; or
    - d. A GED grade report indicating an overall passing grade as prescribed under R4-5-101 for two years of high school education or its equivalent;
  3. A copy of a current barber license from a state that has a reciprocity agreement with Arizona; and
  4. Documentation of at least one year of barbering work experience, notarized by the barber where the work was performed.
- D.** The Board shall require any applicant under this Section to submit the following application attachments:
1. A photograph as prescribed under A.R.S. § 32-322(A)(3) that is:
    - a. A professionally produced photograph of the applicant only;
    - b. U.S. passport sized; and
    - e. Signed by the applicant across the front, but without blocking the face;
  2. The applicable fee in cash or by certified instrument for the type of license for which application is made.

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

- A.** An applicant for licensure as an instructor shall attach the following to the application required under subsections (B) and (C):
1. Proof that the applicant is at least 19 years old;
  2. Proof that the applicant has a high school diploma or its equivalent;
  3. Proof that the applicant has practiced barbering for at least two years. The proof shall contain the notarized signature of the barber or barbers where the work was performed;
  4. Documentation specified under A.R.S. § 41-1080(A) that the applicant's presence in the U.S. is authorized under federal law;



- 5. A photograph that is suitable for use on an identification card and:
  - a. Of the applicant only;
  - b. U.S. passport sized; and
  - c. Signed by the applicant across the front without blocking the face;
- 6. If currently licensed as a barber instructor in another state with which Arizona does not have a reciprocity agreement, a copy of the license; and
- 7. The applicable fee specified in R4-5-102(A)(2).
- B. On a form provided by the Board, an applicant for a barbering instructor license License by examination. In addition to the requirements under subsection (A), an applicant for licensure by examination shall submit an application form, which is available from the Board, and provide the following information:
  - 1. Full name;
  - 2. Other names, if any, by which the applicant has been known;
  - ~~2-3.~~ Full address;
  - ~~3-4.~~ Telephone number;
  - 5. Social Security number;
  - ~~4-6.~~ Birth date;
  - ~~5-7.~~ Current Arizona barber license number;
  - ~~6-8.~~ If the applicant attended school for training as a barber instructor:
    - a. Name and address of barbering school attended for instructor training;
    - ~~7-~~b. Total hours of instructor training; and
    - ~~8-~~c. Attendance dates Dates during which instructor training was obtained;
  - 9. An indication A statement regarding whether the applicant:
    - a. Completed more than one instructor examination in Arizona before the current application Has ever been licensed as a barber instructor in Arizona and if so, when;
    - b. Has ever been a licensed barber instructor in any other country or state of the U.S. and if so, the country or state and dates of licensure as a barber instructor; and
    - c. Had Has had a former instructor license suspended or revoked in the five years before the date of application and if so, a complete explanation of the circumstances;
  - ~~10.~~ Name and location of high school attended;
  - ~~11.~~ Highest school grade completed;
  - ~~12.~~ Alternate school enrollment name if different from that provided under subsection (A)(1);
  - ~~13.~~ Dates of high school attendance;
  - ~~14.~~ Proof of an earned GED, if applicable;
  - ~~15-~~10. Any other information required by the Board; and
  - ~~16-~~11. The applicant's verification notarized signature verifying that the information contained on the license application provided is correct and complete, and the applicant's notarized signature.
- ~~B-C.~~ An applicant shall submit the instructor license fee in cash or by certified instrument with the completed application. License by reciprocity. In addition to the requirements under subsections (A) and (B)(1) through (6) and (9) through (11), an applicant for an instructor license by reciprocity shall submit the following:
  - 1. A copy of the current license to instruct barber students issued by a state that has a reciprocity agreement with Arizona; and
  - 2. Documentation of at least one year's experience as a licensed instructor of barber students. The documentation shall contain the notarized signature of the owner of the barber school at which instruction was provided.

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

**ARTICLE 3. SHOPS**

**R4-5-301. Shop License Application for a License to Operate a Shop**

- A. Application time frame. An applicant To apply for a license to operate a shop, a person shall submit to the Board the items under subsections (B) and (C) no fewer than seven business days before the opening date of the applicant's shop. A person that intends to operate more than one shop shall apply for and be issued a separate license to operate each shop. A person shall not operate a shop before a license is issued.
- B. On a form provided by available from the Board, a shop license an applicant for a license to operate a shop shall submit provide the following information:
  - 1. Indicate the applicant's requested licensing action:
    - a. A license to operate a new shop;
    - b. A change of location of an operating shop including the following information:
      - i. The Board file number, and
      - ii. Both the old and new addresses of the shop; or
    - c. A change of ownership of an operating shop including the following information:
      - i. Former owner's name;
      - ii. Former shop name, if the shop name is changed;



- iii. Board file number; and
      - iv. A copy of the shop's bill of sale or the signature of the former owner on the application;
  - 1-2. Ownership information:
    - a. ~~Name and Social Security number of~~ If the owner is an individual or partnership:
      - i. Name;
      - ii. Address;
      - iii. Telephone number;
      - iv. Social Security number of the individual or each partner owning at least 10 percent of the partnership; and
      - v. Documentation specified under A.R.S. § 41-1080(A) that the presence in the U.S. of the individual or each partner owning at least 10 percent of the partnership is authorized under federal law; or
    - b. Partnership If the owner is a corporation:
      - i. ~~or corporate~~ Corporate name;
      - ii. ~~names~~ Names of the all individuals comprising owning at least 10 percent of the partnership or corporation; and
      - iii. ~~the tax~~ Tax identification number of the partnership or corporation;
      - iv. Name and telephone number of a contact person;
      - v. Name and address of the statutory agent, if required by law;
      - vi. Address of the corporation; and
      - vii. Telephone number of the corporation;
  - 2-3. Shop information:
    - a. Shop name;
    - b. Full physical address of the shop;
    - c. Telephone number; and
    - d. A map of approximate shop location indicating the names of major cross streets; and;
    - e. ~~Any applicable corporate information that includes:~~
      - i. ~~Corporate name if different from subsection (B)(2)(a);~~
      - ii. ~~Name of contact person;~~
      - iii. ~~Address of corporate headquarters; and~~
      - iv. ~~Telephone number;~~
  - 3-4. If known at the time of application, the name and Arizona license number of the barber who will manage directly supervise the shop on behalf of the licensed owner license holder;
  - 4-5. A projected date for the Board's initial inspection shop to open;
  - 5. Indicate the applicant's requested licensing action:
    - a. A new shop license;
    - b. A shop relocation; or
    - e. A change of ownership including the following information:
      - i. Former owner's name;
      - ii. Former shop name;
      - iii. Board file number; and
      - iv. A copy of the shop's bill of sale or the signature of the former owner on the application;
  - 6. A listing list of equipment in the applicant's shop including the total number of the following:
    - a. Barber or styling chairs;
    - b. Sinks with hot and cold running water;
    - c. Dry sanitizers Tool drawers;
    - d. Liquid sanitizers;
    - e. Workstations;
    - e-f. Soiled-towel receptacles; and
    - f-g. Garbage and hair receptacles;
  - 7. A description of the shop's floor covering;
  - 8. An indication of whether the applicant's shop is a license to operate the shop has been or will be licensed by obtained from the Board of Cosmetology;
  - 9. Any other information required by the Board; and
  - 10. The applicant's verification that the information contained on the application is correct and complete, and the applicant's notarized signature.
- C. Fee. In addition to a the completed shop application form required under subsection (B), an applicant shall submit to the Board in cash or by certified instrument the appropriate fee specified in R4-5-102(A)(3) for the licensing action requested under subsection (B)(1).

**R4-5-302. ~~Shop Premises and Basic Equipment Required in a Shop~~**

- A. The holder of a license to operate a shop owner shall ensure that each the shop has at least the following equipment:**
- 1. A barber or styling chair;



- ~~1-2.~~ A One sink, ~~that~~ which has hot and cold running water, for every two barber or styling chairs and located no more than six feet from the barber or styling chairs;
- ~~2-3.~~ Soap Liquid or powder soap and ~~clean~~ paper towels for use at each sink; and
- ~~3-4.~~ A separate, covered, receptacle for each of the following:
  - a. Garbage and hair, and
  - b. Reusable towels or cloths that are soiled;
- 5. One tool drawer and one liquid sanitizer for each barber or styling chair and the necessary EPA-registered disinfectants for each;
- 6. One wall mirror located near each barber or styling chair;
- 7. One workstation for each barber or styling chair; and
- 8. Cabinet in which to store additional supplies.

**B.** Subsection (A)(2) applies only to shops licensed under R4-5-301 after the effective date of this Section.

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

**A.** The holder of a license to operate a shop shall designate a barber licensed under this Chapter to directly supervise the shop during all hours of operation.

~~**A-B.** A shop owner license holder or supervising barber licensed under this Chapter shall ensure that:~~

- ~~1. Each Every individual, whether an employee, or independent contractor, or supervisor that who practices barbering in the shop has a current license ~~that meets the requirements of~~ issued under A.R.S. § 32-322 and R4-5-202;~~
- ~~2. Each required license and the most recent Board inspector’s record are displayed according to A.R.S. § 32-351(A); and~~
- ~~3. Each licensee complies with any all applicable provision provisions of A.R.S. Title 32, Chapter 3, and this Chapter.~~

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

~~**C-D.** A The holder of a license to operate a shop ~~owner~~ who is a an Arizona-licensed barber may directly supervise a the shop.~~

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

**A.** To operate a mobile unit as a shop, the owner of the mobile unit shall make application for a license under R4-5-301.

**B.** The Board shall ~~issue a~~ license to operate a mobile unit as a shop only if:

- 1. The mobile unit is self-contained;
- 2. The mobile unit meets all requirements for a shop specified under A.R.S. Title 32, Chapter 3, and this Chapter; and
- 3. The owner of the mobile unit’s owner unit agrees to provide the Board with ~~15-day~~ written or oral ~~advance~~ notice at least 15 days before of the unit’s proposed mobile unit is placed in a location or moved to a ~~change in~~ new location.

**R4-5-305. Display of Barber Pole**

**A.** Under A.R.S. § 32-355(A)(4), it is unlawful to display a sign or advertise as being engaged in the practice or business of barbering without being licensed under A.R.S. Title 32, Chapter 3, and this Chapter.

**B.** The Board has trademarked through the Office of the Secretary of State the barber pole as a sign of the barbering business.

**C.** A business shall not display a barber pole unless a barber licensed under A.R.S. Title 32, Chapter 3, and this Chapter is available to provide barbering services during the business hours that the barber pole is displayed.

**ARTICLE 4. SCHOOLS**

**R4-5-401. Barber School Application for a License to Operate a School**

**A.** Before submitting an application under this Section, an applicant for a license to operate a school may request that Board staff review the proposed application and perform a courtesy inspection of the proposed school location.

**B.** The owner of a barber school that operates in more than one location, except at an offsite training facility, shall apply for and obtain a separate license to operate the barber school at each location.

~~**A-C.** Application form.~~ On a form ~~provided by~~ available from the Board an applicant for a license to operate a barber school shall ~~submit~~ provide the following information:

- 1. Indicate the applicant’s requested licensing action:
  - a. A license to operate a new school;
  - b. A change of location of an operating school including the following information:
    - i. The Board file number, and
    - ii. Both the old and new addresses of the school; or
  - c. A change of ownership of an operating school including the following information:
    - i. Former owner’s name;
    - ii. Former school name, if the school name is changed;
    - iii. Board file number; and
    - iv. A copy of the school’s bill of sale or the signature of the former owner on the application;
- 2. School information:
  - 1. a. School name;
  - 2. b. Physical location address of the school; and



3. c. Telephone number;
4. 3. Applicant information:
- Name,
  - Address, and
  - Telephone number;
5. 4. Owner information. ~~If the school owner is other than the person specified under (A)(4), the applicant shall supply the following owner information:~~
- ~~Owner name. If the owner is an individual or partnership:~~
    - Name of the individual and all partners owning at least 10 percent of the partnership.
    - Social Security number of the individual and all partners owning at least 10 percent of the partnership, and
    - Documentation specified under A.R.S. § 41-1080(A) that the presence in the U.S. of the individual and all partners owning at least 10 percent of the partnership is authorized under federal law, or
  - ~~Home address, and If the owner is a corporation:~~
    - Corporate name;
    - Names of all individuals owning at least 10 percent of the corporation;
    - Tax identification number of the corporation;
    - Name and telephone number of a contact person;
    - Name and address of the statutory agent, if required by law;
    - Address of corporation; and
    - Telephone number of corporation;
  - ~~Telephone number;~~
6. 5. School ~~manager~~ supervisor information:
- Name, and
  - ~~Applicable barber or instructor~~ Arizona instructor license number;
7. ~~An indication of whether the school is or will be licensed by the Board of Cosmetology;~~
8. ~~An indication of the requested licensing action:~~
- ~~A new school license;~~
  - ~~A school move, or~~
  - ~~A change of ownership;~~
9. ~~If the applicant indicates a school move under subsection (A)(8)(b):~~
- ~~The Board file number, and~~
  - ~~The school's new address;~~
10. ~~If the applicant indicates a change of ownership under subsection (A)(8)(c):~~
- ~~The Board file number;~~
  - ~~The school's former name if applicable, and~~
  - ~~A copy of the bill of sale or the signature of the former owner on the application;~~
11. 6. ~~A listing list~~ of equipment in the applicant's school including the total number of the following:
- Barber chairs,
  - Sinks,
  - ~~Dry sanitizers~~ Tool drawers,
  - Liquid sanitizers,
  - Latherizers,
  - Soiled-towel receptacles,
  - Garbage and hair receptacles,
  - Workstations, and
  - ~~Student lockers;~~
12. 7. ~~A description of the establishment's floor covering in the area in which students practice barbering skills;~~
8. Number and square footage of classrooms;
9. Number of students to be admitted;
10. Number of licensed instructors;
11. Hours during which instruction will be provided;
13. 12. ~~A projected ready~~ date for the Board's initial inspection;
14. 13. ~~Any other information required by the Board; and~~
15. 14. ~~The applicant's verification, under oath,~~ that the information contained on the application is correct and complete, and the applicant's notarized signature.
- D.** An applicant for a license to operate a school shall attach the following to the application required under subsection (C):
- A current school catalog.
  - A list of all courses offered at the school and the number of instructional hours devoted to each course, and
- B.** 3. ~~Bond. An applicant for a license to operate a school shall attach to the completed application a~~ A copy of the bond in the amount required under A.R.S. § 32-325(C)(6).
- C.** E. ~~Fee. In addition to a~~ the completed barber school application form required under subsections (C) and (D), an applicant



shall submit to the Board in cash or by certified instrument the appropriate fee specified under R4-5-102(A)(5) for the applicant's indicated licensing action requested under subsection (C)(1).

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

~~A~~ The holder of a license to operate a school ~~owner~~ shall send written ~~notification~~ notice and updated information to the Board within 15 days if the ~~school owner~~ license holder:

1. Amends the school catalog,
2. ~~Offers a new curriculum~~ Stops offering a course,
3. Offers a new course,
4. Changes the number of instructional hours devoted to a course listed under R4-5-401(D).
- ~~4.5~~ Changes the school operating schedule hours during which instruction is provided,
- ~~5-6~~ Changes the school name,
- ~~6-7~~ Changes the school ~~manager~~ supervisor,
7. ~~Opens an additional location,~~ or
8. Establishes an offsite training facility in a shop under the provisions of R4-5-411.

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

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

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

A. In addition to the requirements of A.R.S. § 32-325(C)(2) and (C)(3), the holder of a license to operate a school ~~owner~~ shall ensure that the school has at least the following ~~at a minimum~~:

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

B. ~~A~~ The holder of a license to operate a school ~~owner~~ shall ensure that each student workstation has at least the following:

- ~~1. A barber chair;~~
- ~~1-2. A wall mirror located behind the barber chair;~~
- ~~2-3. A work stand tool drawer that meets the standard in R4-5-101; and~~
- ~~3-4. A chair for the patron~~ One liquid sanitizer and one spray disinfectant.

C. ~~A~~ The holder of a license to operate a school ~~owner~~ shall ensure that each student at a workstation has access to the following:

1. A covered receptacle for soiled towels and cloths;
2. A covered receptacle for garbage and hair; and
3. A sufficient supply of ~~tonics, lotions, shampoos, and chemical preparations used to process hair~~ barbering products listed under R4-5-104(A)(3).

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

A. ~~A~~ The holder of a license to operate a school ~~owner~~ shall file the school's operating schedule with the Board before the first scheduled class begins.

B. ~~A~~ The holder of a license to operate a school ~~owner~~ shall ensure that ~~any item~~ all equipment provided under this Chapter is of ~~shop~~ sufficient quality to meet the educational needs of students and maintained in good repair.

C. Unless a student who is studying barbering possesses ~~items~~ the equipment listed under this subsection at the time of enrollment, ~~a~~ the holder of a license to operate a school ~~owner~~ shall provide ~~each~~ the student with a non-returnable training kit that includes the following equipment, all of which are new:

1. Course textbooks,
2. One mannequin for barbering practice,



- 3. Twelve combs and ~~six~~ four brushes ~~without defects,~~
  - 4. One hair dryer,
  - 5. One straight razor with interchangeable blades,
  - 6. One pair of haircutting shears with at least six-inch blades,
  - 7. One pair of thinning shears,
  - 8. One clipper with interchangeable blades sizes 1 and .000 or an adjustable clipper, ~~and~~
  - 9. One neck duster, ~~and~~
  - 10. One copy of the current statutes and rules governing the Board.
- D. ~~Trainee age and education requirement~~ notices. At the time a the holder of a license to operate a school owner enrolls a student, the ~~school owner~~ license holder shall give Exhibit 1 or 2 to the student, as appropriate, and maintain the completed document for ~~five years~~ the time specified in R4-5-408(H).
- E. An instructor trainee shall not teach students until the instructor trainee has received 40 instructional hours of training in methods of teaching. An instructor trainee shall complete all training in no more than six months.
- F. ~~A person~~ An individual who is not a an Arizona-licensed instructor shall not teach in a school but may demonstrate any process, product, or appliance to students when the ~~person~~ individual is under the supervision of a an Arizona-licensed instructor.
- G. Within five days after enrolling a student, a the holder of a license to operate a school owner shall send the following to the Board:
- 1. A copy of the student’s written application to attend the school ~~that contains~~ containing the following:
    - a. The student’s name and address,
    - b. The student’s enrollment date,
    - c. ~~Indicate~~ An indication regarding whether the student is enrolled in a barber or instructor course, and
    - d. The student’s signature, and
  - 2. Two ~~passport-size~~ photographs of the student that meet the standards specified in R4-5-202(A)(4).
- H. Within 90 days after enrolling a student, the holder of a license to operate a school shall send the following to the Board:
- 1. Proof that the student is at least 16 years old if enrolled in a barber course or at least 19 years old if enrolled in an instructor course;
  - 2. Proof that the student has at least a tenth-grade education if enrolled in a barber course or graduated from high school or its equivalent if enrolled in an instructor course; and
  - 3. Documentation specified under A.R.S. § 41-1080(A) that the student’s presence in the U.S. is authorized under federal law.
- H.I. ~~Upon receipt of enrollment information under subsection (G), the~~ The Board shall use the information provided under subsection (G) to prepare and issue an educational card to a student. ~~The student~~ holder of a license to operate a school shall ensure that a student:
- 1. ~~Display~~ Displays the card at the student workstation, and
  - 2. ~~Return~~ Returns the card to the Board upon completion of the course or ~~upon~~ withdrawal from the course ~~for any reason.~~

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

NOTICE

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

You have applied to this school for training that will qualify you to apply for a license to be a barber in Arizona. The Arizona State Board of Barbers will not issue you a license unless: ~~you~~

- 1. ~~You~~ You are at least 16 years of age when you apply for the license, ~~and you can~~
- 2. ~~You~~ You demonstrate to the Board ~~of Barbers~~ that you have completed and received appropriate credits for at least two years of high school education or its equivalent, ~~and~~
- 3. ~~You~~ You document that your presence in the U.S. is authorized under federal law.

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

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

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

~~(signature date)~~

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

NOTICE



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

You have applied to this school for training that will qualify you to apply for a license to be a barber instructor in Arizona. The Arizona State Board of Barbers will not issue you a license unless:

1. You are at least 19 years of age when you apply for the license, and you can
2. You demonstrate to the Board of Barbers that you hold a high school diploma or its equivalent; and
3. You document that your presence in the U.S. is authorized under federal law.

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

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

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

~~(signature date)~~

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

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

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

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

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

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



- b. Each ~~licensed~~ instructor providing classroom or practical instruction during the month;
- 3. A list of all students currently enrolled and:
  - a. A list of total ~~instructional~~ hours earned by each student during the ~~reporting period~~ month;
  - ~~4. b.~~ A list of each student's cumulative ~~instructional~~ hours; and
  - c. A copy of the student-signed reports required under subsection (C)(4) and prepared during the month;
- ~~5-4.~~ The name of any student who, during the ~~applicable reporting period~~ month:
  - a. ~~Transfers~~ Transferred to another school,
  - b. ~~Withdraws~~ Withdrew, or
  - c. ~~Takes~~ Took a leave-of-absence;
- 6. A copy of the documents signed by a student under R4-5-408(B)(4) during the reporting period; and
- ~~7-5.~~ The signature of the holder of the license to operate the school owner or the owner's license holder's representative verifying that all information ~~provided~~ is correct and complete.
- E.** If a student transfers from one school to another, the holder of the license to operate the school from which the student transferred shall:
  - 1. Make final entries to ensure the student's transcript is complete and accurate, and
  - 2. Forward a copy of the student's transcript to the student and Board within three days after the student provides notice of transfer.
- G.** When a student graduates or withdraws from a school, the holder of the license to operate the school shall:
  - 1. Complete a Student's Completion of Hours or Withdrawal form;
  - 2. Certify the number of hours completed by the student;
  - 3. Have the form notarized; and
  - 4. Forward a copy of the form to the graduating or withdrawing student and the Board.
- H.** The holder of a license to operate a school shall maintain the student record file required under subsection (D) permanently unless required under R4-5-409(E) to forward the records to the Board.

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

- A.** The Board shall consider a school closed if the school fails to provide instruction for a ~~five~~ consecutive ~~five-day period~~ school days to provide instruction in accordance ~~that does not comply~~ with the operating schedule on file with the Board.
- B.** Closure notification. A ~~The holder of the license to operate a school owner that is closing~~ shall deliver written or oral ~~notification~~ notice of a ~~the~~ school's closure to each ~~currently enrolled~~ student and the Board:
  - 1. Ten days ~~in advance of~~ before closure in a case when the owner anticipates if the license holder can reasonably ~~anticipate~~ the school closure, or
  - 2. Within five days after closure if the school's closure ~~was~~ could not be reasonably anticipated by the ~~owner~~ license holder.
- C.** The holder of the license to operate a school that is closing shall ensure that the notice provided to currently enrolled students under subsection (B) includes the following information:
  - 1. When a full refund of paid tuition will be provided to the student.
  - 2. How to make a claim against the bond required under A.R.S. § 32-325(C)(6) and R4-5-401(D)(3).
  - 3. How to obtain a copy of the student's transcript and certification of hours completed.
  - 4. How to obtain possession of the training kit provided under R4-5-405(C) and other personal possessions, and
  - 5. How to access the student's records in the future.
- D.** The holder of the license to operate a school that is closing shall obtain a signed statement from each currently enrolled student verifying that the license holder complied with subsection (C).
- ~~C-E.~~** Disposition of student records. ~~A~~ The holder of the license to operate a school owner that is closing shall:
  - 1. Ensure that all student records are updated as required under R4-5-408(C) through the last day on which instruction was provided;
  - 2. ~~forward~~ Forward all records for each ~~student~~ currently enrolled students to the Board within 10 days after the school ~~closure~~ closes; and
  - 3. Forward to the Board a copy of all the signed statements required under subsection (D).

#### **R4-5-410. Multiple Location Schools Repealed**

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

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

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

- A.** ~~A~~ The holder of a license to operate a school owner may operate an offsite training facility in a shop that complies with the provisions of A.R.S. § 32-325(C) and R4-5-404(A)(11), R4-5-405(B), (E), and (F), and R4-5-406(B), (C), (D), (G), and (H).
- B.** In addition to subsection (A), a ~~school owner~~ license holder operating an offsite training facility shall comply with the following:
  - 1. R4-5-404(A)(1), (3), (6), (7), (8), and (9) if training only practical instruction is provided at the facility ~~is practical only~~; or



- 2. Requirements of subsection (B)(1) and R4-5-404(A)(2) and (A)(5) if ~~training~~ classroom instruction is provided at the facility ~~includes classroom study~~.
- C. In addition to the requirements of ~~subsection (A)~~ subsections (A) and (B), a school owner license holder operating an offsite training facility shall:
  - 1. Clearly indicate to the public the specific portion of the shop designated as an offsite training facility,
  - 2. Post a sign indicating that barbering services at the offsite training facility are provided by students,
  - 3. Require a student to ~~orally~~ give oral notice of status as a student to each patron, and
  - 4. Restrict student barbering ~~only~~ to the portion of the shop designated as an offsite training facility.

ARTICLE 5. HEARINGS

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

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

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

- A. The Board shall provide for a rehearing and review of a decision under A.R.S. Title 41, Chapter 6, Article ~~4~~10.
- B. ~~A~~ Except as provided in subsection (I), a party ~~shall~~ is required to file a motion for rehearing or review of a Board decision ~~of the Board~~ to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  - 1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
  - 2. Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
  - 3. Accident or surprise that could not have been prevented by ordinary prudence;
  - 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  - 5. Excessive penalty;
  - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
  - 7. ~~That the~~ The Board's decision is a result of passion or prejudice; or
  - 8. ~~That the~~ The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F. If a motion for rehearing or review is based upon an affidavit, the affidavit shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, ~~for good cause as described in subsection (I) if the parties agree.~~
- G. Not later than 30 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I. ~~The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and:~~
  - 1. ~~A ruling on the motion will further administrative convenience, expedition, or economy; or~~
  - 2. ~~A ruling on the motion will avoid undue prejudice to any party. If the Board makes a specific finding that a particular administrative decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final administrative decision without an opportunity for rehearing or review.~~





- 8. **A showing of good cause why the rulemaking 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. **A summary of the economic, small business, and consumer impact:**  
The Commission’s intent in proposing the amendments indicated in item #5 is to benefit the regulated community, members of the public, and the Department by allowing the Department to accept a benefits letter issued by the DVA or an eBenefits letter downloaded from the DVA website as proof of eligibility and allowing applicants to attest that application information is true and correct, instead of requiring a notarized signature. The Commission anticipates the rulemaking will result in an overall benefit to the regulated community, members of the public, and the Department. Expanding the types of documents that can be used to verify an applicant’s disability rating will greatly reduce the amount of time taken to verify the applicant’s disability rating as well as the administrative burden the Department takes on when mailing the form to DVA on behalf of the applicant. Replacing the notarization requirement with an attestation statement will reduce costs incurred by the veteran when having their signature notarized. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions, or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.
- 10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**  
Minor grammatical and style corrections were made at the request of the Governor’s Regulatory Review Council staff.
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**  
The Department did not receive any public or stakeholder comments in response to the proposed rulemaking.
- 12. **All agency’s shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
  - a. **Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:**  
R12-4-202 requires a general permit and is in compliance with the requirements prescribed under A.R.S. § 41-1037.
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**  
The subject matters covered in the rulemaking are governed by state law rather than any corresponding federal law.
  - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
The agency has not received an analysis that compares the rule’s impact of competitiveness of business in this state to the impact on business in other states.
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
Not applicable
- 14. **Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**  
The rule was not previously made, amended, or repealed as an emergency rule.
- 15. **The full text of the rules follows:**

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

Section  
R12-4-202. Disabled Veteran's License



## ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

**R12-4-202. Disabled Veteran's License**

- A.** A disabled veteran's license grants all of the hunting and fishing privileges of a combination hunting and fishing license. The disabled veteran's license is only available at a Department office.
- B.** The disabled veteran's license is a complimentary license and is valid for a three-year period from the issue date or the license holder's lifetime, as established under subsection (F).
- C.** An eligible applicant is a disabled veteran who:
1. Has been a resident of Arizona for at least one year immediately preceding application, and
  2. Is receiving compensation from the United States government for permanent service-connected disabilities rated as 100% disabling. Eligibility for the disabled veteran's license is based on the disability rating, not on the compensation received by the veteran.
- D.** A person applying for a disabled veteran's license shall submit an application to the Department. The application form is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide all of the following information on the application:
1. The applicant's personal information:
    - a. Name;
    - b. Date of birth,
    - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
    - d. Department identification number, when applicable;
    - e. Residency status and number of years of residency immediately preceding application, when applicable;
    - f. Mailing address, when applicable;
    - g. Physical address;
    - h. Telephone number, when available; and
    - i. E-mail address, when available;
  2. Affirmation that:
    - a. The applicant meets the eligibility requirements prescribed under A.R.S. § 17-336(A)(2),
    - b. The applicant has been a resident of this state for at least one year immediately preceding application for the license, and
    - c. The information provided on the application is true and accurate; ~~and~~
  3. Applicant's signature and date. ~~The applicant's signature shall be either notarized by a notary public or witnessed by a Department employee.~~
- E.** In addition to the requirements established under subsection (D), an applicant for a disabled veteran's license shall, at the time of application, also submit an original certification at the time of application or a benefits letter issued by the United States Department of Veteran's Affairs (DVA) or obtained from the DVA website that meets the requirements specified in subsections (D)(1), (2), and (3). The certification form is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The certification shall be completed by an agent of the United States Department of Veteran's Services Affairs. The certification shall include all of the following information:
1. The applicant's full name,
  2. Certification that the applicant is receiving compensation from the United States government for permanent service-connected disabilities rated as 100% disabling,
  3. Certification that the 100% rating is permanent, and:
    - a. Will not require reevaluation or
    - b. Will be reevaluated in three years, and
  4. The signature and title of the Department of Veterans' Services Affairs agent who issued or approved the certification.
- F.** If the certification or benefits letter required under subsection (E) ~~indicates that~~ indicate the applicant's disability rating of 100% is permanent and:
  1. Will not be reevaluated, the disabled veteran's license will not expire.
  2. Will be reevaluated in three years, the disabled veteran's license will expire three years from the date of issuance.
- G.** All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- H.** The Department shall deny a disabled veteran's license when the applicant:
1. Fails to meet the criteria prescribed under A.R.S. § 17-336(A)(2),
  2. Fails to comply with the requirements of this Section, or
  3. Provides false information during the application process.
- I.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- J.** A disabled veteran's license holder may request a no-fee duplicate paper license provided:
1. The license was lost or destroyed,
  2. The license holder submits a written request to the Department for a duplicate license, and
  3. The Department's records indicate a disabled veteran's license was previously issued to that person.
- K.** A person issued a disabled veteran's license prior to January 1, 2014 shall be entitled to the privileges established under



subsection (A).

- L. For the purposes of this Section, “disabled veteran” means a veteran of the armed forces of the United States with a service connected disability.



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 21. CHILD SAFETY

CHAPTER 1. DEPARTMENT OF CHILD SAFETY – ADMINISTRATION

[R15-143]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 1	New Article
R21-1-101	New Section
R21-1-102	New Section
R21-1-103	New Section
R21-1-104	New Section
R21-1-105	New Section
R21-1-106	New Section
R21-1-107	New Section
R21-1-108	New Section
R21-1-109	New Section
R21-1-110	New Section
Article 2	New Article
R21-1-201	New Section
R21-1-202	New Section
R21-1-203	New Section
R21-1-204	New Section
R21-1-205	New Section
R21-1-206	New Section
R21-1-207	New Section
R21-1-208	New Section
R21-1-209	New Section
R21-1-210	New Section
R21-1-211	New Section
R21-1-212	New Section
R21-1-213	New Section
Article 3	New Article
R21-1-301	New Section
R21-1-302	New Section
R21-1-303	New Section
R21-1-304	New Section
R21-1-305	New Section
R21-1-306	New Section
R21-1-307	New Section
R21-1-308	New Section
R21-1-309	New Section
R21-1-310	New Section
R21-1-311	New Section
R21-1-312	New Section
R21-1-313	New Section



R21-1-314	New Section
Article 4	New Article
R21-1-401	New Section
R21-1-402	New Section
R21-1-403	New Section
R21-1-404	New Section
R21-1-405	New Section
R21-1-406	New Section
Article 5	New Article
R21-1-501	New Section
R21-1-502	New Section
R21-1-503	New Section
R21-1-504	New Section
R21-1-505	New Section
R21-1-506	New Section
R21-1-507	New Section
R21-1-508	New Section

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 8-453(A)(5)

Implementing statutes: A.R.S. §§ 8-807, 8-807.01, 8-126, 8-145, 8-166, 8-506, 8-506.01, 8-509, 8-512, 8-521, 8-521.01, 8-811, 8-814, and 46-141

Statute or session law authorizing the exemption: Laws 2014, Second Special Session, Ch. 1, § 158

**3. The effective date of the rule and the agency's reason it selected the effective date:**

November 30, 2015

**4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

Notice of Public Information: 21 A.A.R. 1051, July 10, 2015

Notice of Oral Proceeding: 21 A.A.R. 1055, July 10, 2015

Notice of Public Information: 21 A.A.R. 1267, July 31, 2015

Notice of Oral Proceeding: 21 A.A.R. 1269, July 31, 2015

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Carrie Senseman, Lead Rules Analyst

Address: Arizona Department of Child Safety  
Policy Office  
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**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

Arizona Revised Statutes (A.R.S.) §§ 8-807 and 8-807.01, authorize the Department of Child Safety (the "Department") to have rules for the release of Department information, including information related to incidents of fatalities and near fatalities of children in the State. A.R.S. § 8-512 authorizes the Department to provide a Comprehensive Medical and Dental Program, (CMDP) for children in an out-of-home placement. The Department is required by statute to have a process for a person licensed by the Department, or receiving a Department subsidy or service to file an appeal with the Department. Events providing the opportunity to file an appeal include an adverse action by the Department such as the denial, suspension, or revocation of a person's or entity's license, or denial or reduction of a person's subsidy or service. The following statutes require an appeal process. A.R.S. §§ 8-126 (adoption agencies); A.R.S. § 8-166 (nonrecurring expenses); A.R.S. § 8-145 (adoption subsidy); A.R.S. § 8-506 (foster home license); A.R.S. § 8-506.01 (child welfare agency license), A.R.S. § 8-521 (independent living services); A.R.S. § 8-521.01 (transitional independent living services); and A.R.S. § 8-814 (permanent guardianship subsidy). A.R.S. § 8-509 requires all foster parents and adult household members in a foster home to have a



Level One fingerprint clearance card. For any entity licensed by or contracted with the Department, A.R.S. § 46-141 requires as a condition of employment that all personnel, who provide services directly to juveniles, whether paid or not, have a valid Level One fingerprint clearance card from the Arizona Department of Public Safety. A.R.S. § 8-811 describes the right of a person to request a hearing to make an appeal to the Department if a report of child abuse or neglect results in a proposed substantiated finding of child abuse or neglect.

Laws 2014, Second Special Session, Ch. 1, § 158 exempts the Department from the rulemaking requirements in A.R.S. Title 14, Chapter 6 until November 28, 2015. A.R.S. § 8-453(A)(5) provides for the Department to “Adopt rules to implement the purposes of the Department and the duties and powers of the director.” The Department received an exception from the Governor’s rulemaking moratorium, established by Executive Order 2015-01, for this rulemaking and is adding Title 21, Chapter 1, Articles 1 through 5. The rules conform to the current rulemaking format and style requirements of the Office of the Secretary of State.

**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:**

None

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:**

The Department was exempted from Title 41, Chapter 6 and therefore no Economic Impact Statement was required.

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

Not applicable

**11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

The Department’s exemption from rulemaking required the Department to provide public notice and an opportunity for public comment in writing and at two or more public comment hearings. The exemption did not require the Department to post its responses to the public comments. However, the Department provides the following information on the public comment hearings and public comment.

Public hearings on the CMDP, Appeals and Hearing Procedures, and Fingerprinting rules were held on July 20, 2015 in Tucson and July 21, 2015 in Phoenix. Attendees were given the opportunity to provide oral or written comments. A copy of each rule draft was posted to the Department’s website from June 17, 2015 to July 23, 2015, along with an on-line survey for public comments.

Comments were received in the following areas: For CMDP: Ensure that the rules encompass all settings for out-of-home care, include language describing coverage for young adults if eligible, and expand the language for interpretation and translation services to be available at no charge to the parents, guardians, custodians or the CMDP member. For Appeals and Hearing Procedures: Ensure that an appellant who is appealing independent living or transitional independent living services receives a notice with the reasons for any adverse action by the Department, and the opportunity to have an adult other than an attorney represent him or her at an administrative hearing. For Fingerprinting: clarify the term criminal background check versus obtaining a valid Level One Fingerprint Clearance Card; describe any work a new hire may perform pending the issue of a valid Level One Fingerprint Clearance Card. Public hearings on the Release of Department Information and Substantiation of Report Findings were held on August 11, 2015 in Tucson and August 13, 2015 in Phoenix. Attendees were given the opportunity to provide oral or written comments. A copy of each rule draft was posted to the Department’s website from July 10, 2015 to August 14, 2015, along with an on-line survey for public comments. Comments were received for the following areas: For the Release of Department Information: A recommendation that all of a foster child’s records be available to foster parents. For Substantiation of Report Findings: A recommendation that a shorter timeframe for the Department to enter the name of the person in the substantiated report onto the Central Registry after the final administrative decision is made.

The Department reviewed and incorporated comments where applicable in the final rule package.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**



Federal laws 42 U.S.C. Ch. 67, §§ 5101 et seq., 42 U.S.C. Ch. 7, Subchapters IV/Part B and IV/Part E, 42 U.S.C. § 620 et seq., and 42 U.S.C. § 670 et seq. apply to this rulemaking. The rules are not more stringent than federal law.

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable

**13. A list of any incorporated by reference material and its location in the rule:**

None

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

The rules were not previously made, amended, repealed, or renumbered as an emergency rule.

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

**TITLE 21. CHILD SAFETY**

**CHAPTER 1. DEPARTMENT OF CHILD SAFETY - ADMINISTRATION**

**ARTICLE 1. RELEASE OF DEPARTMENT INFORMATION**

Section

<u>R21-1-101.</u>	<u>Definitions</u>
<u>R21-1-102.</u>	<u>Scope and Application</u>
<u>R21-1-103.</u>	<u>Procedures for Requesting DCS Information</u>
<u>R21-1-104.</u>	<u>Procedures for Processing a Request for DCS Information</u>
<u>R21-1-105.</u>	<u>Procedures for Processing a Request for DCS Information from a Person or Entity Providing Services in Official Capacity</u>
<u>R21-1-106.</u>	<u>Release of Summary DCS Information to a Person Who Reported Suspected Child Abuse and Neglect</u>
<u>R21-1-107.</u>	<u>Release of DCS information for a Research or Evaluation Project</u>
<u>R21-1-108.</u>	<u>Release of DCS Information to a Legislator or a Committee of the Legislature, or Another Person that Provides Oversight</u>
<u>R21-1-109.</u>	<u>Release of DCS Information in a Case of Child Abuse, Abandonment, or Neglect that has Resulted in a Fatality or Near Fatality</u>
<u>R21-1-110.</u>	<u>Fees</u>

**ARTICLE 2. COMPREHENSIVE MEDICAL AND DENTAL PROGRAM**

Section

<u>R21-1-201.</u>	<u>Definitions</u>
<u>R21-1-202.</u>	<u>Eligible Member</u>
<u>R21-1-203.</u>	<u>Exceptions, Limitations, and Exclusions</u>
<u>R21-1-204.</u>	<u>Prior Authorization</u>
<u>R21-1-205.</u>	<u>Coordination of Benefits</u>
<u>R21-1-206.</u>	<u>Identification Card</u>
<u>R21-1-207.</u>	<u>Payment and Review of Claims</u>
<u>R21-1-208.</u>	<u>Abuse and Misuse of the Program</u>
<u>R21-1-209.</u>	<u>Administration of the Program</u>
<u>R21-1-210.</u>	<u>Program Practices</u>
<u>R21-1-211.</u>	<u>Consent for Treatment</u>
<u>R21-1-212.</u>	<u>AHCCCS Fee Schedule</u>
<u>R21-1-213.</u>	<u>Claim Disputes and Appeals</u>

**ARTICLE 3. APPEALS AND HEARING PROCEDURES**

Section

<u>R21-1-301.</u>	<u>Definitions</u>
<u>R21-1-302.</u>	<u>Hearing Proceedings</u>
<u>R21-1-303.</u>	<u>Entitlement to a Hearing, Appealable and Not Appealable Actions</u>
<u>R21-1-304.</u>	<u>Computation of Time</u>
<u>R21-1-305.</u>	<u>Request for Hearing; Form; Time Limits; Presumptions</u>
<u>R21-1-306.</u>	<u>Administration: Transmittal of Appeal</u>
<u>R21-1-307.</u>	<u>Stay of Adverse Action Pending Appeal</u>
<u>R21-1-308.</u>	<u>Hearings; Location; Notice; Time</u>
<u>R21-1-309.</u>	<u>Rescheduling the Hearing</u>
<u>R21-1-310.</u>	<u>Subpoenas</u>



- R21-1-311. Parties Rights
- R21-1-312. Withdrawal of an Appeal
- R21-1-313. Effect of the Decision
- R21-1-314. Judicial Review

**ARTICLE 4. FINGERPRINTING**

- Section
- R21-1-401. Definitions
  - R21-1-402. Applicability
  - R21-1-403. Time Period Prior To Results of Personnel Criminal Records Check or Issuance of a Level One Fingerprint Clearance Card
  - R21-1-404. Effect of No Criminal History Disclosed
  - R21-1-405. Effect of Proscribed Criminal History Disclosed or Discovered
  - R21-1-406. Effect of Denied, Expired, Revoked or Suspended Level One Fingerprint Clearance Card

**ARTICLE 5. SUBSTANTIATION OF REPORT FINDINGS**

- Section
- R21-1-501. Definitions
  - R21-1-502. Notice of Right to Appeal, Initial Notification Letter
  - R21-1-503. Time Frame to Request an Administrative Hearing
  - R21-1-504. PSRT Review
  - R21-1-505. Exceptions to Right to a Hearing
  - R21-1-506. Dependency Adjudication
  - R21-1-507. Director Review and Further Appeal After the Administrative Hearing
  - R21-1-508. Entry into the Central Registry

**ARTICLE 1. RELEASE OF DEPARTMENT INFORMATION**

**R21-1-101. Definitions**

The definitions contained in A.R.S. §§ 8-101, 8-201, 8-531, 8-801, 8-807, 8-807.01, and the following definitions apply in this Article:

1. "Abandonment" has the same meaning as "abandoned" in A.R.S. § 8-201.
2. "Abuse" means the same as in A.R.S. § 8-201.
3. "CASA" or "Court Appointed Special Advocate" means a person appointed under A.R.S. § 8-522.
4. "Centralized Intake Hotline" or "the Hotline," means the entity described in A.R.S. § 8-455.
5. "Child" means a person less than 18 years of age.
6. "Completed request" means a fully completed DCS form or a written communication submitted to DCS requesting DCS Information and providing all the information necessary, as determined by the Department, to process the request. The requester shall have the request notarized or signed by a Department employee to confirm the identity of the requester.
7. "Copying fee" means the final amount a requester is required to pay to the Department before the Department releases the requested DCS Information.
8. "DCS Information" means the same as in A.R.S. § 8-807 and includes information contained in a hard copy or electronic case record, and both oral and written information.
9. "Department" or "DCS" means the Arizona Department of Child Safety.
10. "Estimated copying fee" means the projected total amount of a copying fee. A requester is required to pay the estimated copying fee to the Department before the Department redacts and copies the requested DCS Information.
11. "FCRB" means the Foster Care Review Board established under A.R.S. § 8-515.01.
12. "Incoming communication" means a telephonic, written, or in-person contact to the Department that is received by or ultimately directed to the Centralized Intake Hotline.
13. "Neglect" means the same as in A.R.S. § 8-201.
14. "Person that provides oversight" means those individuals, entities, or bodies authorized by A.R.S. § 8-807 to have access to DCS Information that is reasonably necessary for the person to provide oversight of the Department.
15. "Person who is the subject of DCS Information" means a parent, guardian, custodian, adult household member, child, or other person identified in a DCS report.
16. "Personally identifiable information" means information that specifically identifies a protected individual and includes:
  - a. Name;



- b. Date of Birth;
  - c. Street address;
  - d. Telephone, fax number, or email address;
  - e. Photograph;
  - f. Fingerprints;
  - g. Physical description;
  - h. Place, address, and telephone number of employment;
  - i. Social security number;
  - j. Tribal affiliation and identification number;
  - k. Driver's license number;
  - l. Auto license number;
  - m. Any other identifier that is specific to an individual; and
  - n. Any other information that would permit another person to readily identify the subject of the DCS Information.
17. "Protected individual" means a living person who is the subject of a DCS investigation and others whose personal information is confidential under A.R.S. § 8-807 and includes:
- a. An alleged victim;
  - b. An alleged victim's sibling;
  - c. A parent, guardian, custodian, or adult household member;
  - d. A foster parent;
  - e. A child living with the alleged victim;
  - f. The person who made the report of child abuse or neglect; and
  - g. Any person whose life or safety would be endangered by disclosure of DCS Information.
18. "Redacting" means striking, blacking out, or otherwise editing out personally identifiable information or other information that is not subject to release under A.R.S. § 8-807 contained in DCS hard copy or electronic case records on protected individuals so that no one can access the information.
19. "Report" means an incoming communication to the Centralized Intake Hotline containing an allegation that meets the criteria in A.R.S. § 8-455.
20. "Request" means a written communication seeking DCS Information.
21. "Requester" means an individual, entity, or body that makes a request for DCS Information.
22. "Research requester" means an individual or organization that seeks DCS Information for a research or evaluation project.
23. "Workday" means Monday through Friday excluding Arizona state holidays and mandatory furlough days.

**R21-1-102. Scope and Application**

- A.** This Article governs requests for and release of DCS Information made under A.R.S. § 8-807 and A.R.S. § 8-807.01.
- B.** DCS maintains information in accordance with federal laws under A.R.S. § 8-807.

**R21-1-103. Procedures for Requesting DCS Information**

- A.** A person who wishes to obtain DCS Information shall comply with A.R.S. § 8-807 and the requirements of this Article.
- B.** The requester shall submit to the Department a completed request or use the form provided by the Department. The request shall include the following information:
  - 1. Requester's name, address, and telephone number;
  - 2. Name of the child victim who is the subject of the DCS report, with as much of the following information as the requester can provide on the child victim:
    - a. Other possible spellings, names, or aliases for the child;
    - b. Date of birth;
    - c. The name of the child's caregivers, parents, guardians, and custodians; and
    - d. The date of the DCS report or time-frame for the report.
  - 3. Any other data that the requester believes will assist the Department in identifying the DCS Information requested, such as:
    - a. The name of the child's siblings;
    - b. The child's Social Security number;
    - c. The name of the DCS Child Safety Worker handling the case; and
    - d. The location of the alleged abuse or neglect.



- 4. Any additional information the Department requests to assist in processing the person's request for DCS Information.
- C. Before releasing DCS Information, the Department shall determine whether the requester is entitled to receive the DCS Information under this Article, A.R.S. § 8-807 and A.R.S. § 8-807.01.
- D. This Section does not apply to:
  - 1. A person or entity authorized to receive DCS Information under A.R.S. § 8-807 to:
    - a. Meet its duties to provide for the safety, permanency, and well-being of a child;
    - b. Provide services to the child, parent, guardian, custodian, or family members to strengthen the family;
    - c. Enforce or prosecute violations of child abuse or neglect laws;
    - d. Help investigate and prosecute any violation involving domestic violence as defined in A.R.S. § 13-3601 or violent sexual assault as defined in A.R.S. § 13-1423; or
    - e. Provide DCS Information to a defendant after a criminal charge has been filed as required by an order of the criminal court.
  - 2. This Section also does not apply to:
    - a. Juvenile, domestic relations, family or conciliation court;
    - b. The parties or their attorneys in a dependency, guardianship, or termination of parental rights proceeding;
    - c. The FCRB;
    - d. A CASA; or
    - e. A person that provides oversight to the Department.

**R21-1-104. Procedures for Processing a Request for DCS Information**

- A. Upon receipt of a request for DCS Information, the Department shall determine whether the request is complete. If the request is incomplete, the Department shall either:
  - 1. Return the request to the requester with a statement explaining the additional information the Department needs to process the request; or
  - 2. Contact the requester to obtain the missing information.
- B. Upon receipt of a completed request, the Department shall stamp the receipt date on the request. The receipt date is the day the Department receives the completed request.
- C. Within 30 workdays of the receipt date, the Department shall provide the requester with one of the following written responses:
  - 1. The requested DCS Information;
  - 2. A statement that the requested DCS Information does not exist;
  - 3. A statement that the Department cannot provide the requested DCS Information within 30 workdays, the reason for the delay, and the anticipated time-frame for response; or
  - 4. A statement that the Department cannot release the requested DCS Information, with the statutory citation and the reason for the denial.

**R21-1-105. Procedures for Processing a Request for DCS Information from a Person or Entity Providing Services in Official Capacity**

- A. The Department shall release DCS Information without charging the fee required by R21-1-110 when a person or entity entitled to receive DCS Information requires information to:
  - 1. Meet its duties to provide for the safety, permanency, and well-being of a child;
  - 2. Provide services to the child, parent, guardian, custodian, or family members to strengthen the family;
  - 3. Enforce or prosecute a violation of child abuse or neglect laws;
  - 4. To help investigate and prosecute any violation involving domestic violence as defined in A.R.S. § 13-3601, or violent sexual assaults as defined in A.R.S. § 13-1423;
  - 5. Provide DCS Information to a defendant as required by an order of the criminal court; or
  - 6. Provide DCS Information to:
    - a. A juvenile, domestic relations, family or conciliation court;
    - b. The parties or their attorneys in a dependency, guardianship, or termination of parental rights proceeding;
    - c. The FCRB;
    - d. A CASA; or
    - e. A person that provides oversight of DCS.
- B. Before releasing DCS Information under this Section, the Department shall determine that the person requesting DCS Information is a person entitled to receive DCS Information under this Section and A.R.S. § 8-807.
- C. Within 30 workdays of the receipt date, the Department shall provide the requester with one of the following written responses:
  - 1. The requested DCS Information;
  - 2. A statement that the requested DCS Information does not exist;
  - 3. A statement that the Department cannot provide the requested DCS Information within 30 workdays, the reason for the delay, and the anticipated time-frame for response; or
  - 4. A statement that the Department cannot release the requested DCS Information, with the statutory citation and the reason for the denial.

**R21-1-106. Release of Summary DCS Information to a Person Who Reported Suspected Child Abuse and Neglect**

- A.** A person who reports suspected child abuse or neglect to DCS may contact DCS to obtain a summary of the outcome of the investigation, as authorized by A.R.S. § 8-807.
- B.** After receiving a completed request and before releasing DCS Information, the Department shall determine that the person requesting DCS Information was the person who made the report as follows:
1. Obtain the name and telephone number of the requester, and
  2. Compare the requester's name with the name of the person listed as the reporting source on the DCS report.
- C.** After determining the identity of the requester, the Department shall call and advise the requester whether the Department has statutory authority to provide the requested DCS Information.
- D.** If the requester is entitled to receive the requested DCS Information under A.R.S. § 8-807, DCS shall verbally provide the person a summary of the outcome with the following DCS Information:
1. Disposition of the report;
  2. Investigation findings, if available; and
  3. A general description of the services offered or provided to the child and family.

**R21-1-107. Release of DCS Information for a Research or Evaluation Project**

- A.** A person seeking DCS Information for a research or evaluation project shall send a written request to the Department. A request shall include the following information:
1. If the person works for a research organization:
    - a. The name of the organization, and
    - b. The organization's mission;
  2. A description of the research or evaluation project and the data requested, which explains how the results of the project will improve the Department;
  3. A description of the plan for maintaining the confidentiality of personally identifiable information, if requested, and disseminating the results of the project; and
  4. The funding source for the research or evaluation project.
- B.** Within 30 workdays of receipt of a completed request from a research requester, the Department shall:
1. Advise the requester whether the Department will provide the requested DCS Information,
  2. Inform the requester of the estimated copying fee required under R21-1-110, and
  3. Inform the requester of the expected time-frame for providing the requested DCS Information.
- C.** The Department shall provide the requester with the requested DCS Information, upon completion and after receipt of the copying fee.

**R21-1-108. Release of DCS Information to a Legislator or a Committee of the Legislature, or Another Person that Provides Oversight**

- A.** A person that provides oversight of DCS and seeks DCS Information shall send a request to the Department and include the following information:
1. The name of the person seeking the information;
  2. The purpose of the request and its relationship to the person's official duties; and
  3. The person's signature, or the signature of an authorized agent for an entity or other body, confirming that the person or authorized agent understands the DCS Information shall not be further disclosed unless authorized by A.R.S. § 8-807.
- B.** A legislator or committee of the legislature seeking DCS Information to perform official duties shall send a request to the presiding officer of the body of which the state legislator is a member and include the name of the person whose case record is to be reviewed and any other information that will assist the Department in locating the record. The legislator shall also sign the request, confirming that the legislator understands that the DCS Information shall not be further disclosed unless authorized by A.R.S. § 8-807. The presiding officer shall forward the request to the Department within five workdays of receiving the request.
- C.** The copying fee required under R21-1-110 does not apply to this Section.
- D.** Within 10 workdays of receiving the request, the Department shall provide the requester with one of the following written responses:
1. The requested DCS Information;
  2. A statement that the requested DCS Information does not exist;
  3. A statement that the Department cannot provide the requested DCS Information within 10 workdays, the reason for the delay and the anticipated time-frame for response; or
  4. A statement that the Department cannot provide the requested DCS Information, with the statutory citation and the reason for denial.

**R21-1-109. Release of DCS Information in a Case of Child Abuse, Abandonment, or Neglect that has Resulted in a Fatality or Near Fatality**

- A.** A person who requests DCS Information under A.R.S. § 8-807.01 concerning a case of child abuse, abandonment, or neglect that resulted in a fatality or near fatality, shall send a written request to the Department.
- B.** Upon receipt of the request, the Department shall stamp the receipt date on the request and begin gathering the requested DCS Information.
- C.** Prior to release of DCS Information in a case of child abuse or neglect resulting in a fatality or near fatality, the Depart-



ment shall consult with the County Attorney who shall promptly inform the Department if it believes the release would cause a specific material harm under A.R.S. § 8-807.01. The Department shall not release any information that the County Attorney indicates would cause specific material harm.

- D. The Department shall notify the requester in writing of the estimated copying fee. If the requester does not want to proceed, the requester shall notify the Department within 72 hours to cancel the request. If this notification is oral, the requester shall confirm the cancellation in writing.
- E. The requester shall pay the estimated copying fee before the Department copies any DCS Information.
- F. After receipt of the final copying fee, the Department shall provide DCS Information consistent with A.R.S. § 8-807 and A.R.S. § 8-807.01.

**R21-1-110. Fees**

- A. If the Department determines a request for DCS Information will result in a copying fee, the Department shall notify the requester of the estimated fee before copying any DCS Information.
- B. Unless otherwise exempted by this Chapter, the Department may charge a copying fee at the current rate set by the Department, as provided on the DCS website at <https://dcs.az.gov>.
- C. The copying fee applies to both paper and electronic copies. If the DCS Information is requested in an electronic format, but does not already exist in an electronic format, DCS shall apply additional fees that reflect the actual cost of conversion to copy the DCS Information to an electronic format.
- D. The Department shall notify the requester in writing of the final copying fee.
- E. The Department shall reimburse the requester if final copying costs are less than the estimated copying fee.

**ARTICLE 2. COMPREHENSIVE MEDICAL AND DENTAL PROGRAM**

**R21-1-201. Definitions**

The definitions in A.R.S. § 8-501 and the following definitions apply to this Article.

1. “AHCCCS” means the Arizona Health Care Cost Containment System, which is the State’s program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes, A.R.S. Title 36, Chapter 29.
2. “AHCCCS fee schedule” means the allowable amounts established by AHCCCS for medical, dental, and behavioral health services under A.R.S. § 36-2904.
3. “Behavioral health recipient” means a Title XIX or Title XXI CMDP Member who is eligible for, and is receiving the behavioral health services through Medicaid behavioral health contractors.
4. “Child Safety Worker” means the same as A.R.S. § 8-801.
5. “CMDP” or “Comprehensive Medical and Dental Program” means the program authorized by A.R.S. § 8-512 and these rules.
6. “CMDP Member” means the same as in A.R.S. § 8-512, a child who is:
  1. In a voluntary placement pursuant to section 8-806.
  2. In the custody of the department in an out-of-home placement.
  3. In the custody of a probation department and placed in foster care. The department shall not provide this care if the cost exceeds funds currently appropriated and available for that purpose.
7. “Covered services” means those benefits as described in A.R.S. Title 36, Chapter 29, Article 1 and contained in the approved Medicaid State Plan.
8. “Department” or “DCS” means the Department of Child Safety.
9. “Director” means the Director of the Department of Child Safety.
10. “Foster parent” means the same as A.R.S. § 8-501.
11. “Medically necessary” means a covered service provided by a physician, or other licensed practitioner in the healing arts within the scope of practice under state law to prevent disease, disability, or other adverse health conditions or their progression, or to prolong life.
12. “Non-Title XIX Behavioral Health recipient,” “non-Title XIX” or “State Only Member” means a CMDP Member who is not eligible for Title XIX or Title XXI, and is receiving all covered services including behavioral health services through CMDP.
13. “Out-of-home care provider” means the person or entity with whom a child resides in out-of-home placement.
14. “Out-of-home placement” means the same as A.R.S. § 8-501.

**R21-1-202. Eligible Member**

- A. The Department shall provide CMDP to a CMDP Member under A.R.S. § 8-512 and this Article.
- B. The Department shall not provide CMDP care and services to:
  1. An individual who no longer meets the eligibility in A.R.S. § 8-512 and this Article;
  2. A child under the Bureau of Indian Affairs foster care program; or
  3. A child placed in Arizona by another state whether voluntarily or under jurisdiction of the court of another state.
- C. AHCCCS determines the eligibility of a CMDP Member for Title XIX and Title XXI services, and CMDP shall notify AHCCCS if a Title XIX and Title XXI eligible CMDP Member no longer meets the criteria for coverage in A.R.S. § 8-512 and this Article.

**R21-1-203. Exceptions, Limitations, and Exclusions**

The Department shall not pay for a CMDP Member:

1. The cost of any medical or dental service that:
  - a. Is not medically necessary for prevention, diagnosis, or treatment of a condition, illness, or injury; or
  - b. Any health or medical service that is not eligible for reimbursement by AHCCCS in 9 A.A.C. 22, Article 2, and includes cosmetic procedures, experimental treatment, and personal care items.
2. The portion of the cost of any covered service that exceeds the charges set by the current and approved AHCCCS fee schedule. A medical, dental, or other health provider shall not submit a claim for charges that exceed the AHCCCS fee schedule to any party, including:
  - a. The Department, its representatives, or any fiscal intermediary the Department may contract with to administer this program;
  - b. The CMDP Member;
  - c. The CMDP Member's:
    - i. Guardian,
    - ii. Custodian,
    - iii. Estate,
    - iv. Foster parent, or
    - v. Birth parent.
3. The cost of care and services payable through any federal, state, county, or municipal program to which a CMDP Member may be entitled, except for the cost of care and services in excess of any such program.
4. The cost of care and services payable through an insurance carrier that provides coverage for the CMDP Member under A.R.S. § 8-512, except for the cost of care and services in excess of any such insurance benefits.
5. Any admission, service, item, or otherwise uncovered service identified in A.R.S. Title 36, Chapter 29, Article 1, or the approved Medicaid State Plan.
6. The cost of care and services provided to a behavioral health recipient received through Medicaid behavioral health contractors.

**R21-1-204. Prior Authorization**

- A.** Medical, dental, and other health providers may be required to obtain authorization from CMDP before certain covered services are rendered in order for those services to be paid for under this Article and A.R.S. § 8-512.
- B.** The Department shall not pay for any covered service that requires prior authorization and was:
  1. Not submitted for prior authorization; or
  2. Submitted but the Department did not grant prior authorization.
- C.** Medical and dental providers shall be required by CMDP to obtain prior authorization for certain services according to the provisions of A.R.S. Title 36, Chapter 29, Article 1, and 9 A.A.C. 22, Article 1.
- D.** In instances where a prior authorization is required for a covered service but not obtained by the medical, dental, or other health provider, the medical, dental, or other health provider shall not submit a bill for a covered service to any party, including:
  1. The Department;
  2. The Department's representatives;
  3. Any fiscal intermediaries the Department may contract with to administer this program;
  4. The CMDP Member;
  5. The CMDP Member's:
    - a. Guardian,
    - b. Custodian,
    - c. Estate,
    - d. Foster Parent, or
    - e. Birth parent.

**R21-1-205. Coordination of Benefits**

- A.** The Department shall determine the possible existence of any primary insurance coverage for a CMDP Member.
- B.** The Department shall request that the court include a statement in the court order requiring a parent, guardian, or custodian of a CMDP Member to cooperate with the Department in coordinating benefits with any existing health insurance carrier, and to maintain any health insurance coverage presently existing which covers a CMDP Member.
- C.** The Department shall advise the court when a parent or guardian of a CMDP Member refuses to cooperate with CMDP in providing or signing any document required to coordinate insurance benefits, or if the parent, guardian, or custodian fails to maintain any existing insurance coverage for the CMDP Member.
- D.** In a voluntary placement, the parent or guardian shall cooperate with CMDP by providing and signing appropriate documents required to coordinate health insurance benefits.

**R21-1-206. Identification Card**

- A.** The Department shall issue a CMDP identification card for each CMDP Member.
- B.** The Department shall, upon placement, inform the out-of-home care provider in writing that:
  1. The identification card is not transferable;



- 2. The out-of-home care provider shall only use the card for medical, dental, or other covered services for the CMDP Member whose name appears on the card; and
- 3. The out-of-home care provider shall only use the card while the CMDP Member remains eligible for CMDP coverage.
- C. The Department shall give the out-of-home care provider oral and written instructions regarding the use of the identification card when procuring medical care, dental care, or other covered services for the CMDP Member.
- D. The Department shall provide the name and contact information of the CMDP Member’s behavioral health services provider.
- E. An out-of-home care provider shall return the CMDP Member’s identification card when the CMDP Member is:
  - 1. No longer in out-of-home placement;
  - 2. Placed with another out-of-home care provider; or
  - 3. Runs away from the out-of-home placement.
- F. The out-of-home care provider who has possession of the card shall:
  - 1. Immediately return the identification card to the Department under subsections (E)(1) and (2); or
  - 2. Have seven days from the date the CMDP Member runs away from the out-of-home care provider to return the card to the Department under subsection (E)(3).

**R21-1-207. Payment and Review of Claims**

- A. A medical, dental, or health provider shall submit a claim for payment in the manner prescribed by the Department.
- B. CMDP shall not pay a claim for a covered service if the CMDP Member does not keep an appointment, or if a covered service was not provided.
- C. A medical, dental, or other healthcare provider shall provide a covered service to the CMDP Member before submitting a claim for the covered service to CMDP.

**R21-1-208. Abuse and Misuse of the Program**

- A. The Department shall establish a procedure to investigate any alleged abuse of CMDP. If the Department substantiates abuse, the Department shall take administrative action and may take legal action.
- B. The Department shall monitor the activity of CMDP to ensure compliance with the program requirements.

**R21-1-209. Administration of the Program**

- A. The Department may contract with any insurer, insurance plan, hospital service plan, or any health service plan authorized to do business in this State, with any fiscal intermediary, or with any combination of such plans or methods as permitted in A.R.S. Title 36, Chapter 29, Article 1.
- B. Any contract with any of the entities listed in subsection (A), shall:
  - 1. Be specific as to the responsibilities of each party to the contract;
  - 2. Provide for reasonable payment to the contractor for its administrative services as required by the contract; and
  - 3. Be consistent with the rules in this Article and authorizing legislation. The parties may make changes to the contract by mutual consent signed by an authorized representative of the Department and the contractor to be consistent with current rules and legislation.

**R21-1-210. Program Practices**

- A. All Federal and State laws, regulations, and rules regarding the disclosure and use of confidential health and personal information concerning a CMDP Member shall apply to all covered services provided under this Article.
- B. All Federal and State non-discrimination laws, regulations, and rules shall apply to all covered services provided under this Article.
- C. The Department shall take into account the CMDP Member’s and out-of-home care provider’s literacy and culture and make interpreters and translation services available to a CMDP Member at no cost.

**R21-1-211. Consent for Treatment**

- A. For a CMDP Member in voluntary placement only, the Department shall obtain consent of the parent or guardian for medical treatment involving surgery, general anesthesia, or blood transfusion of the CMDP Member, except for an emergency situation described in subsection (B).
- B. In case of an emergency, in which the CMDP Member in voluntary placement is in need of immediate hospitalization, medical attention, or surgery, and when the parents of a CMDP Member in voluntary placement cannot readily be located, the out-of-home care provider or the Child Safety Worker may give consent.
- C. For a CMDP Member under R21-1-201(6)(2) who is in the custody of the Department in an out-of-home placement, the Department shall, if possible, obtain the consent of the parent or guardian of the CMDP Member for surgery, general anesthesia, or blood transfusion.

**R21-1-212. AHCCCS Fee Schedule**

- A. CMDP shall pay a medical, dental, and health provider in accordance with the established AHCCCS fee schedule unless otherwise permitted by A.R.S. § 8-512, or in the contract between the Department and AHCCCS.
- B. A current AHCCCS fee schedule is available for a medical, dental, other health provider, and CMDP Member on the AHCCCS website, <http://www.azahcccs.gov/>. The Department shall also make the fee schedule available upon request.

**R21-1-213. Claim Disputes and Appeals**

- A. Claim disputes are governed by the Medicaid rules in 9 A.A.C. Chapter 34.
- B. Appeals by Title XIX and Title XXI eligible CMDP Members are governed by the Medicaid rules for State Hearings in



9 A.A.C. Chapter 34.

C. Appeals by State-Only Members are governed by Article 3 of this Chapter.

### **ARTICLE 3. APPEALS AND HEARING PROCEDURES**

#### **R21-1-301. Definitions**

The following definitions apply in this Article.

1. “Administration” means the Department’s organizational unit responsible for licensing or providing benefits or services that are the subject of an adverse action. The administrations covered by this Article are: OLR, CMDP, ILP, TILP, adoption subsidy and guardianship subsidy.
2. “Administrative appeal” means a written request to the Department to contest an adverse action at an administrative hearing.
3. “Administrative Law Judge” or “ALJ” means the same as A.R.S. § 41-1092(1).
4. “Adoption agency” means the same as “agency” in A.R.S. § 8-101(2).
5. “Adoption subsidy” means the same as A.R.S. § 8-141(A)(1) and includes the non-recurring adoption expense program under A.R.S. § 8-161 et seq.
6. “Adverse action” means the denial, suspension, or revocation of a foster home license, Child Welfare Agency license, and adoption agency license, or a denial or reduction of guardianship subsidy, adoption subsidy, or CMDP, ILP, or TILP services.
7. “Appealable agency action” means the same as A.R.S. § 41-1092(3).
8. “Appellant” means the party who requests a hearing with the Department to challenge an adverse action under R21-1-303.
9. “Applicant” means a person who has applied for a license issued by the Department or for benefits or services provided by the Department. Benefits and services under this Article include CMDP, ILP, TILP, guardianship subsidy, and adoption subsidy.
10. “Child Welfare Agency” means a person licensed by the Department to engage in the activities defined in A.R.S. § 8-501(A)(1).
11. “CMDP” means the Comprehensive Medical and Dental Program described in A.R.S. § 8-512.
12. “Client” means a person who is licensed or receiving benefits or services from one or more of the Administrations covered by this Article.
13. “Corrective action plan” means a written proposal specified by OLR for a foster parent, or a Child Welfare Agency to remedy the violation of a licensing requirement within a specified time-frame.
14. “Department” or “DCS” means the Arizona Department of Child Safety.
15. “Foster Home” means the same as A.R.S. § 8-501(A)(5) and includes a “Group Foster Home” defined in A.R.S. § 8-501(A)(7).
16. “Foster parent” means the same as A.R.S. § 8-501, and includes anyone licensed for any type of foster home including a group home.
17. “Guardianship subsidy” means the program described in A.R.S. § 8-814.
18. “Independent Living Program” or “ILP” means an array of assistance and support services that DCS provides, contracts, refers, or otherwise arranges to help a person eligible under A.R.S. § 8-521, to transition to adulthood by building the skills and resources necessary to ensure personal safety, well-being, and permanency into adulthood.
19. “Licensee” means a person currently licensed as a foster parent, Child Welfare Agency, or adoption agency.
20. “Noncompliance Status” means the Department has received and substantiated a complaint or a Department representative has observed a violation of an adoption agency’s license that does not endanger the health, safety, or well-being of a client.
21. “Office of Administrative Hearings” or “OAH” means the State’s independent, quasi-judicial, administrative hearing body defined in A.R.S. § 41-1092.01.
22. “Office of Licensing and Regulation” or “OLR” means the administration in the Department responsible for licensing a foster home, Child Welfare Agency and adoption agency.
23. “Person” means an individual, partnership, joint venture, company, corporation, firm, association, society, or institution.
24. “Transitional Independent Living Program” or “TILP” means a program of services that provides assistance and support in counseling, education, vocation and employment, and the attainment or maintenance of housing to a person who qualifies under A.R.S. § 8-521.01.



**R21-1-302. Hearing Proceedings**

Unless otherwise expressly addressed, all pre-hearing and hearing proceedings in A.R.S. §§ 41-1092.01 through A.R.S. 41-1092.09 and 2 A.A.C. 19 shall apply.

**R21-1-303. Entitlement to a Hearing; Appealable and Not Appealable Actions**

A. An applicant, licensee, or client, who disputes an adverse action may appeal and request an administrative hearing from the Department to challenge the adverse action as provided in this Article.

B. The following adverse actions are appealable:

- 1. An adverse licensing action on:
  - a. A foster home license (A.R.S. § 8-506);
  - b. A Child Welfare Agency license (A.R.S. § 8-506.01); and
  - c. An adoption agency license (A.R.S. § 8-126).
- 2. Any decision denying, reducing, or terminating:
  - a. An adoption subsidy (A.R.S. § 8-145);
  - b. Nonrecurring expenses (A.R.S. § 8-166);
  - c. A permanent guardianship subsidy (A.R.S. § 8-814);
  - d. Independent Living Program services (A.R.S. § 8-521);
  - e. Transitional Independent Living Program services (A.R.S. § 8-521.01); and
  - f. CMDP services or benefits for non-Title XIX and Title XXI eligible individuals. Title XIX and Title XXI eligible individuals must follow A.R.S. § 36-2903.01 and 9 A.A.C. 34, and may request an Administrative Hearing through the Arizona Health Care Cost Containment System.

C. The following actions are not appealable:

- 1. An adverse action resulting from a uniform change in federal or state law, unless the Department has misapplied the law to the person seeking the hearing;
- 2. Failure to obtain a Level One fingerprint clearance card;
- 3. Imposition of noncompliance status for an adoption agency;
- 4. Imposition of a corrective action plan for a foster home or a Child Welfare Agency license;
- 5. Removal of a child from a placement;
- 6. Failure to enter into a contract with a particular licensee or to place a child with a particular licensee; and
- 7. Imposition of a provisional license for a foster home under A.R.S. § 8-509(D).

D. A finding of child abuse or neglect in a DCS investigation is not appealable under this Article. A person may appeal a proposed finding of child abuse or neglect made in a DCS investigation of a person or a licensee as prescribed in A.R.S. § 8-811 and A.A.C. Title 21, Chapter 1, Article 5.

**R21-1-304. Computation of Time**

A. In computing any time period:

- 1. The term “day” means a calendar day;
- 2. The term “work day” means Monday through Friday, excluding Arizona state holidays;
- 3. The date of the act, event, notice, or default from which a designated time period begins to run is not counted as part of the time period; and
- 4. The last day of the designated time period is counted, unless it is a Saturday, Sunday, or Arizona state holiday.

B. The mailing date is the date of the document, unless the facts show otherwise.

C. A document mailed by the Department is deemed received by the addressee, five days after the mailing date to the addressee’s last known address, unless the facts show otherwise.

**R21-1-305. Request for Hearing; Form; Time Limits; Presumptions**

A. An appellant who wishes to appeal an adverse action shall file a written request within the following timeframes for a hearing with the Administration:

- 1. For a Child Welfare Agency, 20 days after receipt of the adverse action notice under A.R.S. § 8-506.01;
- 2. For a foster home license revocation, 25 days after the mailing date of the adverse action notice under A.R.S. § 8-506;
- 3. For all other appeals covered by this Article, 20 days after receipt of the adverse action notice.

B. The Administration shall provide a form for requesting an administrative hearing and, upon request, shall assist an appellant in completing the form.

C. An appellant shall include the following information in the request for an administrative hearing:

- 1. Name, address, and telephone number, and if applicable, e-mail address of the person subject to the adverse action;
- 2. Identification of the Administration initiating the adverse action;
- 3. A description of the adverse action that is the subject of the appeal;
- 4. The date of the notice or letter of adverse action; and
- 5. A statement explaining why the adverse action is unauthorized, unlawful, or an abuse of discretion.

D. The Department shall not deny an appeal solely because the request does not include all the information listed in subsection (C), so long as the request contains sufficient information for the Department to determine the identity of the appellant.

E. The Department shall forward the request for a hearing to OAH along with the information specified in A.A.C. R2-19-



103.

- F.** A request for hearing is deemed filed with the Department:
1. On the mailing date, as shown by the postmark, if sent first-class mail, postage prepaid, through the United States Postal Service to the Department; or
  2. On the date actually received by the Department, if not mailed as provided in subsection (F)(1).
- G.** An appellant whose appeal is denied as untimely may request a review by the Department Director or designee. The request for review shall contain the following information:
1. Whether the appellant received the adverse action notice, and if so, when the appellant received the notice;
  2. If the appellant did not receive the adverse action notice:
    - a. Whether the appellant moved recently, and if so, whether the appellant notified the Department of the new address;
    - b. The type of mail receptacle the appellant uses;
    - c. The person that collects or receives the appellant's mail besides the appellant such as the appellant's:
      - i. Spouse,
      - ii. Child, or
      - iii. Roommate.
    - d. Whether the appellant has or is currently experiencing problems in receiving mail such as:
      - i. Not receiving the appellant's own mail; or
      - ii. Receiving others' mail;
  3. If the appellant did not receive the adverse action notice, how the appellant found out about the adverse action; and
  4. The date the appellant made the appeal to the Department and the method sent such as:
    - a. Hand delivery,
    - b. U.S. Mail,
    - c. Fax, or
    - d. E-mail.
- H.** The Department Director or designee may determine that a document was timely filed if the appellant demonstrates that the delay in submission was due to any of the following reasons:
1. Department error or misinformation;
  2. Delay or other action by the United States Postal Service; or
  3. Delay caused by the appellant changing mailing addresses at a time when the appellant had no duty to notify the Administration of the change.
- I.** When the Administration receives a request for a hearing that was not filed on time, the Department Director or designee shall determine if the delay meets the criteria under subsection (H), and if so, shall schedule a hearing with OAH.

**R21-1-306. Administration: Transmittal of Appeal**

An Administration that receives a request for an appeal shall send the OAH a copy of the request and a copy of the adverse action notice within two work days of receipt of the request. The Administration shall include all information as specified in A.A.C. R2-19-103.

**R21-1-307. Stay of Adverse Action Pending Appeal**

- A.** If an applicant, licensee, or client does not appeal, the Department shall carry out the adverse action after the time for filing an appeal has passed, or sooner if the appellant waives the delay of action in writing.
- B.** If an applicant, licensee, or client does not appeal, the Department shall not carry out the adverse action if the appellant has an additional appealable adverse action notice that may result in the same adverse action proposed in the current notice, and the time for filing an appeal to the additional adverse action notice has not passed.
- C.** If an appellant timely appeals an appealable adverse action as provided in R21-1-305, the Department shall not carry out the adverse action until an administrative hearing has been held and the Director certifies a final administrative decision.
- D.** If an appellant timely appeals an adverse action under R21-1-305, the Department may immediately carry out the adverse action under the following circumstances:
  1. The appellant expressly waives the delay of action;
  2. The appeal challenges an adverse action that is not appealable under R21-1-303(C);
  3. The appellant withdraws the request for hearing;
  4. The appellant fails to appear for the hearing; or
  5. The Department summarily suspends a license and makes all of the required findings under A.R.S. § 41-1064.

**R21-1-308. Hearings: Location; Notice; Time**

- A.** The hearing shall be held by OAH.
- B.** OAH may schedule a telephonic hearing or permit a witness to appear telephonically as granted in A.A.C. R2-19-114.
- C.** After receiving a request for an appeal, the Department shall hold the hearing:
  1. For a foster parent, 10 days after the Department receives the request for an appeal under A.R.S. § 8-506;
  2. For a Child Welfare Agency, 10 days after the Department receives the request for an appeal under A.R.S. § 506.01; and
  3. The time listed in A.R.S. § 41-1092.05(A)(2) for all other appeals.
- D.** The Department shall mail a notice of hearing to all interested parties at least 20 days before the scheduled hearing date.



except where the hearing is held within the 10-day period specified in subsection (C)(1) and (C)(2). For hearings held within the 10-day period, the Department shall notify the parties by telephone and send a written notice at the earliest date practicable.

- E. The notice of the hearing shall be in writing and shall include the information required in A.R.S § 41-1092.05(D) and A.A.C. R2-19-104.

**R21-1-309. Rescheduling a Hearing**

- A. An appellant may request to postpone or reschedule a hearing under R2-19-110.
B. Except in emergency circumstances, the appellant shall file a request for postponement at least five work days before the scheduled hearing date. OAH may deny an untimely request by considering the factors in A.A.C. R2-19-110.
C. When OAH reschedules a hearing under this Section or under A.A.C. R2-19-110, OAH notifies all interested parties in writing of the rescheduled hearing. The notice requirements in R21-1-305(A) do not apply to postponed or rescheduled hearings.

**R21-1-310. Subpoenas**

- A. A party who wishes to have a witness testify at a hearing, or to offer a particular document or item in evidence, shall first attempt to obtain the witness or evidence by voluntary means.
B. A party shall request a subpoena under A.A.C. R2-19-106 and A.A.C. R2-19-113.

**R21-1-311. Parties' Rights**

A party to a hearing has the following rights:

1. The right to request a postponement of the hearing, as provided in A.A.C. R2-19-106(A)(2) and A.A.C. R2-19-110.
2. The right to a copy, before or during the hearing, of documents in the Department's file regarding the appellant, and documents the Department may use at the hearing, except documents:
a. Shielded by the attorney-client privilege;
b. Shielded by work-product privilege; or
c. Otherwise prohibited by federal or state confidentiality laws.
3. The right to file a motion with OAH to disqualify an ALJ from conducting a hearing as provided in A.R.S. § 41-1092.07(A);
4. The right to request subpoenas for witnesses and evidence as provided in A.A.C. R2-19-113;
5. The right to represent themselves or be represented by a licensed attorney, subject to any limitations prescribed in the Rules of the Supreme Court of Arizona, Rule 31;
6. The right to present evidence and to cross-examine witnesses; and
7. The right to further appeal, if dissatisfied with a decision.

**R21-1-312. Withdrawal of an Appeal**

- A. An appellant may withdraw an appeal at any time prior to the scheduled hearing by signing a written statement expressing the intent to withdraw. The Department shall make a form available for an appellant to withdraw an appeal. An appellant may also orally withdraw an appeal on the open record under A.A.C. R2-19-111.
B. The Department shall sign the form and file the form at OAH.
C. OAH shall vacate the hearing and return the matter to the Department under A.A.C. R2-19-111.

**R21-1-313. Effect of the Decision**

- A. If the Department Director reviews the ALJ's recommended decision the Director may agree or disagree with the recommended decision as permitted in A.R.S. § 41-1092.08(F).
B. The Department Director's final administrative decision becomes effective on the day OAH certifies the Department Director's final administrative decision.
C. If the Department Director chooses not to review the recommended decision, then the ALJ's recommended decision becomes the final administrative decision within the timeframe under A.R.S. § 41-1092.08.
D. If the final administrative decision affirms the adverse action, the adverse action remains in effect until the appellant appeals and obtains a higher judicial decision reversing or vacating the final administrative decision.
E. If a final administrative decision reverses the Department's adverse action, the Department shall not take the adverse action.

**R21-1-314. Judicial Review**

Any party adversely affected by a final administrative decision may seek judicial review as prescribed in A.R.S. § 1092.08 and A.A.C. R2-19-122.

**ARTICLE 4. FINGERPRINTING**

**R21-1-401. Definitions**

In this Article, unless the context otherwise requires:

1. "Applicant" means personnel who apply for a Level One fingerprint clearance card or a person who applies for a license or certificate issued by the Department and who A.R.S. § 46-141(I) requires to submit a full set of fingerprints for the purpose of obtaining a state and federal criminal records check.
2. "Criminal History" means the same as A.R.S. § 41-1750(Y)(5).
3. "Department" or "DCS" means the Arizona Department of Child Safety.



4. “Direct visual supervision” means within sight and hearing of a provider or personnel who have a Level One fingerprint clearance card.
5. “Juvenile” means an individual who is less than 18 years of age.
6. “Level One fingerprint clearance card” means the same as A.R.S. § 41-1758.07(A).
7. “License” means the whole or part of a Department permit, registration, or similar form of permission or authorization required by law, but does not include a foster home license.
8. “Person” means a corporation, company, partnership, firm, association or society, as well as a natural person.
9. “Provider” means a federally recognized Indian tribe, county, political subdivision, military base, or person with whom the Department contracts or licenses to provide services to juveniles.
10. “Personnel” means paid or unpaid persons who have or may have direct contact with juveniles or provide services directly to juveniles for a provider, including the provider, consultants, subcontractors, volunteers, students, and persons otherwise affiliated with the provider.
11. “Services directly to juveniles” means in-person interaction between a provider or personnel and a juvenile.
12. “Supervised” means that personnel are within direct visual supervision at all times when providing services of any nature directly to juveniles, including psychological, medical, or any ancillary services.

**R21-1-402. Applicability**

This Article covers any applicant, provider, and personnel. This Article does not apply to a foster home license or adoptive home certification.

**R21-1-403. Time Period Prior To Results of Personnel Criminal Records Check or Issuance of a Level One Fingerprint Clearance Card**

- A. A provider shall not allow an applicant who applies for a Level One fingerprint clearance card under A.R.S. § 46-141 to provide services directly to juveniles or have unsupervised contact with juveniles until the applicant obtains a valid Level One fingerprint clearance card.
- B. A provider shall not allow an applicant who is required to submit fingerprints to the Department under A.R.S. § 46-141(I) to provide services directly to or have unsupervised contact with juveniles unless the applicant clears the Criminal records check or obtains a valid Level One fingerprint clearance card, as applicable.

**R21-1-404. Effect of No Criminal History Disclosed**

A provider may allow an applicant or personnel who certifies under A.R.S. § 46-141(E), (F), and (G) that the applicant or personnel has not been convicted of or is awaiting trial for an offense listed in A.R.S. § 41-1758.07(B) or (C), or A.R.S. § 46-141(G), and who is not subject to registration as a sex offender in this state or any other jurisdiction, to provide supervised services directly to juveniles.

**R21-1-405. Effect of Proscribed Criminal History Disclosed or Discovered**

- A. A provider shall not allow an applicant or personnel who disclose or have been convicted of or are awaiting trial for an offense listed in A.R.S. § 41-1758.07(B) or (C), or A.R.S. § 46-141(G), or who are subject to registration as a sex offender in this state or any other jurisdiction to provide services directly to or have any contact with juveniles.
- B. A provider shall not allow an applicant or personnel who apply for a Good Cause Exception under A.R.S. § 41-619.55 to provide services directly to or have any contact with juveniles until the Good Cause Exception is granted.

**R21-1-406. Effect of Denied, Expired, Revoked or Suspended Level One Fingerprint Clearance Card**

Upon notification by the Department of the denial, expiration, revocation, or suspension of a Level One fingerprint clearance card, the provider shall immediately prohibit those personnel from providing services directly to or having any contact with juveniles.

**ARTICLE 5. SUBSTANTIATION OF REPORT FINDINGS****R21-1-501. Definitions**

The following definitions apply to this Article.

1. “Abuse” means the same as A.R.S. § 8-201(2).
2. “Amend the finding” means the same as A.R.S. § 8-811(L)(1).
3. “Case Record” means the Report of child abuse and neglect and related records the Department intends to submit at the hearing, including information from internal and external sources.
4. “Central Registry” means the information maintained by the Department of substantiated reports of child abuse or neglect for the purposes of A.R.S. § 8-804.
5. “Completed Investigation” means the case record and the proposed substantiated finding for the report of child abuse or neglect have been reviewed and approved by a supervisor and contains all of the information required to support a finding of proposed substantiation.
6. “Day” means a calendar day.
7. “Department” or “DCS” means the Arizona Department of Child Safety.



- 8. “Ineligibility Letter” means a notice sent from the Department via first class mail to a person alleged to have committed child abuse or neglect stating that the person is not entitled to an administrative hearing on the issue for one of the reasons listed in R21-1-505.
- 9. “Initial Notification Letter” means a notice sent from the Department via first class mail to an alleged perpetrator informing the person of the proposed finding of child abuse or neglect to be entered in the Central Registry and describing appeal rights to challenge the proposed finding.
- 10. “Legally excluded” means that an alleged perpetrator is not entitled to an administrative hearing under A.R.S. § 8-811, because:
  - a. A court or administrative law judge has made a finding of abuse or neglect based on the same allegations as in the proposed substantiated finding; or
  - b. A court has found that a child is dependent, or has terminated a parent’s rights based upon the same allegations of abuse or neglect as in the proposed substantiated finding.
- 11. “Neglect” or “neglected” means the same as A.R.S. § 8-201(24).
- 12. “Perpetrator” means a person who has committed child abuse or neglect under the standards required for listing in the Central Registry.
- 13. “Probable Cause” means some credible evidence that abuse or neglect occurred.
- 14. “Proposed Substantiated Finding” means the Department has investigated and found probable cause to support an allegation of abuse or neglect sufficient to place the alleged perpetrator's name in the Central Registry, subject to the alleged perpetrator's right to notice and a hearing.
- 15. “PSRT” means the Department's Protective Services Review Team, that administers the process described in A.R.S. § 8-811 for review and appeal of proposed substantiated findings of child abuse or neglect.
- 16. “Report For Investigation” means the same as A.R.S. § 8-201(30).
- 17. “Substantiated Finding” means a proposed substantiated finding that:
  - a. An administrative law judge found to be true by a probable cause standard of proof after notice and an administrative hearing and the Department Director accepted the decision;
  - b. The alleged perpetrator did not timely appeal; or
  - c. The alleged perpetrator was not entitled to an administrative hearing because the alleged perpetrator was legally excluded as defined in subsection (11).

**R21-1-502. Initial Notification Letter**

- A.** When PSRT receives a proposed substantiated finding, PSRT shall notify an alleged perpetrator that:
  - 1. The Department intends to substantiate the proposed finding and place the alleged perpetrator’s name in the Central Registry;
  - 2. The alleged perpetrator may obtain a copy of the Report for Investigation; and
  - 3. The alleged perpetrator has the right to an administrative hearing before the person's name is entered in the Central Registry.
- B.** The Department shall send the Initial Notification Letter to the alleged perpetrator no more than 14 days after the Completed Investigation.

**R21-1-503. Time Frame to Request an Administrative Hearing**

- A.** An alleged perpetrator shall request a hearing on the proposed substantiated finding by the Department within 20 days from the mailing date of the Initial Notification Letter. The mailing date of the Initial Notification Letter is deemed the date of the letter.
- B.** A request is timely if:
  - 1. The request is postmarked no later than 20 days from the mailing date of the Initial Notification Letter;
  - 2. The request is not postmarked, and the request is stamped as received by the Department within 20 days of the mailing date of the initial notification letter;
- C.** If the Department determines a hearing request is untimely, the Department shall enter the alleged perpetrator’s name on the Central Registry unless:
  - 1. The delay is due to Department error;
  - 2. The delay is due to the postal service; or
  - 3. There is evidence the delay is due to circumstances beyond the reasonable control of the alleged perpetrator.
- D.** To request an administrative timeliness review, the alleged perpetrator shall submit:
  - 1. An oral or written request to PSRT using the contact information on the initial notification letter;
  - 2. A statement explaining why the request is untimely; and
  - 3. Evidence of the cause of the untimeliness.

**R21-1-504. PSRT Review**

- A.** Upon receiving a timely request for an administrative hearing, the PSRT shall within 60 days review the Case Record and shall:
  - 1. Determine there is no probable cause that the alleged perpetrator committed child abuse or neglect and amend the proposed substantiated finding to unsubstantiated; or
  - 2. Determine there is probable cause and send the alleged perpetrator a hearing notice.



- B.** The hearing notice shall include:
1. The date and time of the hearing;
  2. Notification of the right to request a settlement conference no later than 20 days before the hearing; and
  3. Notification of the right, upon oral or written request to the Department, to receive a copy of the case record, redacted as required by A.R.S. § 8-807.

**R21-1-505. Exceptions to Right to a Hearing**

- A.** An alleged perpetrator shall be eligible to have an administrative hearing unless the alleged perpetrator is legally excluded.
- B.** The Department shall mail an alleged perpetrator who is legally excluded an Ineligibility Letter within seven days of the PSRT determination of ineligibility for an appeal.
- C.** The Department shall not schedule an administrative hearing if the alleged perpetrator:
1. Is a party in a pending civil, criminal, or administrative proceeding in which the same allegations of child abuse or neglect are at issue; or
  2. Has a pending juvenile proceeding in which the same allegations of child abuse or neglect are at issue.
- D.** An alleged perpetrator whose hearing is not scheduled under subsection (C)(1) shall have six months from the date of the Ineligibility Letter to provide court documentation to the Department showing:
1. The results of the legal action;
  2. That the proceedings are still pending; or
  3. That the legal action did not determine the allegations of child abuse and neglect.
- E.** If the alleged perpetrator does not contact the Department within six months of the date of the Ineligibility Letter with the information listed in subsection (D), the Department shall enter the person's name and the finding in the Central Registry.
- F.** Notwithstanding subsection (E), if the alleged perpetrator contacts the Department after six months and provides the documentation in subsection (D) the alleged perpetrator may be entitled to a hearing subject to the provisions of R21-1-508.

**R21-1-506. Dependency Adjudication**

If the court in a proceeding described in A.R.S. § 8-811(F)(3), makes a finding of dependency based on child abuse or neglect against a person, the Department shall enter the person's name and the fact of the dependency finding in the Central Registry.

**R21-1-507. Director Review and Further Appeal After the Administrative Hearing**

- A.** An administrative law judge's decision is not final until the Department Director reviews the decision. The Director has 30 days to review the administrative decision. The Director may accept, reject or modify an administrative law judge's decision under A.R.S. § 41-1092.08.
- B.** A perpetrator may appeal the final administrative decision under A.R.S. Title 12, Chapter 7, Article 6.

**R21-1-508. Entry into the Central Registry**

- A.** If the perpetrator does not appeal the proposed substantiation, PSRT shall enter the perpetrator's name and the substantiated finding in the Central Registry.
- B.** If the administrative decision upholds the substantiation and the Department Director accepts the decision, PSRT shall enter the perpetrator's name and the substantiated finding in the Central Registry no later than 20 days after the date of the final administrative decision.
- C.** The Department shall not enter the person's name or the finding in the Central Registry if the:
1. Final administrative decision holds that the allegations of abuse or neglect are not substantiated; or
  2. A court ruling described in R21-1-505(C) finds no abuse or neglect by the alleged perpetrator.
- D.** If the court ruling described in R21-1-505(C) finds abuse or neglect by the perpetrator, the PSRT shall enter the person's name and the substantiated finding in the Central Registry.

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## NOTICES OF RULEMAKING DOCKET OPENING

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This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

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### NOTICE OF RULEMAKING DOCKET OPENING

#### STATE RETIREMENT SYSTEM BOARD

[R15-156]

- 1. Title and its heading:** 2, Administration  
**Chapter and its heading:** 8, State Retirement System Board  
**Article and its heading:** 1, Retirement System; Defined Benefit Plan  
**Section number:** R2-8-116

**2. The subject matter of the proposed rule:**

Currently, R2-8-116 is expired. The ASRS will establish R2-8-116 to clarify that pursuant to A.R.S. § 38-766.02, an ASRS employer that employs a retiree must remit contribution to the ASRS at an alternate contribution rate (ACR) for the retiree regardless of whether the retiree is directly employed by the employer, either as a direct employee or a contractor, or leased to the employer by a third party.

The rule will reflect that employers cannot avoid paying an ACR to the ASRS merely by claiming that a worker is leased; rather, the employer must show that the entire class of positions performing substantially similar functions, to which the retiree belongs, has been properly leased as well. If the employer is unable to show that the *entire* class of positions performing substantially similar functions has been properly leased, then the employer must pay an ACR to the ASRS for all retirees employed in those positions performing substantially similar functions, regardless of whether the individual retiree is leased or not. For example, an ASRS employer that hires direct employees to teach students must pay an ACR to the ASRS for any retiree it also hires to teach students, regardless of whether the retiree is leased and regardless of whether the retiree is teaching students under an arbitrary status such as "part-time" or "substitute."

Clarifying that an employer must pay the ACR for all retired members, without substantively changing the requirements for paying the ACR, will increase understandability of the statutory requirements in A.R.S. § 38-766.02, thereby reducing the regulatory burden imposed on the public. This clarification will ensure ASRS employers have notice about which personnel require the employer to remit an ACR to the ASRS.

**3. A citation to all published notices relating to the proceeding:**

None

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

Name: Jessica A. Ross, Rule Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-mail: JessicaR@azasrs.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

To be determined.

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## NOTICE OF RULEMAKING DOCKET OPENING

## INDUSTRIAL COMMISSION OF ARIZONA

[R15-158]

1. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance  
**Chapter and its heading:** 5, Industrial Commission of Arizona  
**Article and its heading:** 6, Occupational Safety and Health  
**Section numbers:** R20-5-629
2. **The subject matter of the proposed rule:**

The Arizona Division of Occupational Safety and Health (ADOSH), part of the Industrial Commission of Arizona, is amending A.A.C. R20-5-629 to incorporate by reference amendments from 29 CFR 1904, as published in the *Federal Register*.

The amendments apply to injury and illness recording and reporting regulations as published in the *Federal Register* 79 FR56129-56188, September 18, 2014.

Exemptions from Executive Order 2015-01 were provided for this rulemaking by Ted Vogt, Chief of Operations in the Office of the Arizona Governor, in emails dated June 1, 2015.
3. **A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 21 A.A.R. 2512, October 30, 2015 (*in this issue*).
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Larry Gast, Assistant Director  
Address: Division of Occupational Safety and Health  
Industrial Commission of Arizona  
800 W. Washington St., Suite 203  
Phoenix, AZ 85007  
Phone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: Larry.Gast@azdosh.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Industrial Commission will accept written comments during the public comment period (see item #10 of the Notice of Proposed Rulemaking in this issue). Information regarding an oral proceeding is included in the Notice of Proposed Rulemaking.
6. **A timetable for agency decisions or other action on the proceeding, if known:**

See the Notice of Proposed Rulemaking on page 2512 of this issue.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2015-01

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2015, as a notice to the public regarding state agencies' rulemaking activities.

[M15-02]

WHEREAS, Arizona has lost more jobs per capita than any other state and has yet to recover all of those jobs;

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency, subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency, subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
g. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
h. To address matters pertaining to the control, mitigation or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
3. Paragraphs 1 and 2 apply to all State agencies, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission, or (c) any State agency whose agency head is not appointed by the Governor. Those State agencies to which Paragraphs 1 and 2 do not apply are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
4. Pursuant to Article 5, Section 4 of the Arizona Constitution and Arizona Revised Statutes Section 41-101(A)(1), the State agencies identified in Paragraph 3 must provide the Office of the Governor with a written report for each proposed rule 30 days prior to engaging in any rulemaking proceeding and must also provide the Office of the



Governor with a written report within 15 days of any rulemaking. The reports required by this Paragraph shall explain, in detail, how the rulemaking advances the priorities and principles set forth in this Order.

5. No later than September 1, 2015, each State agency shall provide to the Office of the Governor an evaluation of their rules, with recommendations for which rules could be amended or repealed consistent with the priorities and principles set forth in this Order. The evaluation shall also include a summary of licensing time frames and describe how those time frames compare to real processing time, and whether or not they can be reduced. Additionally, each agency shall identify any existing licenses or permits in which a general permit could be used in lieu of an individual permit, pursuant to Arizona Revised Statutes Section 41-1037.
6. No later than July 1, 2015, each State agency shall provide to the Office of the Governor an update on divisions where electronic reporting and payment are not implemented and a suggested plan for how to implement this customer-service-oriented service.
7. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
8. This Executive Order expires on December 31, 2015.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**G O V E R N O R**

**DONE** at the Capitol in Phoenix on this fifth day of January in the year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-ninth.

**ATTEST:**  
**Michele Reagan**  
**Secretary of State**

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**REGISTER INDEXES**

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The *Register* is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
PM = Proposed amended Section  
PR = Proposed repealed Section  
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
SPM = Supplemental proposed amended Section  
SPR = Supplemental proposed repealed Section  
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
FM = Final amended Section  
FR = Final repealed Section  
F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
PSMM = Proposed Summary amended Section  
PSMR = Proposed Summary repealed Section  
PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
FSMM = Final Summary amended Section  
FSMR = Final Summary repealed Section  
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
PEM = Proposed Expedited amended Section  
PER = Proposed Expedited repealed Section  
PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
SPEM = Supplemental Proposed Expedited amended Section  
SPER = Supplemental Proposed Expedited repealed Section  
SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
FEM = Final Expedited amended Section  
FER = Final Expedited repealed Section  
FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
PXM = Proposed Exempt amended Section  
PXR = Proposed Exempt repealed Section  
PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
SPXR = Supplemental Proposed Exempt repealed Section  
SPXM = Supplemental Proposed Exempt amended Section  
SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULMAKING**

FXN = Final Exempt new Section  
FXM = Final Exempt amended Section  
FXR = Final Exempt repealed Section  
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
EM = Emergency amended Section  
ER = Emergency repealed Section  
E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

TN = Terminated proposed new Sections  
TM = Terminated proposed amended Section  
TR = Terminated proposed repealed Section  
T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**

EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**

C = Corrections to Published Rules

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*Editor's Note: The terminated rulemaking action (TM) notated in the above sections is in reference to the Notice of Proposed Rulemaking published at 20 A.A.R. 3590, December 26, 2014.*

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## RULE EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from September 4, 2015 to March 18, 2016.



## GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5:00 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

DEADLINE TO BE PLACED ON COUNCIL AGENDA	FINAL MATERIALS DUE FROM AGENCIES	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
November 17, 2014	December 17, 2014	December 30, 2014	January 6, 2015
December 15, 2014	January 14, 2015	January 27, 2015	February 3, 2015
January 20, 2015	February 11, 2015	February 24, 2015	March 3, 2015
February 17, 2015	March 18, 2015	March 31, 2015	April 7, 2015
March 16, 2015	April 15, 2015	April 28, 2015	May 5, 2015
April 20, 2015	May 13, 2015	May 28, 2015	June 2, 2015
May 18, 2015	June 17, 2015	June 30, 2015	July 7, 2015
June 15, 2015	July 15, 2015	July 28, 2015	August 4, 2015
July 20, 2015	August 12, 2015	August 25, 2015	September 1, 2015
August 17, 2015	September 16, 2015	September 29, 2015	October 6, 2015
September 21, 2015	October 14, 2015	October 27, 2015	November 3, 2015
October 19, 2015	November 12, 2015	November 24, 2015	December 1, 2015
November 16, 2015	December 16, 2015	December 29, 2015	January 5, 2016



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
NOTICE OF ACTION TAKEN AT THE  
OCTOBER 6, 2015 MEETING**

[M15-274]

**FIVE-YEAR-REVIEW REPORTS:**

**INDUSTRIAL COMMISSION OF ARIZONA (F-15-0802)**

Title 20, Chapter 5, Article 8, Occupational Safety and Health Rules of Procedure before the Industrial Commission of Arizona

**ARIZONA COMMISSION FOR POSTSECONDARY EDUCATION (F-15-1002)**

Title 7, Chapter 3, Article 1, Rulemaking; Article 2, Adjudications

**ARIZONA DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS (F-15-1003)**

Title 8, Chapter 3, Article 1, Military Installation Fund

**RULES:**

**ARIZONA GAME AND FISH DEPARTMENT (R-15-1003)**

Title 12, Chapter 4, Article 2, Licenses, Permits, Stamps, Tags

Amend: R12-4-202

**ARIZONA STATE RETIREMENT SYSTEM BOARD (R-15-1004)**

Title 2, Chapter 8, Article 1, Retirement System, Defined Benefit Plan; Article 4, Practice and Procedure Before the Board; Article 5, Purchasing Service Credit; Article 6, Public Participation in Rulemaking; Article 7, Contributions not Withheld

- Amend: R2-8-104
- Amend: R2-8-115
- Amend: R2-8-118
- Amend: R2-8-120
- Amend: R2-8-123
- Amend: R2-8-126
- Amend: R2-8-401
- Amend: R2-8-501
- Amend: R2-8-601
- Amend: R2-8-701

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (R-15-0901)**

Title 18, Chapter 2, Article 3, Permits and Permit Revisions; Article 9, New Source Performance Standards; Article 11, Federal Hazardous Air Pollutants

- Amend: R18-2-210
- Amend: R18-2-333
- Amend: R18-2-901
- Amend: R18-2-1101
- Amend: Appendix 2

**COUNCIL ACTION: THE ABOVE ITEMS WERE ALL APPROVED IN CONSENT AGENDA.**



**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (R-15-0902)**

Title 18, Chapter 14, Article 3, Permit and Compliance Fees

- New Article: Article 3
- New Section: R18-14-301
- New Section: R18-14-302
- New Section: R18-14-303

**COUNCIL ACTION: APPROVED AS AMENDED**

**ARIZONA STATE BOARD OF BARBERS (R-15-1001)**

Title 4, Chapter 5, All Articles

- Amend: R4-5-101
- Amend: R4-5-102
- Amend: R4-5-103
- Amend: R4-5-104
- Repeal: R4-5-105
- Amend: R4-5-106
- Amend: R4-5-107
- Amend: R4-5-108
- New Table: Table 1
- Renumber: R4-5-109
- Amend: R4-5-109
- Amend: Article 2
- Amend: R4-5-201
- Amend: R4-5-202
- Amend: R4-5-203
- Renumber: R4-5-204
- Amend: R4-5-301
- Amend: R4-5-302
- Amend: R4-5-303
- Amend: R4-5-304
- New Section: R4-5-305
- Amend: R4-5-401
- Amend: R4-5-402
- Amend: R4-5-403
- Amend: R4-5-404
- Amend: R4-5-405
- Amend: Exhibit 1
- Amend: Exhibit 2
- Amend: R4-5-406
- Amend: R4-5-407
- Amend: R4-5-408
- Amend: R4-5-409
- Repeal: R4-5-410
- Amend: R4-5-411
- Amend: R4-5-501
- Amend: R4-5-502



**COUNCIL ACTION: APPROVED**  
**ARIZONA GAME AND FISH DEPARTMENT (R-15-1002)**

Title 12, Chapter 4, Article 4, Live Wildlife

- Amend: R12-4-401
- Amend: R12-4-402
- Amend: R12-4-403
- Amend: R12-4-404
- Amend: R12-4-405
- Amend: R12-4-406
- Amend: R12-4-407
- Amend: R12-4-408
- Amend: R12-4-409
- Amend: R12-4-410
- Amend: R12-4-411
- Amend: R12-4-412
- Amend: R12-4-413
- Amend: R12-4-414
- Amend: R12-4-417
- Amend: R12-4-418
- Amend: R12-4-420
- Amend: R12-4-421
- Amend: R12-4-422
- Amend: R12-4-423
- Amend: R12-4-424
- Amend: R12-4-425
- Amend: R12-4-426
- Amend: R12-4-427
- Amend: R12-4-428
- Amend: R12-4-430
- Repeal: R12-4-415
- Repeal: R12-4-416
- Repeal: R12-4-419

**COUNCIL ACTION: APPROVED**